



# **Cape York Peninsula Heritage Act 2007**

**Current as at 1 July 2016**





Queensland

# Cape York Peninsula Heritage Act 2007

## Contents

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|                   |  | Page |
|-------------------|--|------|
| <b>Part 1</b>     | <b>Preliminary</b>   |      |
| <b>Division 1</b> | <b>Introduction and objects of Act</b>   |      |
| 1                 | Short title .....  | 3    |
| 2                 | Commencement .....   | 3    |
| 3                 | Objects of Act .....   | 3    |
| 4                 | How objects are primarily achieved .....   | 4    |
| 5                 | Act binds all persons .....  | 4    |
| <b>Division 2</b> | <b>Interpretation</b>  |      |
| 6                 | Dictionary .....   | 4    |
| 7                 | Meaning of Cape York Peninsula Region .....  | 5    |
| <b>Part 2</b>     | <b>Areas of international conservation significance</b>                              |      |
| <b>Division 1</b> | <b>Preliminary</b>   |      |
| 8                 | Purpose of pt 2 .....  | 5    |
| <b>Division 2</b> | <b>Declaration of areas of international conservation significance</b>               |      |
| 9                 | Declaration .....  | 6    |
| 10                | Notice and consultation about declaration .....                                      | 6    |
| 11                | Criteria for declaration .....   | 7    |
| 12                | Minor amendment of boundary of area of international conservation significance ..... | 7    |
| <b>Part 3</b>     | <b>Indigenous community use areas</b>  |      |
| <b>Division 1</b> | <b>Preliminary</b>   |      |
| 13                | Purpose of pt 3 .....  | 8    |
| <b>Division 2</b> | <b>Declaration of indigenous community use areas</b>                                 |      |
| 14                | Declaration .....  | 8    |
| 15                | Consultation about declaration .....   | 8    |
| 16                | Criteria for declaration .....   | 9    |
| <b>Part 4</b>     | <b>Matters about particular development in Cape York Peninsula</b>                   |      |

Contents

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|                   |   |    |
|-------------------|---|----|
|                   | <b>Region</b>   |    |
| <b>Division 1</b> | <b>Preliminary</b>  |    |
| 17                | Purpose of pt 4 . . . . .   | 9  |
| <b>Division 2</b> | <b>Development for a special indigenous purpose</b>   |    |
| 18                | Development—generally . . . . .   | 10 |
| 19                | Development in indigenous community use area . . . . .  | 11 |
| <b>Part 5</b>     | <b>Committees</b>   |    |
| <b>Division 1</b> | <b>Cape York Peninsula Regional Advisory Committee</b>  |    |
| 20                | Establishment and functions . . . . .   | 13 |
| 21                | Membership . . . . .  | 13 |
| <b>Division 2</b> | <b>Cape York Peninsula Region Scientific and Cultural Advisory Committee</b>                      |    |
| 22                | Establishment and functions . . . . .   | 14 |
| 23                | Membership . . . . .  | 14 |
| <b>Part 6</b>     | <b>Miscellaneous</b>  |    |
| 25                | Special provision about pastoral leases . . . . .   | 15 |
| 26                | Special provision about particular declaration under the Vegetation Management Act 1999 . . . . . | 16 |
| 27                | Special provision about water reserve . . . . .   | 16 |
| 28                | Delegation by Minister . . . . .  | 17 |
| 29                | Regulation-making power . . . . .   | 17 |
| <b>Schedule</b>   | <b>Dictionary</b> . . . . .   | 18 |

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# Cape York Peninsula Heritage Act 2007

**An Act to provide for the identification of the significant natural and cultural values of Cape York Peninsula, and cooperative and ecologically sustainable management of Cape York Peninsula**

## **Part 1 Preliminary**

### **Division 1 Introduction and objects of Act**

#### **1 Short title**

This Act may be cited as the *Cape York Peninsula Heritage Act 2007*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Objects of Act**

The objects of this Act are—

- (a) to identify significant natural and cultural values of Cape York Peninsula; and
- (b) to provide for cooperative management, protection and ecologically sustainable use of land, including pastoral land, in the Cape York Peninsula Region; and
- (c) to recognise the economic, social and cultural needs and aspirations of indigenous communities in relation to land use in the Cape York Peninsula Region; and

- (d) to recognise the contribution of the pastoral industry in the Cape York Peninsula Region to the economy and land management in the region.

