



Queensland

Nature Conservation and Other Legislation Amendment Bill 2012



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2012

A Bill

for

An Act to repeal the *Brisbane Forest Park Act 1977* and to amend the *Forestry Act 1959* and the *Nature Conservation Act 1992* for particular purposes.

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Nature Conservation and Other
Legislation Amendment Bill 2012*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by
proclamation— 7
8

(a) sections 8, 11 and 13; 9

(b) section 17, to the extent it inserts definition *ecotourism
facility*. 10
11

**Part 2 Repeal of Brisbane Forest Park
Act 1977** 12
13

Clause 3 Repeal 14

The Brisbane Forest Park Act 1977, No. 56 is repealed. 15

Part 3	Amendment of Forestry Act 1959	1 2
Clause 4	Act amended This part amends the <i>Forestry Act 1959</i> .	3 4
Clause 5	Amendment of s 26 (Restriction on alienation etc.) Section 26(1A)— <i>insert</i> — ' <i>Note</i> — See the <i>Petroleum and Gas (Production and Safety) Act 2004</i> , section 437A(1) for the creation of an easement for the holder of a pipeline licence under that Act over land that is a State forest.'	5 6 7 8 9 10 11
Clause 6	Amendment of s 35 (Granting of permit for land within State forest) (1) Section 35(1)(a)— <i>omit, insert</i> — '(a) permits to occupy for a term fixed by the chief executive (<i>occupation permits</i>); or'. (2) Section 35(2), 'an occupation permit or'— <i>omit, insert</i> — 'a'.	12 13 14 15 16 17 18 19 20

[s 7]

Part 4	Amendment of Nature Conservation Act 1992	1 2
Clause 7	Act amended	3
	This part amends the <i>Nature Conservation Act 1992</i> .	4
Clause 8	Amendment of s 35 (Chief executive's powers about permitted uses in national parks or national parks (recovery))	5 6 7
	Section 35(1)—	8
	<i>omit, insert—</i>	9
	‘(1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—	10 11 12 13
	(a) the use under the authority is only for a service facility or an ecotourism facility; and	14 15
	(b) if the use under the authority is for a service facility, the chief executive is satisfied—	16 17
	(i) if the land is in a national park, the cardinal principle for the management of national parks will be observed to the greatest possible extent; and	18 19 20
	(ii) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and	21 22 23
	(iii) the use will be in the public interest; and	24
	(iv) the use is ecologically sustainable; and	25
	(v) there is no reasonably practicable alternative to the use; and	26 27
	(c) if the use under the authority is for an ecotourism facility, the chief executive is satisfied—	28 29
	(i) the use will be in the public interest; and	30

-
- (ii) the use is ecologically sustainable; and 1
- (iii) the use will provide, to the greatest possible extent, 2
for the preservation of the land's natural condition 3
and the protection of the land's cultural resources 4
and values; and 5
- (d) the use under the authority is prescribed under a 6
regulation made for this section to be a permitted use for 7
the area.' 8

Clause 9	Insertion of new s 35A	9
	After section 35—	10
	<i>insert—</i>	11
'35A	Chief executive's powers about permitted uses for existing service facilities in national parks or national parks (recovery)	12
		13
		14
	'(1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—	15
		16
		17
		18
	(a) the use under the authority is only for an existing service facility; and	19
		20
	(b) the chief executive is satisfied—	21
	(i) the use is ecologically sustainable; and	22
	(ii) the use does not include carrying out substantial improvements to the existing service facility.	23
		24
	<i>Examples of a substantial improvement to an existing service facility—</i>	25
		26
	• an upgrade of a road that provides access to a communications tower	27
		28
	• the replacement of a pipeline with a larger pipeline	29
	'(2) Subsection (1) applies despite sections 15 and 34(2), and does not limit section 35.	30
		31
	'(3) This section does not apply to—	32

[s 10]

- (a) a national park, or a part of a national park, that is an indigenous joint management area; or 1
2
 - (b) a national park (recovery), or a part of a national park (recovery), that is an indigenous joint management area. 3
4
- ‘(4) In this section— 5
- existing service facility*, for land in a national park or national park (recovery), means a service facility in existence on the land immediately before the land was dedicated as a national park or national park (recovery).’ 6
7
8
9

Clause 10 Amendment of s 36 (Authorities for new national park or national park (recovery)) 10
11

Section 36(5)(b), ‘section 35’— 12

omit, insert— 13

‘sections 35 and 35A’. 14

Clause 11 Amendment of s 42AE (Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land)) 15
16
17

