



Queensland

Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill 2020



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2020

A Bill

for

An Act to amend the *Aboriginal Land Act 1991*, the *Nature Conservation Act 1992*, the *Recreation Areas Management Act 2006* and the *Torres Strait Islander Land Act 1991* for particular purposes

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 (Indigenous Joint Management—Moreton Island) Amendment Act 2020*. 4
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Part 2 Amendment of Aboriginal Land Act 1991 7
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Clause 2 Act amended 9

This part amends the *Aboriginal Land Act 1991*. 10

Clause 3 Amendment of s 10 (Lands that are transferable lands) 11

Section 10(1)(f), after ‘174,’— 12
insert— 13
175A, 14

Clause 4 Amendment of s 45 (Existing interests) 15

Section 45(4) and (5)— 16
omit, insert— 17
(4) However, subsections (5) to (5B) apply if, under 18
an available State land agreement— 19
(a) an interest in transferable land (the *previous* 20
interest) ends on the grant of the land under 21
this part; and 22

-
- (b) a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land. 1
2
3
- (5) Despite subsections (1) to (3), the previous interest ends on the grant of the land. 4
5
- (5A) However, if the previous interest was a lease under the Land Act (the *previous lease*) and the interest that is to have effect in substitution for the previous lease is a lease under the Land Title Act (the *new lease*)— 6
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- (a) despite section 25(3) and the available State land agreement, the previous lease does not end until the new lease is registered in the freehold land register; and 11
12
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14
- (b) the lessee of the new lease must lodge the new lease for registration in the freehold land register immediately after the grant of the land; and 15
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- (c) if a sublease was in force under the previous lease immediately before the grant of the land, on the grant of the land the sublease continues under the new lease; and 19
20
21
22
- (d) subject to paragraph (e) and subsection (5B), the new lease must be registered in the freehold land register subject to the same encumbrances to which the previous lease was subject, and in the same priorities, as recorded in the appropriate register immediately before the grant of the land; and 23
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- (e) any particulars recorded in the appropriate register for the previous lease immediately before the grant of the land must be recorded in the freehold land register for the land, to the extent the particulars are relevant to the land. 31
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[s 5]

	(5B) If an easement that burdened the previous lease was in existence immediately before the grant of the land, on the grant of the land the easement—	1 2 3
	(a) continues in existence, despite the Land Act, section 372; and	4 5
	(b) burdens the land the subject of the new lease; and	6 7
	(c) is taken to have been registered under the Land Title Act, part 6, division 4.	8 9
Clause 5	Amendment of pt 11, hdg (Indigenous management agreements and land in Cape York Peninsula Region and North Stradbroke Island Region)	10 11 12
	Part 11, heading, ‘and North Stradbroke Island Region’—	13
	<i>omit, insert—</i>	14
	, North Stradbroke Island Region and on Moreton Island	15 16
Clause 6	Amendment of s 169 (Entering into indigenous management agreement)	17 18
	Section 169(1)(a) and (b)—	19
	<i>omit, insert—</i>	20
	(a) it is proposed that an entity holds the following land as Aboriginal land—	21 22
	(i) land in the Cape York Peninsula Region;	23 24
	(ii) land in the North Stradbroke Island Region;	25 26
	(iii) land on Moreton Island; and	27
	(b) the State and the entity agree that the land, or part of the land, is to become—	28 29

	(i) for land in the Cape York Peninsula Region—a national park (Cape York Peninsula Aboriginal land); or	1 2 3
	(ii) for land in the North Stradbroke Island Region or on Moreton Island—an indigenous joint management area.	4 5 6
Clause 7	Amendment of s 170 (Requirements for indigenous management agreement)	7 8
	Section 170(1)(b)(ii), after ‘Region’—	9
	<i>insert—</i>	10
	or on Moreton Island	11
Clause 8	Insertion of new pt 11, div 4	12
	Part 11—	13
	<i>insert—</i>	14
	Division 4 Protected areas on Moreton Island	15 16
	175A Prescribed protected areas on Moreton Island are transferable land	17 18
	(1) A prescribed protected area on Moreton Island is transferable land for the purposes of this Act.	19 20
	(2) In this section—	21
	<i>excluded protected area</i> means land shown on lots 1 to 7 on DP283833.	22 23
	<i>prescribed protected area</i> means a national park or conservation park under the <i>Nature Conservation Act 1992</i> , other than an area that is an excluded protected area.	24 25 26 27