#### **4 How objects are primarily achieved**

The objects are to be achieved primarily by providing for—

- (a) the declaration of areas of international conservation significance; and
- (b) the cooperative involvement of landholders in the management of the natural and cultural values of Cape York Peninsula; and
- (c) the continuance of an environmentally sustainable pastoral industry as a form of land use in the Cape York Peninsula Region; and
- (d) the declaration of indigenous community use areas in which indigenous communities may undertake appropriate economic activities; and
- (e) the establishment of committees to advise the environment Minister and vegetation management Minister about particular matters under this Act.

#### **5 Act binds all persons**

This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

## **Division 2 Interpretation**

#### **6 Dictionary**

The dictionary in the schedule defines particular words used in this Act.

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## 7 Meaning of *Cape York Peninsula Region*

- (1) The *Cape York Peninsula Region* is the part of the State shown as, and stated to be included in, the Cape York Peninsula Region on the designated map.

*Editor's note—*

The map may be viewed on the natural resources department's website.

- (2) The exact location of the boundary of the Cape York Peninsula Region is held in digital electronic form by the natural resources department.
- (3) The information held in digital electronic form can be reduced or enlarged to show the details of the boundary.
- (4) In this section—

*designated map* means a map prepared and held by the natural resources department—

- (a) called 'Map 2 Cape York Peninsula Region'; or
- (b) prescribed under a regulation.

*natural resources department* means the department in which the *Land Act 1994* is administered.

## Part 2 Areas of international conservation significance

### Division 1 Preliminary

#### 8 Purpose of pt 2

The purpose of this part is to provide for the declaration of land in the Cape York Peninsula Region as an area of international conservation significance.

## **Division 2                      Declaration of areas of international conservation significance**

### **9                      Declaration**

- (1) A regulation may declare a part of the Cape York Peninsula Region to be an area of international conservation significance.
- (2) The regulation must—
  - (a) describe the area for which the declaration is made; and
  - (b) state the area's significant natural and cultural values for which the declaration is made.

### **10                      Notice and consultation about declaration**

- (1) Before a part of the Cape York Peninsula Region is declared to be an area of international conservation significance, the environment Minister—
  - (a) must publish a notice that—
    - (i) identifies the area proposed to be declared; and
    - (ii) invites persons who may have an interest in the area to give submissions to the Minister about the proposal within a stated period of at least 28 days after the notice is published; and
  - (b) must consider the submissions given to the Minister under paragraph (a)(ii); and
  - (c) must consult with the regional advisory committee and the scientific and cultural advisory committee about the proposed declaration.
- (2) A submission under subsection (1)(a)(ii) may be given to the environment Minister in the way the Minister considers appropriate.



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- (3) Subsection (1) does not limit the extent to which the environment Minister may consult with any other person or entity the Minister considers appropriate.
- (4) In this section—  
*publish*, for a notice, means publish in a newspaper circulating generally in the State and publish in the gazette.

## 11 Criteria for declaration

- (1) A regulation may declare a part of the Cape York Peninsula Region to be an area of international conservation significance only if the environment Minister—
- (a) has complied with section 10(1); and
- (b) is satisfied that, based on an assessment of the part's natural and cultural values, the part meets 1 or more of the criteria for inclusion on the World Heritage List established and kept under the World Heritage Convention.

*Editor's note—*

The criteria may be viewed on the United Nations Educational, Scientific and Cultural Organization's website at <[whc.unesco.org/en/criteria](http://whc.unesco.org/en/criteria)>.

- (2) In this section—

*World Heritage Convention* see the *Nature Conservation Act 1992*, schedule.

## 12 Minor amendment of boundary of area of international conservation significance

A regulation may amend the boundary of an area of international conservation significance without section 10(1) applying if—

- (a) the amendment is only to make a minor change to the boundary because of new information about the area's natural and cultural values; and

[s 13]

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- (b) the environment Minister has consulted with each person the Minister reasonably considers may have an interest in the area to be included or excluded from the area of international conservation significance under the proposed amendment.

## **Part 3                      Indigenous community use areas**

### **Division 1                      Preliminary**

#### **13              Purpose of pt 3**

The purpose of this part is to provide for the declaration of land in the Cape York Peninsula Region as an indigenous community use area.

