

Queensland



**NATURAL RESOURCES AND
OTHER LEGISLATION
AMENDMENT BILL 1999**

Queensland



NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 1999

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1999

A BILL

FOR

**An Act to amend various Acts administered by the Minister for
Natural Resources and another Act for related purposes**

*Natural Resources and Other Legislation
Amendment*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Natural Resources and Other Legislation Amendment Act 1999*.

4

5

**PART 2—AMENDMENT OF BODY CORPORATE
AND COMMUNITY MANAGEMENT ACT 1997**

6

7

Act amended in pt 2 and schedule

8

Clause **2.** This part and the schedule amend the *Body Corporate and Community Management Act 1997*.

9

10

Insertion of new s 221A

11

Clause **3.** After section 221—

12

insert—

13

‘Delegation

14

‘221A.(1) An adjudicator may delegate a power the adjudicator has under this part, other than under section 220(2),¹ to an appropriately qualified officer of the department.

15

16

17

‘(2) In this section—

18

“appropriately qualified”, for a person to whom a power under this part

19

¹ Section 220 (Investigation by adjudicator)

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may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power. 1
2

Example of standing— 3

A person's classification level in the public service.' 4

Insertion of new ch 8, pt 2 5

Clause 4. After section 294— 6

insert— 7

**'PART 2—TRANSITIONAL PROVISIONS FOR
NATURAL RESOURCES AND OTHER LEGISLATION
AMENDMENT ACT 1999**

 8
9
10

'Validation of adjudicator's orders 11

'295.(1) This section applies if, before its commencement— 12

(a) an adjudicator has made an order under the dispute resolution provisions; and 13
14

(b) an investigation of the application for the order was carried out for the adjudicator by someone other than the adjudicator. 15
16

'(2) The order is taken to be as valid as it would be had the adjudicator carried out the investigation. 17
18

'Expiry 19

'296. This part expires the day after it commences.' 20

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PART 3—AMENDMENT OF LAND ACT 1994

	1
Act amended in pt 3 and schedule	2
Clause 5. This part and the schedule amend the <i>Land Act 1994</i> .	3
Amendment of s 98 (Closure of road by gazette notice)	4
Clause 6. Section 98(2), ‘by an adjoining owner’—	5
<i>omit, insert—</i>	6
‘under section 99’.	7
Amendment of s 99 (Application to close by adjoining owner)	8
Clause 7.(1) Section 99, heading, ‘ by adjoining owner ’—	9
<i>omit, insert—</i>	10
‘road’.	11
(2) Section 99(1), from ‘temporary’—	12
<i>omit, insert—</i>	13
‘permanent closure of the road.’.	14
(3) Section 99—	15
<i>insert—</i>	16
‘ (1A) Any person may apply (also a “ road closure application ”) to the Minister for the temporary closure of a road.’.	17
(4) Section 99(2)(b) to (d)—	19
<i>omit, insert—</i>	20
(b) the road is the only dedicated access to a person’s land; or	21
(c) the road is, or may be, used regularly by the public as a road or stock route; or	22
(d) the road provides continuity to a road network.’.	23
	24

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Amendment*

	(5) Section 99(1A) and (2)—	1
	<i>renumber</i> as section 99(2) and (3).	2
	Amendment of ch 3, pt 2, div 3	3
Clause	8. Chapter 3, part 2, division 3, heading—	4
	<i>omit, insert—</i>	5
	<i>‘Division 3—Road licences for temporarily closed roads’.</i>	6
	Amendment of s 103 (Issue of road licence)	7
Clause	9. Section 103(2), ‘adjoining owner’—	8
	<i>omit, insert—</i>	9
	‘person’.	10
	Amendment of s 104 (Conditions of issuing road licence)	11
Clause	10.(1) Section 104(c), ‘adjoining the road licence—’—	12
	<i>omit, insert—</i>	13
	‘for the benefit of which the road licence is issued,’.	14
	(2) Section 104(c)(i), ‘adjoining’—	15
	<i>omit.</i>	16
	Relocation of s 105 (Temporarily closed road still dedicated land)	17
Clause	11. Section 105—	18
	<i>relocate</i> and <i>renumber</i> as section 106A.	19

