

# **WET TROPICS WORLD HERITAGE PROTECTION AND MANAGEMENT BILL 1992**

## **EXPLANATORY NOTES**

This is a Bill for an Act to provide for the protection and management of the Wet Tropics of Queensland World Heritage Area.

## **GENERAL OUTLINE**

The Wet Tropics of Queensland was entered on the World Heritage List in 1988 following considerable controversy over the nomination.

In November 1990, the Prime Minister and the Premier of Queensland signed an agreement (the Management Scheme) setting out the broad framework for management of the Area.

The agreement provides for a joint Commonwealth-State Ministerial Council, a Management Authority, Management Agency, committees, and their respective powers and functions. It also outlines, in general terms, the matters to be covered in Queensland legislation, and emphasises the central role of management planning.

This Act follows the spirit of the Management Scheme and, as far as possible, reflects its practical details.

Through a variety of methods, it provides the Government with the necessary means for ensuring Australia's obligations under the World Heritage Convention, in respect of the Wet Tropics of Queensland, are met. In doing so, it constantly emphasises public consultation and involvement in the management of the Area.

This is the first State legislation of its kind in Australia. While Australia now has nine World Heritage Areas most of which are State-managed, no other State has developed comprehensive special purpose legislation for the management of such an area.

The Act contains the following provisions.

## PREAMBLE

The preamble outlines the background to the legislation, referring to the World Heritage Convention, the listing of the Wet Tropics of Queensland under this Convention, Australia's obligations arising therefrom, the Management Scheme intergovernmental agreement signed by the Prime Minister and Premier, and the intention of Parliament that the Area should be maintained as a World Heritage Area of the highest standard.

## PART 1—PRELIMINARY

*Clause 1* establishes the short title of the Act.

*Clause 2* provides that the Act, other than those parts relating to the amendment of the *Nature Conservation Act 1992*, will commence upon proclamation.

*Clause 3* states that the Act will bind the Crown but will not expose the Crown to criminal liability.

*Clause 4* defines important terms used in the Act. This part should be read in conjunction with the *Acts Interpretation Act 1954* and *The Macquarie Dictionary* where necessary, to obtain the proper meaning and interpretation of terms used. Some terms are defined according to the definitions appearing in the *Nature Conservation Act 1992*.

*Clause 4* terms defined include:—

- \* “Agreement” which is the Management Scheme intergovernmental agreement signed by the Prime Minister and Premier in November 1990; the definition indicates that this Agreement may be revised from time to time, as circumstances change;
- \* “Authority”, “Board”, “chairperson”, “director”, “executive director” which are all defined to establish clearly the structure and organisation of the Management Authority;
- \* “Wet Tropics Area” which is the area described on the World Heritage List kept under the World Heritage Convention;

\* “land-holder” which includes private freehold owners as well as lessees, trustees and persons “having an interest in the land” (for example, a mining lease under the *Mineral Resources Act 1989*).

*Clause 5* establishes the basis on which Aboriginal people will be considered to be particularly concerned with the land in question.

## **PART 2—WET TROPICS MANAGEMENT AUTHORITY AND ITS BOARD**

This Part establishes the Management Authority, its structure, management, functions, powers and responsibilities.

In doing so, it merges the Management Authority and the Management Agency provided for by the inter-governmental agreement. Under previous arrangements, the Authority was a five member policy-making body, reporting to the joint Ministerial Council. The Agency, consisting of a Director and staff, implemented the decisions of the Authority and the Ministerial Council. Under the agreement, the Authority had no legal status.

The distinction between the Agency and the Authority has been the source of much public confusion. Merging the two will provide a single public and professional focus.

Under the new arrangements, members of the Authority will become directors of the Board, staff of the Agency become staff of the Authority and the present Director of the Agency will be styled executive director of the Authority.

### ***Division 1—Establishment, functions and powers of Authority***

*Clause 6* formally establishes the Wet Tropics Management Authority.

*Clause 7* explains the object of establishing the Authority. The responsibility of the Authority for ensuring that Australia’s obligations for the Wet Tropics, under the World Heritage Convention, are met reflects the “paramount function” given to the Authority in the intergovernmental agreement.

*Clause 8* establishes the Authority as a body corporate which may sue and be sued.

*Clause 9* provides that the Authority represents the Crown.

*Clause 10* lists the Authority's functions. These are drawn largely from the functions listed in the intergovernmental agreement. The functions are all directed at the effective protection and management of the World Heritage Area. As one of its functions, the Authority may enter into cooperative management agreements with landholders. These are intended to be entirely voluntary, and will allow the Authority to provide financial or other assistance to landholders in return for actions or undertakings contributing to the protection and management of the Area. Where a landholder and the Authority both desire aspects of such an agreement to run with title, the provisions of the *Nature Conservation Act 1992* in respect of conservation agreements and Nature Refuges are available. The Authority is required to have regard to Aboriginal tradition and liaise and cooperate with Aboriginal people, consistent with its obligations under the Act. The Authority is required to perform all of its functions in a way that is consistent with protecting the World Heritage values of the Area.