### **Division 2                      Declaration of indigenous community use areas**

#### **14              Declaration**

- (1) The Governor in Council may, by gazette notice, declare a part of the Cape York Peninsula Region that is Aboriginal land or DOGIT land to be an indigenous community use area.
- (2) The notice must describe the area for which the declaration is made.

#### **15              Consultation about declaration**

- (1) Before a part of the Cape York Peninsula Region is declared to be an indigenous community use area, the vegetation management Minister must consult with the regional advisory

committee and the scientific and cultural advisory committee about the proposed declaration.

- (2) Subsection (1) does not limit the extent to which the vegetation management Minister may consult with any other person or entity the Minister considers appropriate.

## **16 Criteria for declaration**

The Governor in Council may declare a part of the Cape York Peninsula Region to be an indigenous community use area only if—

- (a) the landholder for the land the subject of the declaration has asked the vegetation management Minister, in writing, for the declaration to be made; and
- (b) the vegetation management Minister—
  - (i) has complied with section 15(1); and
  - (ii) is satisfied that the land has the potential to support agricultural, animal husbandry, aquacultural or grazing activities.

# **Part 4 Matters about particular development in Cape York Peninsula Region**

## **Division 1 Preliminary**

### **17 Purpose of pt 4**

The purpose of this part is to provide for how the vegetation management Minister may be satisfied, for the *Vegetation Management Act 1999*, section 22A(2AA), that development

applied for under a vegetation clearing application is for a special indigenous purpose.

## **Division 2                      Development for a special indigenous purpose**

### **18            Development—generally**

- (1) The vegetation management Minister may be satisfied that development applied for under a vegetation clearing application is for a special indigenous purpose if—
  - (a) the application is for proposed development on Aboriginal land or DOGIT land in the Cape York Peninsula Region; and
  - (b) the application does not involve the clearing of native vegetation—
    - (i) in an endangered regional ecosystem; or
    - (ii) in an of concern regional ecosystem; or
    - (iii) for the purpose of planting a high risk species, or trees to make woodchips for export; and
  - (c) the vegetation management Minister is satisfied the proposed clearing for the development—
    - (i) is of a minor nature; and  
*Example of clearing of a minor nature—*  
clearing a small area for subsistence farming
    - (ii) will not have a significant impact on the natural values of the area.
- (2) In considering the matters mentioned in subsection (1)(c), the vegetation management Minister must have regard to any existing authorities, however called, for clearing vegetation on the land the subject of the vegetation clearing application.

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## 19 Development in indigenous community use area

The vegetation management Minister also may be satisfied that development applied for under a vegetation clearing application is for a special indigenous purpose if—

- (a) the application is for proposed development in an indigenous community use area; and
- (b) the application is accompanied by a plan (the property development plan) for the proposed development that includes all of the following information—
  - (i) the extent and location of the proposed clearing for the development;
  - (ii) particulars of the development, including when it is expected to be completed;
  - (iii) evidence that there is no suitable alternative site for the development;
  - (iv) evidence that the development can not be carried out without the proposed clearing;
  - (v) details about how adverse impacts of the proposed clearing will be minimised or mitigated;
  - (vi) details about how vegetation will be rehabilitated on the land the subject of the application if the development does not happen or ends;
  - (vii) the nature and extent of any other thing done or proposed to be done in addition to the development that has had, or may have, a beneficial impact on the natural values of the indigenous community use area or land in its vicinity;
  - (viii) details of a business plan, for activities related to the development, showing information about the viability of the activities; and
- (c) the application does not involve the clearing of native vegetation—
  - (i) in an endangered regional ecosystem; or

- (ii) in an of concern regional ecosystem; or
- (iii) for the purpose of planting a high risk species, or trees to make woodchips for export; and
- (d) the vegetation management Minister is satisfied that, having regard to the property development plan—
  - (i) the development is for agricultural, animal husbandry, aquacultural or grazing activities; and
  - (ii) the development is likely to be economically viable; and
  - (iii) the proposed clearing for the development is limited to the extent necessary to carry out the development; and
  - (iv) there is no suitable alternative site for the development, on the land the subject of the vegetation clearing application, that is reasonably available and would not require the clearing of native vegetation; and
  - (v) vegetation will be rehabilitated on the land the subject of the application if the development does not happen or ends; and
  - (vi) any other thing done or proposed to be done, as mentioned in paragraph (b)(vii), is on balance beneficial to the natural values of the indigenous community use area or land in its vicinity; and
  - (vii) the development can not be carried out without the proposed clearing.