Section 42AE(1)— 18

omit, insert— 19

‘(1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if— 20
21
22
23

- (a) the use under the authority is only for a service facility or an ecotourism facility; and 24
25
- (b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied— 26
27
28

- (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and 29
30
31

-
- (ii) the use will be in the public interest; and 1
 - (iii) the use is ecologically sustainable; and 2
 - (iv) there is no reasonably practicable alternative to the use; and 3
4
 - (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied— 5
6
7
 - (i) the use will be in the public interest; and 8
 - (ii) the use is ecologically sustainable; and 9
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values; and 10
11
12
13
 - (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the protected area.’. 14
15
16

Clause 12 Insertion of new s 42AEA 17

After section 42AE— 18
insert— 19

‘42AEA Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land) 20
21
22

- ‘(1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if— 23
24
25
26
 - (a) the use under the authority is only for an existing service facility; and 27
28
 - (b) the chief executive and the indigenous landholder are satisfied— 29
30
 - (i) the use is ecologically sustainable; and 31

[s 13]

	(ii) the use does not include carrying out substantial improvements to the existing service facility.	1 2
	<i>Examples of a substantial improvement to an existing service facility—</i>	3 4
	• an upgrade of a road that provides access to a communications tower	5 6
	• the replacement of a pipeline with a larger pipeline	7
	‘(2) Subsection (1) applies despite sections 15 and 42AD(2), and does not limit section 42AE.	8 9
	‘(3) In this section—	10
	<i>existing service facility</i> , for land in a national park (Cape York Peninsula Aboriginal land), means a service facility in existence on the land immediately before the land was dedicated as a national park (Cape York Peninsula Aboriginal land).’.	11 12 13 14 15
Clause 13	Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)	16 17 18
	Section 42AO(1)—	19
	<i>omit, insert—</i>	20
	‘(1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—	21 22 23 24 25 26
	(a) the use under the authority is only for a service facility or an ecotourism facility; and	27 28
	(b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied—	29 30 31

-
- (i) if the land is in a national park—the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) if the land is in a national park (recovery)—the management principle under section 19A(1)(a) will be observed to the greatest possible extent; and
 - (iii) the use will be in the public interest; and
 - (iv) the use is ecologically sustainable; and
 - (v) there is no reasonably practicable alternative to the use; and
- (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied—
- (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values; and
- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the indigenous joint management area.’.

Clause 14 Insertion of new s 42AOA

After section 42AO—

insert—

‘42AOA Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas

- ‘(1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous

[s 15]

joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—

(a) the use under the authority is only for an existing service facility; and

(b) the chief executive and the indigenous landholder are satisfied—

(i) the use is ecologically sustainable; and

(ii) the use does not include carrying out substantial improvements to the existing service facility.

Examples of a substantial improvement to an existing service facility—

- an upgrade of a road that provides access to a communications tower
- the replacement of a pipeline with a larger pipeline

‘(2) Subsection (1) applies despite sections 15 and 42AN(2), and does not limit section 42AO.

‘(3) In this section—

existing service facility, for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, means a service facility in existence on the land immediately before the land was declared as an indigenous joint management area.’.

Clause 15 **Amendment of s 42AP (Authorities for new national park or national park (recovery) that is an indigenous joint management area)**

Section 42AP(5)—

omit, insert—

‘(5) This section applies despite sections 15 and 42AN(2), and does not limit sections 42AO and 42AOA.’.

Clause 16	Amendment of s 141 (Delegation by chief executive)	1
(1)	Section 141(2), from ‘under’—	2
	<i>omit, insert—</i>	3
	‘under a prescribed provision.’.	4
(2)	Section 141—	5
	<i>insert—</i>	6
‘(3)	In this section—	7
	prescribed provision means section 34, 35, 35A, 36, 37, 38, 42AD, 42AE, 42AEA, 42AO, 42AOA, 42AP or 136.’.	8 9
Clause 17	Amendment of schedule (Dictionary)	10
	Schedule—	11
	<i>insert—</i>	12
	‘ ecotourism facility , for land, means a facility that—	13
(a)	is designed and managed to facilitate the presentation, appreciation and conservation of the land’s natural condition and cultural resources and values (the primary purpose); and	14 15 16 17
(b)	is managed in a way that does not allow an activity to be carried out on the land that—	18 19
(i)	is inconsistent with the primary purpose; and	20
(ii)	would require a significant change to the land’s natural condition or would adversely affect the conservation of the land’s cultural resources and values.	21 22 23 24
	<i>Example of an activity for subparagraph (ii)—</i>	25
	the construction of a golf course, amusement park or casino on the land	26 27
	national park (recovery) means an area dedicated under this Act as a national park (recovery).’.	28 29

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