



Queensland

Cape York Peninsula Heritage Act 2007

Act No. 48 of 2007



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Cape York Peninsula Heritage Act 2007

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Queensland

Cape York Peninsula Heritage Act 2007

Act No. 48 of 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

[Assented to 25 October 2007]

The Parliament of Queensland enacts—

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.

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 map called 'Map 1 Cape York Peninsula Region' prepared and held by the natural resources department.

Editor's note—

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

- (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—

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.
- (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 Organisation's web site at <<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
- (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, Aurukun Shire lease 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, Aurukun Shire lease 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.

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.

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
 - (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.
- (2) The scientific and cultural advisory committee must include at least—
 - (a) 1 person the Ministers consider has relevant experience or expertise in matters relating to the environment; and

crocodile eggs in the study area would impede the recovery of the estuarine crocodile population; and

- (c) the holder of the permit will have an appropriate program for monitoring the impact of the research on the estuarine crocodile population.
- (5) The holder of the scientific purposes permit must ensure that any commercial benefit derived from dealing with the crocodile eggs under the permit is used to support the economic development of indigenous communities in the study area.
- (6) In this section—

current research findings means information obtained after a period of study of—

- (a) if an expert panel considers it appropriate in all the circumstances—1 or more years decided by the panel; or
- (b) otherwise—at least 2 years.

expert panel means a panel of persons, established by the chief executive of the department in which the *Nature Conservation Act 1992* is administered, with expertise and experience in research and management of Australian wild estuarine crocodiles.

relevant information, in relation to a scientific purposes permit, means the following information given by the expert panel—

- (a) current research findings on the distribution, genetics, migration, number, age and size of estuarine crocodiles in the study area;
- (b) current research findings on the distribution and number of nests, the nesting success and the survival rate to maturity, of estuarine crocodiles in the study area;
- (c) other information, including, for example, details of nest sites and the maximum number of eggs proposed to be taken in the study area under the permit.

scientific purposes permit means a scientific purposes permit under the *Nature Conservation Act 1992*.

study area means the land, in the central western coastal part of the Cape York Peninsula Region, within the following boundary—

- from latitude 13°30' south, longitude 141°15' east to latitude 13°30' south, longitude 142°6' east
- to latitude 15°42' south, longitude 142°6' east
- to latitude 15°42' south, longitude 141°15' east
- to latitude 13°30' south, longitude 141°15' east.

(7) This section expires on 30 June 2015.

25 Special provision about pastoral leases

(1) This section applies if a pastoral lease for land in the Cape York Peninsula Region is proposed to be surrendered under the *Land Act 1994*.

(2) The Minister administering the *Land Act 1994* must, before the pastoral lease is surrendered—

- (a) consider the affect the surrender of the lease may have on the pastoral industry in the Cape York Peninsula Region; and
- (b) consider any regional and local planning strategies and policies relevant to the Cape York Peninsula Region; and
- (c) consult with the Minister administering the *Stock Act 1915* about the proposed surrender.

(3) This section does not limit any provision of the *Land Act 1994* about the surrender of a lease under that Act.

(4) In this section—

pastoral lease means a term lease for pastoral purposes under the *Land Act 1994*.

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) Aurukun Shire lease land; or
- (c) DOGIT land.

27 Special provision about water reserve

(1) This section applies to a wild river declaration or 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 wild river declaration or water resource plan must provide for a reserve of water in the area to which the declaration or 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 wild river declaration, the Minister administering the *Wild Rivers Act 2005* must consider the purposes of that Act.

(4) 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.

(5) In this section—

water resource plan means a water resource plan under the *Water Act 2000*.

wild river declaration means a wild river declaration under the *Wild Rivers Act 2005*.

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.

Part 7 Amendment of Acts**Division 1 Aboriginal Land Act 1991****30 Act amended in div 1**

This division amends the *Aboriginal Land Act 1991*.

31 Amendment of s 3 (Definitions)

(1) Section 3, definition *land trust*—
omit.

(2) Section 3—
insert—

'Cape York Peninsula Region means the Cape York Peninsula Region under the *Cape York Peninsula Heritage Act 2007*.