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## Part 5 Committees

### Division 1 Cape York Peninsula Regional Advisory Committee

#### 20 Establishment and functions

The environment Minister and the vegetation management Minister must establish a committee (the *Cape York Peninsula Regional Advisory Committee*) to advise the Ministers about—

- (a) matters relating to the declaration of—
  - (i) areas of international conservation significance; and
  - (ii) indigenous community use areas; and
- (b) other matters the Ministers consider appropriate having regard to the objects of this Act, including, for example, land management.

#### 21 Membership

- (1) Subject to subsections (2) to (4), the environment Minister and the vegetation management Minister may decide the membership of the regional advisory committee.
- (2) The vegetation management Minister is to appoint the chairperson of the regional advisory committee.
- (3) At least half the members of the regional advisory committee must be representatives of the indigenous people of the Cape York Peninsula Region.
- (4) The regional advisory committee must include at least—
  - (a) 2 persons the Ministers consider represent conservation interests; and

[s 22]

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- (b) 2 persons the Ministers consider represent the interests of persons engaged in grazing activities in the Cape York Peninsula Region; and
- (c) 1 person the Ministers consider represents the interests of persons engaged in tourism activities in the region; and
- (d) 1 person the Ministers consider represents the interests of persons engaged in mining activities in the region; and
- (e) 1 person the Ministers consider represents the interests of local governments in the region.

## **Division 2                      Cape York Peninsula Region Scientific and Cultural Advisory Committee**

### **22            Establishment and functions**

The environment Minister and the vegetation management Minister must establish a committee (the *Cape York Peninsula Region Scientific and Cultural Advisory Committee*) to advise the Ministers about—

- (a) matters relating to the natural and cultural values of land proposed to be—
  - (i) an area of international conservation significance; or
  - (ii) an indigenous community use area; and
- (b) other matters the Ministers consider appropriate having regard to the objects of this Act.

### **23            Membership**

- (1) Subject to subsection (2), the environment Minister and the vegetation management Minister may decide the membership of the scientific and cultural advisory committee.





**26 Special provision about particular declaration under the Vegetation Management Act 1999**

- (1) Despite the *Vegetation Management Act 1999*, section 17(1)(a), the Governor in Council may declare relevant land to be an area of high nature conservation value under that section only if the landholder for the land has asked the vegetation management Minister, in writing, for the declaration to be made.
- (2) In this section—  
*relevant land* means—
  - (a) Aboriginal land; or
  - (b) DOGIT land.

**27 Special provision about water reserve**

- (1) This section applies to a water resource plan made—
  - (a) in relation to an area in the Cape York Peninsula Region; and
  - (b) after the commencement of the section.
- (2) The water resource plan must provide for a reserve of water in the area to which the plan relates for the purpose of helping indigenous communities in the area achieve their economic and social aspirations.
- (3) In deciding the reserve for a water resource plan, the Minister administering the *Water Act 2000* must consider the purposes of chapter 2 of that Act.
- (4) In this section—  
*water resource plan* means a water resource plan under the *Water Act 2000*.

## **28 Delegation by Minister**

(1) A Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

(2) In this section—

*appropriately qualified*, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person's classification level in the public service

## **29 Regulation-making power**

The Governor in Council may make regulations under this Act.

## Schedule Dictionary

### section 6

***Aboriginal land*** means Aboriginal land within the meaning of the *Aboriginal Land Act 1991*, section 8.

***agricultural activities*** means the cultivation of land, including, for example, the following—

- (a) farming;
- (b) crop-raising;
- (c) forestry.

***animal husbandry activities*** means the breeding, keeping or raising of animals, or caring for animals, for commercial purposes, if the animals are kept in a pen, yard, enclosure, pond or other confined area.

***area of international conservation significance*** means a part of the Cape York Peninsula Region declared to be an area of international conservation significance under section 9.