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Amendment*

	Insertion of new ch 3, pt 2, div 3A hdg	1
Clause	12. Chapter 3, part 2, after section 106—	2
	<i>insert—</i>	3
	‘Division 3A—Temporarily closed roads’.	4
	Renumbering of ss 106 and 106A	5
Clause	13. Sections 106 and 106A (as renumbered by this Act)—	6
	<i>renumber</i> as sections 105 and 106.	7
	Amendment of s 109 (Simultaneous opening and closing of road)	8
Clause	14.(1) Section 109(1)(b)—	9
	<i>omit, insert—</i>	10
	‘(b) at the same time, a road closure is happening in or adjoining the deed of grant or an adjoining deed of grant; and’.	11
	(2) Section 109(1)(d), before ‘both’—	13
	<i>insert—</i>	14
	‘for a road closure happening in or adjoining an adjoining deed of grant—’.	15
		16
	Omission of s 189 (Levelling concessions)	17
Clause	15. Section 189—	18
	<i>omit.</i>	19
	Amendment of s 210 (Changing conditions)	20
Clause	16. Section 210(5)—	21
	<i>omit, insert—</i>	22
	‘(5) If a lessee, licensee or permittee has agreed to a change of condition—	23
		24

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- (a) the chief executive must record the change in the appropriate register; and 1
2
- (b) if a person has possession of a tenure document for the lease, licence or permit—the person must return the tenure document to the land registry.’. 3
4
5

Amendment of s 212 (Minister may change conditions after review) 6

- Clause 17. Section 212(4)— 7
- omit, insert—* 8
- ‘(4) If the appeal is dismissed or the lessee does not appeal— 9
- (a) the chief executive must record the change in the appropriate register; and 10
11
 - (b) if a person has possession of a tenure document for the lease—the person must return the tenure document to the land registry.’. 12
13

Amendment of s 214 (Land protection) 14

- Clause 18.(1) Section 214(3)— 15
- omit, insert—* 16
- ‘(3) If a remedial action notice is given to a lessee or licensee— 17
- (a) the chief executive must record the details of the notice in the appropriate register; and 18
19
 - (b) if a person has possession of a tenure document for the lease or licence—the person must return the tenure document to the land registry.’. 20
21
22
- (2) Section 214(5)— 23
- omit, insert—* 24
- ‘(5) If the appeal is upheld, the chief executive must remove the details of the remedial action notice from the appropriate register.’. 25
26

*Natural Resources and Other Legislation
Amendment*

	Amendment of s 279 (Recording issue and end of tenures)	1
Clause	19.(1) Section 279(1), from ‘must—’—	2
	<i>omit, insert—</i>	3
	‘must record the particulars of the issue or dedication in the appropriate register.’.	4
		5
	(2) Section 279(2)(b)—	6
	<i>omit, insert—</i>	7
	‘(b) if a person has possession of a tenure document for the lease, licence or permit—the person must return the tenure document to the land registry.’.	8
		9
		10
	 Amendment of s 296 (Tenure document needed for registration)	 11
Clause	20.(1) Section 296, heading—	12
	<i>omit, insert—</i>	13
	‘Tenure document to be returned to land registry’.	14
	(2) Section 296(1)—	15
	<i>omit, insert—</i>	16
	‘ (1) A document mentioned in section 295 may be registered only if any tenure document for the land is returned to the land registry for cancellation.’.	17
		18
		19
	(3) Section 296(2), ‘for registration of the dealing’—	20
	<i>omit.</i>	21
	 Amendment of s 358 (Changing deeds of grant)	 22
Clause	21.(1) Section 358, heading—	23
	<i>omit, insert—</i>	24
	‘Changing deeds of grant—change in description or boundary of land’.	25
		26
	(2) Section 358(3)—	27

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omit, insert— 1

‘(3) On the surrender of the land— 2

(a) the deed of grant or deed of grant in trust is cancelled; and 3

(b) a new deed must be issued containing the land to which the 4
registered owner or trustee is entitled.’. 5

Amendment of s 373A (Covenant by registration) 6

Clause 22.(1) Section 373A(1), from ‘With’ to ‘a road)’— 7

omit, insert— 8

‘Non-freehold land (other than a road for which a person does not hold a 9
road licence)’ 10