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

indigenous management agreement, about the management of land, means an agreement complying with the requirements of section 83G in relation to the land.

land trust means—

- (a) an entity formed through the incorporation, under a regulation, of the grantees of Aboriginal land; or
- (b) a land trust established under section 83A.

national park (Cape York Peninsula Aboriginal land) means an area dedicated under the *Nature Conservation Act 1992* as a national park (Cape York Peninsula Aboriginal land).’.

32 Amendment of s 12 (Lands that are transferrable lands)

Section 12—

insert—

- ‘(f) land that is transferable land under section 83K or 83L.’.

33 Amendment of s 28 (Minister to appoint trustees)

Section 28(6), ‘division’—

omit, insert—

‘part’.

34 Amendment of s 39 (Permitted dealings with transferred land)

- (1) Section 39(2), ‘subsections (3) and (5)’—

omit, insert—

‘subsections (3), (5) and (9)’.

- (2) Section 39—

insert—

- ‘(7) Subsection (8) applies to transferred land, or part of transferred land, (the *relevant land*) in the Cape York Peninsula Region.
- ‘(8) If the State and the grantees agree the relevant land is to become a national park (Cape York Peninsula Aboriginal land), the grantees of the land must, before it becomes a national park (Cape York Peninsula Aboriginal land), enter into an indigenous management agreement with the State about the management of the land.
- ‘(9) The grantees of transferred land that is a national park (Cape York Peninsula Aboriginal land)—
- (a) may surrender all or any part of the land to the State; and
 - (b) must not, other than under the *Nature Conservation Act 1992*, section 42AD or 42AE, transfer, grant or otherwise create, or consent to the creation of, any other interest in the land.
- ‘(10) Subsection (9)(b) applies despite any other Act.’.

35 **Amendment of s 65 (Minister to appoint trustees)**

Section 65(4), ‘division’—

omit, insert—

‘part’.

36 **Amendment of s 76 (Permitted dealings with granted land)**

- (1) Section 76(2), ‘subsections (3) and (6)’—

omit, insert—

‘subsections (3), (6) and (10)’.

- (2) Section 76—

insert—

- ‘(8) Subsection (9) applies to granted land, or a part of granted land, (the *relevant land*) in the Cape York Peninsula Region.

- ‘(9) If the State and the grantees agree the relevant land is to become a national park (Cape York Peninsula Aboriginal land), the grantees of the land must, before it becomes a national park (Cape York Peninsula Aboriginal land), enter into an indigenous management agreement with the State about the management of the land.
- ‘(10) The grantees of granted land that is a national park (Cape York Peninsula Aboriginal land)—
- (a) may surrender all or any part of the land to the State; and
 - (b) must not, other than under the *Nature Conservation Act 1992*, section 42AD or 42AE, transfer, grant or otherwise create, or consent to the creation of, any other interest in the land.
- ‘(11) Subsection (10)(b) applies despite any other Act.’.

37 Amendment of s 83 (National park subject to lease to State etc.)

Section 83(11)—

insert—

‘*national park* does not include a national park in the Cape York Peninsula Region.’.

38 Insertion of new pts 5A–5C

Before part 6—

insert—

‘Part 5A Provisions about particular land trusts

‘83A Minister may establish land trust before grant of land

- ‘(1) The Minister may, before land in the Cape York Peninsula Region is granted under this Act, establish by gazette notice a land trust for the land.
- ‘(2) The notice must include the following—

- (a) the name of the land trust;
 - (b) the names of the members of the land trust;
 - (c) an address for service of documents on the land trust;
 - (d) a lot on plan description of the land proposed to be granted.
- ‘(3) On the day the notice is gazetted—
- (a) the land trust is established and the persons mentioned in subsection (2)(b) are appointed as the members of the land trust; and
 - (b) the members of the land trust are incorporated as the land trust, as provided for under the *Aboriginal Land Regulation 1991*, as if the members had been granted the land.
- ‘(4) Before establishing a land trust under this section, the Minister must—
- (a) if the land is transferrable land—consult with the Aboriginal people particularly concerned with the land; and
 - (b) if the land is claimable land—consult with the group of Aboriginal people concerned with the land; and
 - (c) be satisfied a substantial majority of the Aboriginal people consulted support the establishment of the land trust.
- ‘(5) In establishing a land trust under this section for transferrable land, the Minister must, as far as practicable, act in a way that is consistent with Aboriginal tradition applicable to the land.
- ‘(6) In establishing a land trust under this section for claimable land, the Minister must, unless satisfied that exceptional circumstances exist that require the Minister to do otherwise, act in a way that is consistent with—
- (a) Aboriginal tradition applicable to the land; and
 - (b) the views of the group of Aboriginal people concerned with the land, so far as the views are not inconsistent with Aboriginal tradition relevant to the land.