***Cape York Peninsula Region*** see section 7(1).

***DOGIT land*** means DOGIT land within the meaning of the *Aboriginal Land Act 1991*, section 11.

***endangered regional ecosystem*** see the *Vegetation Management Act 1999*, schedule.

***environment Minister*** means the Minister administering the *Nature Conservation Act 1992*.

***high risk species*** means a plant that is prohibited matter or restricted matter, other than a native species of restricted matter, under the *Biosecurity Act 2014*, or a plant listed in the special clearing code under the *Vegetation Management Act 1999* as a high risk species for that code.

***indigenous community use area*** means a part of the Cape York Peninsula Region declared to be an indigenous community use area under section 14.

**landholder for the land**, in parts 3 and 6, means—

- (a) for Aboriginal land—the land trust, under the *Aboriginal Land Act 1991*, for the land; or
- (b) for DOGIT land—the trustee, under the *Land Act 1994*, of the land.

**of concern regional ecosystem** see the *Vegetation Management Act 1999*, schedule.

**regional advisory committee** means the Cape York Peninsula Regional Advisory Committee established under section 20.

**scientific and cultural advisory committee** means the Cape York Peninsula Region Scientific and Cultural Advisory Committee established under section 22.

**vegetation** see the *Vegetation Management Act 1999*, section 8.

**vegetation clearing application** means a development application as defined under the *Sustainable Planning Act 2009* involving assessable development—

- (a) prescribed under section 232(1) of that Act; and
- (b) that is operational work that is the clearing of native vegetation as defined under that Act.

**vegetation management Minister** means the Minister administering the *Vegetation Management Act 1999*.

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

### Key to abbreviations in list of legislation and annotations

| Key  | Explanation                    | Key    | Explanation         |
|------|--------------------------------|--------|---------------------|
| AIA  | = Acts Interpretation Act 1954 | (prev) | = previously        |
| amd  | = amended                      | proc   | = proclamation      |
| amd  | = amendment                    | prov   | = provision         |
| t    |                                |        |                     |
| ch   | = chapter                      | pt     | = part              |
| def  | = definition                   | pubd   | = published         |
| div  | = division                     | R[X]   | = Reprint No. [X]   |
| exp  | = expires/expired              | RA     | = Reprints Act 1992 |
| gaz  | = gazette                      | reloc  | = relocated         |
| hdg  | = heading                      | renu   | = renumbered        |
|      |                                | m      |                     |
| ins  | = inserted                     | rep    | = repealed          |
| lap  | = lapsed                       | (retro | = retrospectively   |
|      |                                | )      |                     |
| notf | = notified                     | rv     | = revised version   |
| d    |                                |        |                     |
| num  | = numbered                     | s      | = section           |

| <b>Key</b>    | <b>Explanation</b> | <b>Key</b>   | <b>Explanation</b>                      |
|---------------|--------------------|--------------|---|
| <b>o in c</b> | = order in council | <b>sch</b>   | = schedule                              |
| <b>om</b>     | = omitted          | <b>sdiv</b>  | = subdivision                           |
| <b>orig</b>   | = original         | <b>SIA</b>   | = Statutory Instruments Act 1992        |
| <b>p</b>      | = page             | <b>SIR</b>   | = Statutory Instruments Regulation 2012 |
| <b>para</b>   | = paragraph        | <b>SL</b>    | = subordinate legislation               |
| <b>prec</b>   | = preceding        | <b>sub</b>   | = substituted                           |
| <b>pres</b>   | = present          | <b>unnum</b> | = unnumbered                            |
| <b>prev</b>   | = previous         | <b>m</b>     |   |

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| <b>Reprint No.</b> | <b>Amendments included</b> | <b>Effective</b> | <b>Notes</b> |
|--------------------|----------------------------|------------------|--------------|
| 1                  | none                       | 2 November 2007  |              |

| <b>Reprint No.</b>   | <b>Amendments included</b> | <b>Effective</b>           | <b>Notes</b>             |
|----------------------|----------------------------|----------------------------|--------------------------|
| 1A                   | —                          | 26 October 2008            | pts 4, 7 div 4 commenced |
| 1B                   | 2009 Act No. 36            | 18 December 2009           |                          |
| 1C                   | 2011 Act No. 40            | 24 November 2011           |                          |
| <b>Current as at</b> |                            | <b>Amendments included</b> | <b>Notes</b>             |
| 14 May 2013          |                            | 2013 Act No. 23            |                          |
| 1 October 2014       |                            | 2014 Act No. 40            |                          |
| 1 January 2015       |                            | 2014 Act No. 45            |                          |
| 1 July 2015          |                            | —                          | prov exp 30 June 2015    |
| 1 July 2016          |                            | 2014 Act No. 7             |                          |

