

# Information sheet

## Infrastructure and equipment

### Authorities creating an interest in a protected area under the *Nature Conservation Act 1992*

*This information sheet should be used by prospective proponents to determine what authority they require to conduct major works, infrastructure or long-term activities on Queensland Parks and Wildlife Service & Partnerships managed protected areas under the Nature Conservation Act 1992.*

#### Background

The Department of Environment and Science, through Queensland Parks and Wildlife Service and Partnerships (QPWS&P), manages a range of protected areas under the *Nature Conservation Act 1992* (NCA), including national park (scientific), national park, conservation park and resources reserve tenures. QPWS&P also jointly manage protected area tenures with First Nations peoples, specifically Cape York Peninsula Aboriginal Land (CYPAL) and Indigenous Joint Management Areas (IJMA).

Protected areas are set aside primarily in recognition of, and to protect, their natural and cultural resources and values. However, there is scope for a limited degree of development and infrastructure for public works, scientific or educational purposes, ecotourism or resource extraction, provided certain criteria are met. Such uses are authorised under sections 34-38 of the NCA for non-jointly managed tenures, and sections 42AD – 42AEA and 42AN – 42AP for jointly managed tenures. Each type of authority is described in Appendix 1.

It is important to note that each application for development in a protected area is considered under the NCA on a case-by-case basis. Consideration is given to human rights, including the rights and interests of First Nations Peoples. Different classes of protected area are afforded different levels of protection under the NCA, and individual protected areas are managed to protect natural and cultural values that are unique to that area. As such, the activities, works or infrastructure that are lawful in one protected area may not be appropriate in another protected area. Additional requirements and approvals are required if the area is also a World Heritage Area or other Matters of National Environmental Significance.

#### Scope

This information sheet refers only to State managed protected areas, and not private protected areas, including nature refuges and special wildlife reserves.

#### Environmental offsets

Environmental offsets aim to compensate or counterbalance for the significant residual impact of prescribed activities, such as resource, development and land use activities, on prescribed environmental matters, such as threatened species, protected wildlife habitat, regulated vegetation and protected areas. A significant residual impact within a protected area may include the clearing or inundation of all or part of the protected area for construction, the exclusion or a reduction in public use and enjoyment, or reduction in the natural or cultural values of the area.

Under the *Environmental Offsets Act 2014*, a section 34 or section 35 NCA authority may be conditioned to require or otherwise relate to an environmental offset. Refer to the Queensland environmental offsets framework

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and associated State and Commonwealth guidelines for further information and guidance. It should also be noted that environmental offsets may not be appropriate in a world heritage area because “Outstanding Universal Value” is irreplaceable.

### **Further information**

Contact QPWS&P at [QPWS.Estate@des.qld.gov.au](mailto:QPWS.Estate@des.qld.gov.au) for more information on what development may occur, what approvals may be required and how to apply.

### **Human Rights Act 2019 compatibility**

DES is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), DES has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this information sheet, officers must comply with that obligation (refer to [Comply with Human Rights Act](#) or visit <https://www.forgov.qld.gov.au/humanrights>).

### **Disclaimer**

While this document has been prepared with care, it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action

### **Approved By**

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Signature

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Date

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## Authorities creating an interest in a protected area under the *Nature Conservation Act 1992*

### Appendix 1 – Authorities creating an interest in a protected area under the *Nature Conservation Act 1992*

Type of authority	Tenure	Purpose	Requirements	Maximum term	Examples of uses
Section 34 Authority	<ul style="list-style-type: none"> <li>✓ National park (scientific)</li> <li>✓ National park</li> <li>✓ Conservation park</li> <li>✓ Resources reserve</li> </ul>	Allows structures, major works and long-term activities on a protected area.	The use must: <ul style="list-style-type: none"> <li>- be consistent with the management principles and any management plan for the area;</li> <li>- the use will be in the public interest;</li> <li>- the use is ecologically sustainable;</li> <li>- there is no reasonably practicable alternative to the use.</li> </ul>	20 years	In national park (scientific) - only structures and works that are consistent for meeting the specific management objectives of the area, such as a research or education facility.  In national parks, conservation parks and resources reserves - scientific and educational facilities, research equipment, etc, where these uses meet the management principles.
Section 42AD Authority	<ul style="list-style-type: none"> <li>✓ National park (CYPAL<sup>1</sup>)</li> </ul>				
Section 42AN Authority	<ul style="list-style-type: none"> <li>✓ National park (IJMA<sup>2</sup>)</li> </ul>				
Section 35 Authority	<ul style="list-style-type: none"> <li>* National park (scientific)</li> <li>✓ National park</li> <li>* Conservation park</li> </ul>	Allows the establishment of new service facilities and low impact purpose built ecotourism	For a <u>service facility</u> : <ul style="list-style-type: none"> <li>- the cardinal principle for the management of national parks</li> </ul>	20 years	A <i>service facility</i> is defined in the NCA and refers to any of the following: <ul style="list-style-type: none"> <li>- Communications facilities;</li> <li>- Navigational aids;</li> </ul>