‘83B Purpose of establishing land trust

‘The purpose of establishing a land trust under section 83A is to provide for a legal entity to enter into an indigenous management agreement with the State about the management of particular land before it is granted under this Act.

‘83C Application of particular provisions

- ‘(1) A provision of this Act, other than this part, providing for matters about the functions or powers of a land trust, or the trustees of the trust, does not apply in relation to a land trust established under section 83A for particular land until the members of the land trust hold the land as grantees.
- ‘(2) If land is granted under this Act to grantees who are the members of a land trust established and incorporated under section 83A, a provision of this Act about the incorporation of the grantees as a land trust on the grant of the land does not apply in relation to the grantees.

‘83D Notice about land trust

- ‘(1) This section applies if land is granted under this Act to grantees who are the members of a land trust established under section 83A.
- ‘(2) As soon as practicable after the land is granted, the Minister must, by gazette notice, give notice of—
 - (a) the name of the land trust; and
 - (b) an address for service of documents on the land trust; and
 - (c) a lot on plan description of the land.

‘83E Land trust to enter into indigenous management agreement

- ‘(1) This section applies if—
 - (a) it is proposed that a land trust hold land in the Cape York Peninsula Region as Aboriginal land; and

- (b) the State and the land trust agree that the land, or part of the land, is to become a national park (Cape York Peninsula Aboriginal land).
- ‘(2) Before the land is granted, the land trust must enter into an indigenous management agreement with the State about the proposed management of the land, or the part of the land, that is to become a national park (Cape York Peninsula Aboriginal land).

‘83F Dissolution of land trust

- ‘(1) This section applies if, within 2 years after a land trust is established under section 83A in relation to particular land, or a further period approved by the Minister, the land trust has not entered into an indigenous management agreement with the State about the management of the land.
- ‘(2) The Minister may, by gazette notice, dissolve the land trust.
- ‘(3) The land trust is dissolved, and the trust created under section 83A is revoked, on the day the notice is gazetted.

‘Part 5B Indigenous management agreements and national parks in Cape York Peninsula Region

‘Division 1 Indigenous management agreements

‘83G Requirements for indigenous management agreement

- ‘(1) An indigenous management agreement about the management of land must—
 - (a) include a lot on plan description of the land; and
 - (b) state the land will be managed as a national park (Cape York Peninsula Aboriginal land) in perpetuity; and

- (c) state how the land is proposed to be managed; and
 - (d) include details of any interim arrangements for its management before the approval of a management plan for the land; and
 - (e) state the responsibilities of the environment Minister, and the chief executive under the *Nature Conservation Act 1992*, in relation to the management of the land; and
 - (f) state the responsibilities of the grantees of the land in relation to its management; and
 - (g) include details of the process for developing a management plan for the land; and
 - (h) include details of areas of the land to which general public access may be restricted; and
 - (i) include information about the management of any infrastructure on the land; and
 - (j) state how existing interests in the land will be managed and how future interests in the land will be created and managed.
- ‘(2) An indigenous management agreement about the management of land that is a national park that is to become a national park (Cape York Peninsula Aboriginal land) must not result in a decrease, in the aggregate, in the public rights of access that existed in relation to the national park immediately before it becomes a national park (Cape York Peninsula Aboriginal land).
- ‘(3) An indigenous management agreement about the management of land may include other matters relevant to the management of the land that the land trust and the environment Minister consider appropriate.
- ‘(4) An indigenous management agreement about the management of land can not be entered into without the consent of the environment Minister.
- ‘(5) In this section—
- management plan* means a management plan under the *Nature Conservation Act 1992*.