## 4 List of legislation

### **Cape York Peninsula Heritage Act 2007 No. 48**

date of assent 25 October 2007

ss 1–2 commenced on date of assent

pts 4, 7 div 4 commenced 26 October 2008 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced 2 November 2007 (2007 SL No. 270)

amending legislation—

### **Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

### **Water and Other Legislation Amendment Act 2011 No. 40 pts 1–2**

date of assent 24 November 2011

commenced on date of assent

### **Land, Water and Other Legislation Amendment Act 2013 No. 23 s 1, pt 4**

date of assent 14 May 2013

commenced on date of assent



**Biosecurity Act 2014 No. 7 ss 1–2, 578 sch 4 pt 2**

date of assent 13 March 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2016 (see s 2(1)–(2))

**State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014 No. 40 ss 1–2, 154 sch 1 pt 2**

date of assent 15 August 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2014 (2014 SL No. 209)

**Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Act 2014 No. 45 ss 1–2(1)–(2), 58 sch 1**

date of assent 5 September 2014

ss 1–2 commenced on date of assent

s 58 sch 1 pt 1 commenced 1 January 2015 (see s 2(1))

remaining provisions commenced 1 January 2015 (2014 SL No. 270)

**Water Reform and Other Legislation Amendment Act 2014 No. 64 ss 1, 2(2), 254 sch 1**

date of assent 5 December 2014

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 6 December 2016 (2015 SL No. 155 s 2)) (previous proclamation 2014 SL No. 333 item 2 was amd (2015 SL No. 2))

**Planning (Consequential) and Other Legislation Amendment Act 2016 No. 27 pts 1, 11**

date of assent 25 May 2016

ss 1–2 commenced on date of assent

pt 11 not yet proclaimed into force (see s 2)

## 5 List of annotations

**Meaning of Cape York Peninsula Region**

s 7 amd 2013 No. 23 s 35

**Declaration**

s 14 amd 2014 No. 45 s 58 sch 1 pt 2

**Development—generally**

s 18 amd 2014 No. 45 s 58 sch 1 pt 2

**Development in indigenous community use area**

s 19 amd 2011 No. 40 s 3; 2014 No. 40 s 154 sch 1 pt 2

**Special provision about particular scientific purposes permit**

s 24 exp 30 June 2015 (see s 24(7))

**Special provision about pastoral leases**

s 25 amd 2014 No. 7 s 578 sch 4 pt 2

**Special provision about particular declaration under the Vegetation Management Act 1999**

s 26 amd 2014 No. 45 s 58 sch 1 pt 2

**Special provision about water reserve**

s 27 amd 2011 No. 40 s 4; 2014 No. 40 s 154 sch 1 pt 2

**SCHEDULE—DICTIONARY**

def *Aboriginal land* amd 2014 No. 45 s 58 sch 1 pt 1

def *Aurukun Shire lease land* amd 2014 No. 45 s 58 sch 1 pt 1

om 2014 No. 45 s 58 sch 1 pt 2

def *DOGIT land* amd 2014 No. 45 s 58 sch 1 pt 1

def *high risk species* amd 2011 No. 40 s 5(2)

sub 2014 No. 40 s 154 sch 1 pt 2

amd 2014 No. 7 s 578 sch 4 pt 2

def *landholder for the land* amd 2014 No. 45 s 58 sch 1 pt 2

def *vegetation clearing application* amd 2009 No. 36 s 872 sch 2

def *wild river area* ins 2011 No. 40 s 5(1)

om 2014 No. 40 s 154 sch 1 pt 2

def *wild river declaration* ins 2011 No. 40 s 5(1)

om 2014 No. 40 s 154 sch 1 pt 2

def *wild river high preservation area* ins 2011 No. 40 s 5(1)

om 2014 No. 40 s 154 sch 1 pt 2