(2) Section 373A(2), after ‘State’— 11

insert— 12

‘, or a statutory body representing the State,’. 13

(3) Section 373A(3), ‘A covenant’— 14

omit, insert— 15

‘Subject to subsection (4), a covenant’ 16

(4) Section 373A— 17

insert— 18

‘(4) If non-freehold land is the subject of a lease, other than a trustee 19
lease, or is land over which a person holds a road licence, a covenant to 20
which the land is subject may— 21

(a) relate to the use of— 22

(i) the land or part of the land; or 23

(ii) a building, or building proposed to be built, on the land; or 24

(b) relate to the conservation of a physical or natural feature of the 25
land, including soil, water, animals and plants. 26

‘(5) A covenant under this division may be a positive covenant or a 27
negative covenant. 28

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Amendment*

- ‘(6) In this section— 1
- “**building**” means a fixed structure that is wholly or partly enclosed by 2
walls and is roofed, and includes a part of a building. 3
- “**use**”, of a building, does not include architectural or landscaping standards 4
for the building.’. 5

Amendment of s 373C (Amending document creating covenant) 6

- Clause 23.(1) Section 373C— 7
- insert— 8*
- ‘(1A) The amending document may be registered only if— 9
- (a) it is validly executed; and 10
- (b) the Minister has given written approval to the amendment.’. 11
- (2) Section 373C(3)— 12
- omit. 13*
- (3) Section 373C(1A) and (2)— 14
- renumber as section 373C(2) and (3). 15*

Replacement of s 373D (Releasing a covenant) 16

- Clause 24. Section 373D— 17
- omit, insert— 18*
- ‘Releasing a covenant 19**
- ‘373D.(1) A registered covenant may be wholly or partly discharged by 20
registering a document releasing the covenant. 21
- ‘(2) The document must be signed by the covenantee. 22
- ‘(3) On lodgement of the document, the registrar may register the release 23
to the extent shown in the document. 24
- ‘(4) On registration of the document, the covenant is discharged, and the 25
land is released from the covenant, to the extent shown in the document.’. 26

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	Insertion of new ch 9, pt 1A	1
Clause	25. Chapter 9—	2
	<i>insert—</i>	3
	‘PART 1A—TRANSITIONAL PROVISION FOR NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT ACT 1999	4 5 6
	‘Lease of land under repealed Act, section 269(1)	7
	‘521A.(1) This section applies if—	8
	(a) a lease (an “additional lease”) was issued under the repealed Act, section 269(1) ² to a lessee of a grazing homestead perpetual lease or pastoral lease; and	9 10 11
	(b) on the commencement of this section, the additional lease is an interest in land held under this Act.	12 13
	‘(2) The additional lease is taken to have been issued on condition that the land the subject of the lease is tied to the land held under the grazing homestead perpetual lease or pastoral lease.	14 15 16
	‘(3) The condition is a tied condition under section 205. ³ .	17
	Amendment of sch 6 (Dictionary)	18
Clause	26. Schedule 6—	19
	<i>insert—</i>	20
	“adjoining owner” means the registered owner, lessee or trustee of land adjoining a road.	21 22
	“encumbrance” includes a registered covenant under chapter 6, part 4, division 8A.	23 24

² Section 269 (Additional areas (1927, s. 100)) of the repealed Act

³ Section 205 (Tied condition)

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“**pastoral lease**” means a pastoral holding, preferential pastoral holding, pastoral development holding or stud holding issued under the repealed Act, part 3, division 1 or 2.’. 1
2
3