‘83H Amending indigenous management agreement

‘An indigenous management agreement about the management of land may be amended with the agreement of the land trust for the land and the environment Minister.

‘83I Recording of indigenous management agreement

- ‘(1) The chief executive must give the registrar of titles written notice of each indigenous management agreement entered into under this Act.
- ‘(2) The chief executive must give the notice—
 - (a) if the land the subject of the agreement becomes Aboriginal land after the agreement is entered into—as soon as practicable after the land becomes Aboriginal land; or
 - (b) if the land the subject of the agreement is Aboriginal land when the agreement is entered into—as soon as practicable after the agreement is entered into.
- ‘(3) The notice must include particulars of the land.
- ‘(4) The registrar must keep records that show the land is the subject of an indigenous management agreement.
- ‘(5) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the existence of the agreement.
- ‘(6) While the indigenous management agreement has effect for the land, and is recorded by the registrar under this section, the agreement is binding on—
 - (a) each person or entity who is from time to time a grantee of the land or the land trust for the land, whether or not the person or entity entered into the agreement or agreed to any amendment of the agreement; and
 - (b) each person who has an interest in the land.

‘Division 2**National parks in Cape York Peninsula Region**

‘83J Requirements about grant of national parks in Cape York Peninsula Region

- ‘(1) This section applies to the following land if the land is, or includes part of, a national park in the Cape York Peninsula Region (the *national park land*)—
- (a) transferable land;
 - (b) land for which the Land Tribunal has, under section 60, made a recommendation to the Minister before the commencement of this section.
- ‘(2) Before the national park land is granted under this Act, the land trust for the land must enter into an indigenous management agreement with the State about the management of the national park land.
- ‘(3) A grant of the national park land under this Act is subject to the condition that the national park land must become a national park (Cape York Peninsula Aboriginal land).

‘83K Particular national parks taken to be transferable land

- ‘(1) This section applies to all national parks in the Cape York Peninsula Region, other than a national park that is claimable land.
- ‘(2) The national parks are transferable land for the purposes of this Act.

‘Part 5C Provision about particular claimable land

‘83L Particular claimable land taken to be transferable land

- ‘(1) This section applies to claimable land that is in the Cape York Peninsula Region, other than—
- (a) claimable land that is transferred land; or

- (b) claimable land for which the Land Tribunal has, under section 60, made a recommendation to the Minister before the commencement of this section.
- ‘(2) On the commencement of this section—
- (a) the land is transferable land for the purposes of this Act; and
- (b) the land stops being claimable land; and
- (c) any proceeding before the Land Tribunal in relation to a claim for the land ends; and
- (d) part 4, and part 5, division 1, stop applying to the claim for the land.
- ‘(3) Subsection (2) applies despite any other provision of this Act.’.

Division 2 Land and Other Legislation Amendment Act 2007

39 Act amended in div 2

This division amends the *Land and Other Legislation Amendment Act 2007*.

40 Amendment of s 67 (Amendment of s 155 (Length of term leases) of Act No. 19 of 2007)

Section 67(2), inserted section 155(5) and (6)—
omit, insert—

- ‘(5) Also, a term lease for rural leasehold land may be issued for a term of no more than 50 years if—
- (a) the Minister considers the lease land is in good condition; and
- (b) if the Minister considers land (the *relevant land*) that is all or part of the lease land should be the subject of a conservation agreement or conservation covenant—a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land; and

- (c) if the Minister considers that it is appropriate for there to be an indigenous access and use agreement relating to the lease land—an indigenous access and use agreement relating to the land has been entered into.
- ‘(6) In addition, a term lease for rural leasehold land that is in an area of international conservation significance under the *Cape York Peninsula Heritage Act 2007* may be issued for a term of no more than 75 years if—
- (a) the Minister considers that the lease land is in good condition; and
- (b) an indigenous land use agreement relating to the land has been entered into; and
- (c) if the Minister considers land (the *relevant land*) that is all or part of the lease land should be the subject of a conservation agreement or conservation covenant—a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land.
- ‘(7) This section is subject to sections 155A and 155B.’.