	175B Requirement about grant of prescribed protected areas on Moreton Island	1 2
	(1) This section applies to transferable land mentioned in section 175A.	3 4
	(2) Before the land is granted under this Act, the proposed trustee for the land must enter into an indigenous management agreement with the State about the management of the land.	5 6 7 8
	(3) The grant of the land is subject to the condition that the land must become an indigenous joint management area.	9 10 11
Clause 9	Amendment of s 284 (National park subject to lease to State etc.)	12 13
	Section 284(12), definition <i>national park</i> —	14
	<i>omit, insert</i> —	15
	<i>national park</i> does not include a national park—	16
	(a) in the Cape York Peninsula Region; or	17
	(b) in the North Stradbroke Island Region; or	18
	(c) on Moreton Island.	19
Clause 10	Amendment of sch 1 (Dictionary)	20
	Schedule 1—	21
	<i>insert</i> —	22
	<i>Moreton Island</i> see the <i>Nature Conservation Act 1992</i> , schedule.	23 24

Part 3	Amendment of Nature Conservation Act 1992	1 2
Clause 11	Act amended	3
	This part amends the <i>Nature Conservation Act 1992</i> .	4
Clause 12	Amendment of s 35 (Chief executive’s powers about permitted uses in national parks)	5 6
	Section 35(2)—	7
	<i>omit, insert—</i>	8
	(2) Subsection (1)—	9
	(a) has effect despite section 15; and	10
	(b) does not limit, and is not limited by, section 34.	11 12
Clause 13	Amendment of s 40 (Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land))	13 14 15
	Section 40(1)—	16
	<i>omit, insert—</i>	17
	(1) This section applies to land in a national park (the <i>national park land</i>) if—	18 19
	(a) it is not in the Cape York Peninsula region, North Stradbroke Island Region or on Moreton Island; and	20 21 22
	(b) it becomes Aboriginal land or Torres Strait Islander land.	23 24

Clause 14	Amendment of s 42AE (Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land))	1 2 3
	Section 42AE(2)—	4
	<i>omit, insert—</i>	5
	(2) Subsection (1)—	6
	(a) has effect despite section 15; and	7
	(b) does not limit, and is not limited by, section 42AD.	8 9
Clause 15	Replacement of s 42AG (Purpose of sdiv 3)	10
	Section 42AG—	11
	<i>omit, insert—</i>	12
	42AG Purpose of subdivision	13
	The purpose of this subdivision is to provide for the declaration of prescribed protected areas situated in the North Stradbroke Island Region or on Moreton Island as indigenous joint management areas.	14 15 16 17 18
Clause 16	Amendment of s 42AH (Declaration of a prescribed protected area as indigenous joint management area)	19 20
	Section 42AH(1)—	21
	<i>omit, insert—</i>	22
	(1) This section applies to land in a prescribed protected area (the <i>protected area land</i>) if—	23 24
	(a) the protected area land is—	25
	(i) in the North Stradbroke Island Region; or	26 27
	(ii) on Moreton Island; and	28

	(b) the protected area land becomes Aboriginal land; and	1 2
	(c) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.	3 4 5 6
Clause 17	Amendment of s 42AI (Declaration of Aboriginal land as indigenous joint management area)	7 8
	Section 42AI(1)—	9
	<i>omit, insert—</i>	10
	(1) This section applies to Aboriginal land that is not a prescribed protected area or included in a prescribed protected area if—	11 12 13
	(a) the land is—	14
	(i) in the North Stradbroke Island Region; or	15 16
	(ii) on Moreton Island; and	17
	(b) the indigenous landholder for the land has entered into an indigenous management agreement for it; and	18 19 20
	(c) the Minister and the indigenous landholder agree that the land is to be managed as an indigenous joint management area.	21 22 23
Clause 18	Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)	24 25 26
	Section 42AO(2)—	27
	<i>omit, insert—</i>	28
	(2) Subsection (1)—	29
	(a) has effect despite section 15; and	30

[s 19]

	(b) does not limit, and is not limited by, section 42AN.	1 2
Clause 19	Amendment of s 43G (Service facilities over land in special wildlife reserve)	3 4
	(1) Section 43G(3) and (4)—	5
	<i>omit, insert—</i>	6
	(3) Subsections (1) and (2)—	7
	(a) have effect despite section 15; and	8
	(b) do not limit, and are not limited by, section 43F.	9 10
	(2) Section 43G(5)—	11
	<i>renumber</i> as section 43G(4).	12
Clause 20	Amendment of schedule (Dictionary)	13
	(1) Schedule—	14
	<i>insert—</i>	15
	Moreton Island means land on Moreton Island that is above the ordinary high-water mark at spring tide.	16 17 18
	(2) Schedule, definition <i>North Stradbroke Island Region</i> —	19
	<i>omit, insert—</i>	20
	North Stradbroke Island Region means the parts of the State shown as ‘Area A’ and ‘Area B’ on the map titled ‘NSI 1’—	21 22 23
	(a) approved by the chief executive on 18 March 2011; and	24 25
	(b) held in digital electronic form by the department; and	26 27
	(c) available for inspection by the public.	28