<sup>1</sup> CYPAL – Cape York Peninsula Aboriginal Land

<sup>2</sup> IJMA – Indigenous Joint Management Area

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	* Resources reserve	facilities, as permitted uses to be established on national parks.	<p>will be observed to the greatest extent;</p> <ul style="list-style-type: none"> <li>- the use will be in the public interest;</li> <li>- the use is ecologically sustainable;</li> <li>- there is no reasonably practicable alternative to the use.</li> </ul> <p>For an <u>ecotourism facility</u>:</p> <ul style="list-style-type: none"> <li>- the use will be in the public interest;</li> <li>- the use is ecologically sustainable;</li> <li>- 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.</li> </ul> <p>An ecotourism facility is defined in the NCA as a facility designed and managed to facilitate the presentation, appreciation and conservation of the land's natural condition and cultural resources and values.</p> <p>For both a service facility and an ecotourism facility the use must be prescribed under a regulation to be a permitted use for the area.</p>		<ul style="list-style-type: none"> <li>- Electricity infrastructure;</li> <li>- Oil or gas pipelines; or</li> <li>- Water supply or sewerage facilities.</li> </ul> <p>Examples of an ecotourism facility could include glamping or eco-cabins.</p>
Section 42AE Authority	✓ National park (CYPAL)				
Section 42AO Authority	✓ National park (IJMA)				

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Section 35A Authority	<ul style="list-style-type: none"> <li>* National park (scientific)</li> <li>✓ National park</li> <li>* Conservation park</li> <li>* Resources reserve</li> </ul>	Allows the continuation of existing service facilities on national parks.	Use must: <ul style="list-style-type: none"> <li>- be for an existing service facility which was established prior to the dedication of the national park under the NCA;</li> <li>- be ecologically sustainable; and</li> <li>- not include carrying out substantial improvements to the existing facility.</li> </ul>	20 years	An existing service facility, as defined under the NCA, including any of the following: <ul style="list-style-type: none"> <li>- Communications facilities;</li> <li>- Navigational aids;</li> <li>- Electricity infrastructure;</li> <li>- Oil or gas pipelines; or</li> <li>- Water supply or sewerage facilities.</li> </ul>
Section 42AEA Authority	<ul style="list-style-type: none"> <li>✓ National park (CYPAL)</li> </ul>				
Section 42AOA Authority	<ul style="list-style-type: none"> <li>✓ National park (IJMA)</li> </ul>				
Section 36 Authority	<ul style="list-style-type: none"> <li>* National park (scientific)</li> <li>✓ National park</li> <li>* Conservation park</li> <li>* Resources reserve</li> </ul>	Enables the temporary continuation (cannot be renewed) of existing lawful uses that are inconsistent with the management principles of national parks on an area of newly dedicated national park.	The use must: <ul style="list-style-type: none"> <li>- have been lawfully occurring immediately prior to the dedication of the area as national park under an existing non-NCA authority or with the permission of the former landholder; and</li> <li>- not be expressly prohibited in national park. These prohibited activities would include mining, quarrying or timber harvesting.</li> </ul>	Remaining term of the previous authority <sup>3</sup> OR 3 years <sup>4</sup> (whichever is longer)	Examples would include: <ul style="list-style-type: none"> <li>- Existing lawful structures, activities and works (for example, authorised in a State forest by an occupation permit/stock grazing permit/apiary permit/sales permit under the <i>Forestry Act 1959</i>).</li> </ul>
Section 42AP Authority	<ul style="list-style-type: none"> <li>✓ National park (IJMA)</li> </ul>				
Section 37 Authority	<ul style="list-style-type: none"> <li>* National park (scientific)</li> <li>✓ National park</li> </ul>	Enables the renewal of historical or legacy authorities that were	The use must: <ul style="list-style-type: none"> <li>- have been authorised under the (repealed) <i>National Parks and</i></li> </ul>	If no management plan is in	Previously authorised activities, such as commercial activities that are now inconsistent.

<sup>3</sup> For occupation permits, stock grazing permits, apiary permits, sales permit under the *Forestry Act 1959* or a lease under the *Land Act 1994*.

<sup>4</sup> Following the dedication date of the national park.

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	<ul style="list-style-type: none"> <li>* Conservation park</li> <li>* Resources reserve</li> </ul>	previously issued in a national park under now repealed legislation.	<p><i>Wildlife Act 1975</i> or the (repealed) <i>Land Act 1962</i>; and</p> <ul style="list-style-type: none"> <li>- continued in force under the <i>Nature Conservation Act 1992</i>.</li> </ul>	force: a maximum of 10 years OR if a management plan is in force, the term authorised under the plan.	
Section 38 Authority	<ul style="list-style-type: none"> <li>✓ National park (scientific)</li> <li>✓ National park</li> <li>✓ Conservation park</li> <li>✓ Resources reserve</li> </ul>	Used to provide consent for the granting or renewal of a <i>Land Act 1994</i> term lease.	<p>The use is authorised under a term lease under the <i>Land Act 1994</i>, as if the land was reserved for public purposes or set apart under that Act for public purposes.</p> <p>The use:</p> <ul style="list-style-type: none"> <li>- must be consistent with the management principles and management plan for the area.</li> <li>- must be an existing lease (other than a rolling term lease) under the <i>Land Act 1994</i>.</li> </ul> <p>New uses should not be authorised under section 38, without first considering authorisation under either section 34 or 35.</p>	20 years	Renew and is limited circumstances grant, term leases under the <i>Land Act 1994</i> .