41 Amendment of s 203 (Amendment of sch 6 (Dictionary) of Act No. 19 of 2007)

- (1) Section 203(2), inserted definition *rural leasehold land*, paragraph (d)(v) to (viii)—
renumber as paragraph (d)(vi) to (ix).
- (2) Section 203(2), inserted definition *rural leasehold land*, paragraph (d)—
insert—
- ‘(v) a national park (Cape York Peninsula Aboriginal land);’.

Division 3 Nature Conservation Act 1992

42 Act amended in div 3

This division amends the *Nature Conservation Act 1992*.

43 Amendment of s 14 (Classes of protected areas to which Act applies)

Section 14—

insert—

‘(da) national parks (Cape York Peninsula Aboriginal land); and’.

44 Amendment of s 15 (Management of protected areas)

(1) Section 15(1)(b)(ii) and (iii)—

renumber as section 15(1)(b)(iii) and (iv).

(2) Section 15(1)(b)—

insert—

‘(ii) a national park (Cape York Peninsula Aboriginal land)—any indigenous land use agreement for the area and the indigenous management agreement for the area; or’.

45 Insertion of new s 19AA

After section 19—

*insert—***‘19AA Management principles of national parks (Cape York Peninsula Aboriginal land)**

‘(1) A national park (Cape York Peninsula Aboriginal land) is to be managed as a national park.

‘(2) Subject to subsection (1), a national park (Cape York Peninsula Aboriginal land) is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.’.

46 Amendment of s 27 (Prohibition on mining)

Section 27(1)—

insert—

‘(da) a national park (Cape York Peninsula Aboriginal land); or’.

47 Insertion of new pt 4, div 3, sdiv 1 hdg

Part 4, division 3, before section 40—

insert—

‘Subdivision 1 National parks (Aboriginal land) and national parks (Torres Strait Islander land)’.

48 Amendment of s 40 (Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land))

Section 40(1), from ‘that’—

omit, insert—

‘that—

- (a) is not in the Cape York Peninsula Region; and
- (b) becomes Aboriginal land or Torres Strait Islander land.’.

49 Insertion of new pt 4, div 3, sdiv 2

After section 42—

insert—

‘Subdivision 2 National parks (Cape York Peninsula Aboriginal land)’

‘42AA Dedication of national park as national park (Cape York Peninsula Aboriginal land)

‘(1) This section applies to a national park, or part of a national park, (the *national park land*) if—

- (a) the national park land is in the Cape York Peninsula Region and becomes Aboriginal land; and

- (b) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.
- ‘(2) On the land becoming Aboriginal land, the Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
- ‘(3) Despite any other Act, the dedication under the regulation is taken to have effect on the delivery of the deed of grant over the national park land to the grantees of the area under the *Aboriginal Land Act 1991*.

**‘42AB Dedication of Aboriginal land as national park
(Cape York Peninsula Aboriginal land)**

- ‘(1) This section applies to Aboriginal land that is not a national park or included in a national park if—
 - (a) the grantees of the land have entered into an indigenous management agreement for the land; and
 - (b) the Minister and the grantees agree that the land is to be managed as a national park (Cape York Peninsula Aboriginal land).
- ‘(2) The Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
- ‘(3) The regulation may define the extent of the area by reference to—
 - (a) a stated depth below the surface of the land; or
 - (b) a stated height above the surface of the land.

**‘42AC Dedication of other land as national park (Cape
York Peninsula Aboriginal land)**

- ‘(1) This section applies to land, other than land to which section 42AB applies, that is not a national park or included in a national park if—

- (a) under the *Aboriginal Land Act 1991*, a land trust has entered into an indigenous management agreement for the land; and
 - (b) the Minister and the land trust agree that the land is to be managed as a national park (Cape York Peninsula Aboriginal land).
- ‘(2) If the land becomes Aboriginal land—
- (a) the grant of the land as Aboriginal land is subject to a condition that the land must become a national park (Cape York Peninsula Aboriginal land); and
 - (b) the Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
- ‘(3) The regulation may define the extent of the area by reference to—
- (a) a stated depth below the surface of the land; or
 - (b) a stated height above the surface of the land.