PART 4—AMENDMENT OF LAND TITLE ACT 1994 4

Act amended in pt 4 5

Clause 27. This part amends the *Land Title Act 1994*. 6

Amendment of s 97A (Covenant by registration) 7

Clause 28.(1) Section 97A(2), after ‘State’— 8

insert— 9

‘, or a statutory body representing the State,’. 10

(2) Section 97A(3)— 11

omit, insert— 12

‘(3) The covenant must— 13

(a) relate to the use of— 14

(i) the lot or part of the lot; or 15

(ii) a building, or building proposed to be built, on the lot; or 16

(b) relate to the conservation of a physical or natural feature of the lot, 17

including soil, water, animals and plants; or 18

(c) be for ensuring that the lot may be transferred to a person only if 19

there is also transferred to the person— 20

(i) another lot that is also the subject of the covenant; or 21

(ii) non-freehold land that, under the *Land Act 1994*, is the 22

subject of the covenant; or 23

(iii) a lot mentioned in subparagraph (i) together with 24

non-freehold land mentioned in subparagraph (ii). 25

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	‘(4) The covenant—	1
	(a) may be a positive covenant or a negative covenant; and	2
	(b) is binding on the covenantor and the covenantor’s successors in title.	3 4
	‘(5) In this section—	5
	“use”, of a building, does not include architectural or landscaping standards for the building.’.	6 7
	Amendment of s 97C (Amending an instrument of covenant)	8
Clause	29.(1) Section 97C—	9
	<i>insert—</i>	10
	‘(1A) The instrument of amendment may be registered only if it is validly executed.’.	11 12
	(2) Section 97C(1A) and (2)—	13
	<i>renumber</i> as section 97C(2) and (3).	14
	Replacement of s 97D (Releasing a covenant)	15
Clause	30. Section 97D—	16
	<i>omit, insert—</i>	17
	‘Releasing a covenant	18
	‘97D.(1) A registered covenant may be wholly or partly discharged by registering an instrument releasing the covenant.	19 20
	‘(2) The instrument must be signed by the covenantee.	21
	‘(3) On lodgement of the instrument, the registrar may register the release to the extent shown in the instrument.	22 23
	‘(4) On registration of the instrument, the covenant is discharged, and the lot is released from the covenant, to the extent shown in the instrument.	24 25

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‘Application of Property Law Act 1974, s 181 1

‘**97DA.** The *Property Law Act 1974*, section 181,⁴ applies to a registered covenant.’ 2
3

Amendment of sch 2 (Dictionary) 4

Clause **31.** Schedule 2— 5

insert— 6

‘ **“building”** means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a part of a building.’ 7
8

PART 5—MINOR AMENDMENTS OF ACTS 9

Acts amended in schedule 10

Clause **32.** The schedule amends the Acts it mentions. 11

⁴ *Property Law Act 1974*, section 181 (Power to modify or extinguish easements and restrictive covenants)

SCHEDULE	1
MINOR AMENDMENTS	2
section 32	3
BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997	4 5
1. Section 221(3) and (4), ‘commissioner’—	6
<i>omit, insert—</i>	7
‘adjudicator’.	8
2. Chapter 8, heading—	9
<i>omit, insert—</i>	10
‘CHAPTER 8—TRANSITIONAL PROVISIONS’.	11
INTEGRATED PLANNING ACT 1997	12
1. Chapter 2, part 1, division 6, after section 2.1.24—	13
<i>insert—</i>	14
‘Covenants not to be inconsistent with planning schemes	15
‘2.1.25 A covenant under the <i>Land Act 1994</i> , section 373A(4) or the	16
<i>Land Title Act 1994</i> , section 97A(3)(a) or (b) is of no effect to the extent it	17
is inconsistent with a planning scheme—	18
(a) for the land subject to the covenant; and	19
(b) in effect when the document creating the covenant is registered.’.	20

SCHEDULE (continued)

2. Chapter 3, part 5, division 6, after section 3.5.36—	1
<i>insert—</i>	2
‘Covenants not to be inconsistent with development approvals	3
‘3.5.37(1) Subsection (2) applies if a covenant under the <i>Land Act 1994</i> ,	4
section 373A(4) or the <i>Land Title Act 1994</i> , section 97A(3)(a) or (b) is	5
entered into in connection with a development application.	6
‘(2) The covenant is of no effect unless it is entered into as a requirement	7
of a condition of a development approval for the application.’.	8
LAND ACT 1994	9
1. Section 38(4), ‘reserve’—	10
<i>omit, insert—</i>	11
‘deed of grant in trust’.	12
2. Section 359, heading—	13
<i>omit, insert—</i>	14
‘Correcting or cancelling deeds of grant’.	15
3. Section 360, heading—	16
<i>omit, insert—</i>	17
‘Governor in Council may change leases’.	18
4. Section 399(2), ‘a authorised’—	19
<i>omit, insert—</i>	20
‘an authorised’.	21

SCHEDULE (continued)

5. Section 472(2)—	1
<i>omit.</i>	2
6. Chapter 9, and chapter 9, part 1, headings—	3
<i>omit, insert—</i>	4
‘CHAPTER 9—TRANSITIONAL AND REPEAL PROVISIONS	5 6
‘PART 1—TRANSITIONAL PROVISIONS FOR ORIGINAL ACT (No. 81 OF 1994)’.	7 8