Part 4	Amendment of Recreation Areas Management Act 2006	1 2
Clause 21	Act amended	3
	This part amends the <i>Recreation Areas Management Act 2006</i> .	4 5
Clause 22	Replacement of pt 4, div 1, hdg (Activities permitted)	6
	Part 4, division 1, heading—	7
	<i>omit, insert—</i>	8
	Division 1 Preliminary	9
Clause 23	Insertion of new s 35A	10
	After section 35—	11
	<i>insert—</i>	12
	35A Restriction on issuing permits—indigenous joint management areas	13 14
	The chief executive may issue a permit for a recreation area situated in an indigenous joint management area only if all requirements relating to issuing the permit under the indigenous management agreement for the area have been satisfied.	15 16 17 18 19 20
	<i>Examples of requirements under an indigenous management agreement—</i>	21 22
	<ul style="list-style-type: none">• a requirement to consult with the indigenous landholder• a requirement to obtain the prior written consent of the indigenous landholder for the issuing of the permit	23 24 25 26 27

Clause 24	Amendment of s 53 (Additional matters to be considered under s 52)	1 2
	(1) Section 53(1)(j)—	3
	<i>omit, insert—</i>	4
	(j) if the proposed permit relates to a recreation area situated in an indigenous joint management area—whether the requirements mentioned in section 35A have been satisfied;	5 6 7 8 9
	(k) whether there are any grounds for refusing the application.	10 11
	(2) Section 53(3), ‘subsection (1)(j)’—	12
	<i>omit, insert—</i>	13
	subsection (1)(k)	14
Clause 25	Amendment of s 55D (Deciding application to renew permit)	15 16
	Section 55D(1)—	17
	<i>insert—</i>	18
	(c) for a permit relating to a recreation area situated in an indigenous joint management area—all requirements relating to the permit under the indigenous management agreement for the area have been satisfied in relation to the renewal.	19 20 21 22 23 24
Clause 26	Amendment of s 70 (Restrictions on entering into commercial activity agreement)	25 26
	Section 70(3), after ‘52’—	27
	<i>insert—</i>	28
	, 53	29

Clause 27	Amendment of schedule (Dictionary)	1
	Schedule—	2
	<i>insert</i> —	3
	<i>indigenous joint management area</i> means an area declared under the <i>Nature Conservation Act 1992</i> as an indigenous joint management area.	4
		5
		6
	<i>indigenous management agreement</i> see the <i>Aboriginal Land Act 1991</i> , schedule 1.	7
		8
Part 5	Amendment of Torres Strait Islander Land Act 1991	9
		10
Clause 28	Act amended	11
	This part amends the <i>Torres Strait Islander Land Act 1991</i> .	12
Clause 29	Amendment of s 41 (Existing interests)	13
	Section 41(4) and (5)—	14
	<i>omit, insert</i> —	15
	(4) However, subsections (5) to (5B) apply if, under an available State land agreement—	16
		17
	(a) an interest in transferable land (the <i>previous interest</i>) ends on the grant of the land under this part; and	18
		19
		20
	(b) a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land.	21
		22
		23
	(5) Despite subsections (1) to (3), the previous interest ends on the grant of the land.	24
		25
	(5A) However, if the previous interest was a lease under the Land Act (the <i>previous lease</i>) and the interest that is to have effect in substitution for the	26
		27
		28

previous lease is a lease under the Land Title Act	1
(the <i>new lease</i>)—	2
(a) despite section 20(3) and the available State	3
land agreement, the previous lease does not	4
end until the new lease is registered in the	5
freehold land register; and	6
(b) the lessee of the new lease must lodge the	7
new lease for registration in the freehold	8
land register immediately after the grant of	9
the land; and	10
(c) if a sublease was in force under the previous	11
lease immediately before the grant of the	12
land, on the grant of the land the sublease	13
continues under the new lease; and	14
(d) subject to paragraph (e) and subsection	15
(5B), the new lease must be registered in the	16
freehold land register subject to the same	17
encumbrances to which the previous lease	18
was subject, and in the same priorities, as	19
recorded in the appropriate register	20
immediately before the grant of the land;	21
and	22
(e) any particulars recorded in the appropriate	23
register for the previous lease immediately	24
before the grant of the land must be	25
recorded in the freehold land register for the	26
land, to the extent the particulars are	27
relevant to the land.	28
(5B) If an easement that burdened the previous lease	29
was in existence immediately before the grant of	30
the land, on the grant of the land the easement—	31
(a) continues in existence, despite the Land Act,	32
section 372; and	33
(b) burdens the land the subject of the new	34
lease; and	35

- (c) is taken to have been registered under the 1
Land Title Act, part 6, division 4. 2

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