‘42AD Leases etc. over national park (Cape York Peninsula Aboriginal land)

- ‘(1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a national park (Cape York Peninsula Aboriginal land), other than an agreement or a licence, permit or other authority issued or given under a regulation, may be granted, made, issued or given only—
- (a) by the chief executive with the consent of the land trust for the land; or
 - (b) by the land trust for the land with the consent of the chief executive.
- ‘(2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—
- (a) the management principles and management plan for the national park (Cape York Peninsula Aboriginal land); and

- (b) any indigenous land use agreement for the land; and
- (c) the indigenous management agreement for the land.

‘42AE Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land)

- ‘(1) The chief executive and the land trust 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—
- (a) the use under the authority is only for a service facility; and
 - (b) the cardinal principle for the management of national parks will be observed to the greatest extent possible; and
 - (c) the chief executive and the land trust are satisfied—
 - (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and
 - (iii) there is no reasonably practicable alternative to the use; and
 - (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the protected area.
- ‘(2) Subsection (1) has effect despite sections 15 and 42AD(2).’.

49A Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)

- (1) Section 62(1)(b), before ‘any’—
insert—
 ‘an indigenous management agreement in relation to the area or’.
- (2) Section 62(7), definition *national park*—
omit, insert—

‘*national park* includes a national park (Aboriginal land), national park (Torres Strait Islander land), national park (Cape York Peninsula Aboriginal land) and national park (recovery).’.

50 Amendment of s 111 (Management plans)

- (1) Section 111(1)(a)(iii) to (v)—
renumber as section 111(1)(a)(iv) to (vi).
- (2) Section 111(1)(a)—
insert—
‘(iii) a national park (Cape York Peninsula Aboriginal land); or’.
- (3) Section 111—
insert—
- ‘(8) A management plan for a national park (Cape York Peninsula Aboriginal land) must—
 - (a) be prepared jointly with the land trust for the protected area; and
 - (b) be consistent with any indigenous land use agreement, and the indigenous management agreement, for the protected area.’.

51 Amendment of s 120 (Implementation of approved plan)

Section 120(1)—

omit, insert—

- ‘(1) On approval of a management plan for a protected area, the following persons must give effect to the plan—
 - (a) if the area is a national park (Aboriginal land) or national park (Torres Strait Islander land)—the board of management for the area;
 - (b) if the area is a national park (Cape York Peninsula Aboriginal land)—the land trust for the area and the chief executive;

- (c) if the area is under the control of trustees appointed under section 31—the trustees;
- (d) if paragraphs (a), (b) and (c) do not apply—the chief executive.’.

52 Insertion of new s 132A

After section 132—

insert—

‘132A Committees for protected areas in Cape York Peninsula Region

- ‘(1) The Minister may establish committees to advise the Minister about matters relating to particular protected areas in the Cape York Peninsula Region, including, for example, matters about the preparation of management plans, and matters about implementing the plans, for the areas.
- ‘(2) Also, the Minister must establish a committee of indigenous people who have an interest in a protected area in the Cape York Peninsula Region (the *Regional Protected Area Management Committee*) to advise the Minister about matters relating to protected areas in the region, including, for example, matters about—
 - (a) employment opportunities for indigenous people in the areas; and
 - (b) the management plans for the areas; and
 - (c) the provision of resources for the management of the areas.
- ‘(3) Each committee established under subsection (1) must consist of representatives of indigenous people the Minister is satisfied have an interest in the protected areas for which the committee is established.
- ‘(4) The Regional Protected Area Management Committee may consist of representatives of—
 - (a) the committees established under subsection (1); or
 - (b) indigenous regional organisations in the Cape York Peninsula Region.

‘(5) In this section—

Cape York Peninsula Region means the Cape York Peninsula Region under the *Cape York Peninsula Heritage Act 2007*.’.

53 Amendment of s 133 (Chief executive to keep register)

Section 133(1)(a), ‘sections 34 to 37’—

omit, insert—

‘sections 34 to 37, or section 42AD or 42AE’.

54 Amendment of s 141 (Delegation by chief executive)

Section 141(2)—

insert—

- section 42AD
- section 42AE’.

55 Amendment of schedule (Dictionary)

Schedule—

insert—

‘indigenous land use agreement means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth).

indigenous management agreement, in relation to land, means an indigenous management agreement under the *Aboriginal Land Act 1991* about the management of the land.

land trust, for a protected area or land, means a land trust under the *Aboriginal Land Act 1991* for the protected area or land.

national park (Cape York Peninsula Aboriginal land) means an area dedicated under this Act as a national park (Cape York Peninsula Aboriginal land).’.

Division 4 Vegetation Management Act 1999**56 Act amended in div 4**

This division amends the *Vegetation Management Act 1999*.

57 Insertion of new pt 2, div 4A

After section 19M—

insert—

‘Division 4A Code for clearing vegetation for special indigenous purpose**‘19N Code for clearing vegetation for special indigenous purpose**

- ‘(1) The Minister may prepare and make a code for the clearing of vegetation for development that the Minister is satisfied, under the CYPH Act, is for a special indigenous purpose (the *special clearing code*).
- ‘(2) Before making the code, the Minister must consult with—
 - (a) the relevant landholders; and
 - (b) the Cape York Peninsula Regional Advisory Committee.
- ‘(2A) To prepare the code, the Minister may consider any matters stated in the CYPH Act, section 18 or 19, the Minister considers relevant to the clearing of vegetation for development mentioned in subsection (1).
- ‘(2B) Subsection (2A) does not limit the matters the Minister may consider.
- ‘(3) The Minister may amend the code with the agreement of—
 - (a) the relevant landholders; and
 - (b) the Cape York Peninsula Regional Advisory Committee.
- ‘(4) However, the Minister may amend the code without subsection (3) applying if—

- (a) the amendment is only to correct a minor error in the code, or to make another change that is not a change of substance; or
 - (b) the code states that an amendment of a stated type may be made to the code by amendment under this subsection and the amendment is of the stated type.
- ‘(5) If there is no code under this section for the clearing of vegetation for development mentioned in subsection (1), the code for clearing of vegetation for the development is—
- (a) if there is a declared area code for the clearing—the declared area code; or
 - (b) otherwise—the regional vegetation management code for the region of the State that includes the Cape York Peninsula Region.
- ‘(6) In this section—

Cape York Peninsula Region means the Cape York Peninsula Region under the CYPH Act.

Cape York Peninsula Regional Advisory Committee means the Cape York Peninsula Regional Advisory Committee established under the CYPH Act.

DOGIT land means DOGIT land under the *Aboriginal Land Act 1991*.

relevant landholders means each of the following—

- (a) the land trusts for Aboriginal land, under the *Aboriginal Land Act 1991*, that is in the Cape York Peninsula Region;
- (b) the Aurukun Shire Council;
- (c) the trustees, under the *Land Act 1994*, of DOGIT land in the Cape York Peninsula Region.’.

58 **Amendment of s 20 (IDAS codes for the clearing of vegetation)**

- (1) Section 20(3)—
renumber as section 20(4).
- (2) Section 20—

insert—

- ‘(3) The special clearing code is—
- (a) a code for IDAS for a vegetation clearing application for development that the Minister is satisfied, under the CYPH Act, is for a special indigenous purpose; and
 - (b) an applicable code for the clearing of vegetation for the development.’.
- (2) Section 20—

insert—

- ‘(5) To the extent that the special clearing code is inconsistent with a declared area code in relation to particular clearing, the declared area code prevails.
- ‘(6) To the extent that the special clearing code is inconsistent with a regional vegetation management code in relation to particular clearing, the special clearing code prevails.’.

59 Amendment of s 20B (When chief executive may make property map of assessable vegetation)

Section 20B(a)—

insert—

- ‘(vi) development that the Minister is satisfied, under the CYPH Act, is for a special indigenous purpose; or’.

60 Amendment of s 22A (Particular vegetation clearing applications may be assessed)

- (1) Section 22A, after subsection (2)—

insert—

- ‘(2AA) Also, a vegetation clearing application is for a relevant purpose under this section if, under the CYPH Act, the Minister is satisfied the development applied for is for a special indigenous purpose.’.

- (2) Section 22A(2A)(a), ‘or (i)’—

omit, insert—

‘or (i) or subsection (2AA)’.

(3) Section 22A(2C)(a), ‘or (j)’—

omit, insert—

‘or (j) or subsection (2AA)’.

61 Amendment of schedule (Dictionary)

Schedule—

insert—

‘**CYPH Act** means the *Cape York Peninsula Heritage Act 2007*.

indigenous community use area see the CYPH Act, schedule.

special clearing code see section 19N(1).’.

Division 5 Wild Rivers Act 2005

62 Act amended in div 5

This division amends the *Wild Rivers Act 2005*.

62A Amendment of s 31A (Application of sdiv 1)

Section 31A(a)—

omit, insert—

‘(a) a person who is the owner of land within a wild river area proposes to carry out activities on, or take natural resources from, the land; and’.

62B Insertion of new s 31FA

After section 31F—

insert—

‘31FA Nature and effect of particular amendment about property development plan

- ‘(1) Without limiting section 31F(1), an amended declaration for a wild river area may state that the carrying out of an activity, or taking of a natural resource, to which a property development plan applies is an activity or a taking that may happen in the high preservation area under the declaration.
- ‘(2) Subsection (3) applies if, under an amended declaration, the carrying out of an activity, or taking of a natural resource, is stated to be an activity or a taking (the *permitted action*) that may happen in the high preservation area under the declaration.
- ‘(3) To the extent another Act, or section 42 of this Act, regulates or prohibits the carrying out of activities or taking of natural resources in a high preservation area, the permitted action is taken to be an activity or taking that happens in the preservation area under the declaration.’

63 Amendment of s 44 (Relationship with other Acts)

Section 44—

insert—

- ‘(2) However, a wild rivers declaration or a wild rivers code, in applying for the purposes of any of those other Acts, can not have the direct or indirect effect under the other Act of limiting a person’s right to the exercise or enjoyment of native title.
- ‘(3) This section does not limit the *Acts Interpretation Act 1954*, section 13A in relation to any Act.’

64 Amendment of s 46 (Meaning of *Aurukun project*)

Section 46(1), ‘under this Act’—

omit, insert—

‘under the *Mineral Resources Regulation 2003*, schedule 3, part 188’.

65 Amendment of schedule (Dictionary)

Schedule, definition *owner*—

omit, insert—

'owner, of land—

- (a) for part 2, division 2A, means any of the following—
 - (i) the registered proprietor of the land;
 - (ii) the lessee or licensee under the *Land Act 1994* of the land;
 - (iii) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise; and
- (b) otherwise, means any of the following—
 - (i) the registered proprietor of the land;
 - (ii) the lessee or licensee under the *Land Act 1994* of the land;
 - (iii) the holder of a mineral development licence, mining lease or exploration permit under the *Mineral Resources Act 1989*;
 - (iv) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;
 - (v) the person who is entitled to receive the rents and profits of the land;
 - (vi) any other person, if the person is in lawful occupation of the land.’.

Schedule Dictionary

section 6

Aboriginal land means Aboriginal land within the meaning of the *Aboriginal Land Act 1991*, section 10.

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.

Aurukun Shire lease land means Aurukun Shire lease land within the meaning of the *Aboriginal Land Act 1991*, section 15.

Cape York Peninsula Region see section 7(1).

DOGIT land means DOGIT land within the meaning of the *Aboriginal Land Act 1991*, section 13.

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) for land the subject of a vegetation clearing application that is in a wild river area under the *Wild Rivers Act 2005*—see the schedule of that Act; or
- (b) for other land—a declared pest plant under the *Land Protection (Pest and Stock Route Management) Act*

Schedule (continued)

2002, or another 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 Aurukun Shire lease land—the Aurukun Shire Council; or
- (c) 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 *Integrated Planning Act 1997* that involves assessable development mentioned in that Act, schedule 8, part 1, table 4, item 1A, 1B, 1C, 1D, 1E, 1F or 1G.

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