*Clause 11* specifies the Authority's powers. Apart from the general power to do all things necessary for the performance of its functions, it also has the normal powers of an individual in respect of contracts, property, agents, etc.

### ***Division 2—The Board of directors***

*Clause 12* establishes the Board of directors of the Authority.

*Clause 13* gives the Board the role of determining the objectives, strategies and policies of the Authority and of ensuring that it functions properly and efficiently. In this respect, the Board is intended to be the equivalent of a board of a company or corporation.

*Clause 14* As agreed in the Management Scheme, the Board will comprise five part-time members (directors). The chairperson will be nominated by the joint Ministerial Council. Two further directors will be nominated by the Commonwealth and two by Queensland. The executive director will be an additional (non-voting) member of the Board.

***Division 3—Provisions relating to directors other than the executive director***

*Clause 15* Since the executive director is a Queensland public servant while other directors are not, different provisions relating to appointment and term of office must apply.

*Clause 16* describes how directors are to be appointed. Following nomination by the Ministerial Council, the Commonwealth or Queensland (as set out in *Clause 14*), directors are appointed by Governor in Council. Directors should be qualified or experienced in a field relevant to the protection and management of the Area; this does not necessarily imply a requirement for academic qualification. Directors may not be public servants of the Commonwealth or the State.

*Clause 17* provides that a director's term of appointment may be for up to 3 years, and directors are eligible to serve up to two full consecutive terms. This would not bar a director from being reappointed subsequently, after an intervening term of non-service.

*Clause 18* specifies that directors will be appointed on a part-time basis, under terms and conditions determined by Governor in Council.

*Clause 19* specifies that the chairperson of the Board shall be that director nominated by Ministerial Council.

*Clause 20* makes provision for the appointment of an acting chairperson, in the event of absence or incapacity of the chairperson. The acting chairperson is appointed by the Board from amongst its directors. For periods longer than three months or when a vacancy in the position occurs, such an appointment must be made by the Governor in Council after consultation with the Ministerial Council.

*Clause 21* allows the Governor in Council to appoint an acting director in the event of absence or incapacity of any director (other than the executive director) of the Board. If the director in question is a Commonwealth nominee, the Commonwealth must be consulted before the acting appointment is made.

*Clause 22* allows for the removal of a director from office in specified circumstances, including criminal conviction, misconduct or ill health. The Commonwealth or Ministerial Council must be consulted if the director in question is their nominee.

#### ***Division 4—Provisions relating to the executive director***

*Clause 23* The executive director will be a Queensland public servant. The Minister will consult with the Authority and the Ministerial Council before an appointment is made.

*Clause 24* outlines broadly the executive director's duties. He/she is to manage the Authority and to act as secretary to Ministerial Council. He/she will be a member of the Board and will have the rights and obligations of a director but will not have voting rights.

*Clause 25* requires the executive director to give written notice of any pecuniary interests in any business or corporation.

#### ***Division 5—Business and meetings of the Board***

*Clause 26* The Board may conduct its business as it sees fit, subject to the requirements of this Division.

*Clause 27* requires the Board to meet at least four times per year and at any time when two or more directors request a meeting.

*Clause 28* specifies that the chairperson shall preside at meetings. In his/her absence, the remaining directors may choose a presiding director.

*Clause 29* sets a quorum at three directors and provides the presiding director with a casting vote.

*Clause 30* Directors may participate in meetings by electronic or other agreed means. The Board must keep minutes of its meetings. There is no impediment to these minutes being made publicly available if the Board so desires. Other persons may attend meetings at the invitation of the Board.

*Clause 31* requires directors to disclose any pecuniary interests in matters under consideration by the Board; a director with such an interest may be excluded from the Board's determinations on that matter.

### ***Division 6—Provisions relating to staff***

*Clause 32* makes provision for secondment of officers of a department or authority of the Commonwealth or any State or Territory to the Authority. Authority officers may, similarly, be seconded out.

*Clause 33* Officers and employees of the Authority will be Queensland public servants. Other Queensland public servants may be assigned to perform duties for the Authority.

*Clause 34* absolves authorised officers of civil liability, unless an act is done negligently or maliciously.

### ***Division 7—Miscellaneous***

*Clause 35* provides for the delegation of the Authority's powers to an advisory committee, director or officer or employee of the Authority. Powers that the Authority may not delegate are specified. These include powers in relation to management plans and budgets.

*Clause 36* provides, similarly, for the delegation of the powers of the executive director to an officer of the Authority.

*Clause 37* The Authority shall have a seal and judicial notice must be taken of it.

*Clause 38* requires that judicial notice must be taken of the official signatures of a past or current chairperson or executive director.

*Clause 39* specifies that an Authority document has been properly made if signed by the chairperson or other authorised person (unless it is a document that is required to be sealed).

*Clause 40* requires the Authority to establish a Scientific Advisory Committee and a Community Consultative Committee, as provided for in the agreement. Broad functions for these committees are given. While details of membership and representation are not specified, it is envisaged that these would be generally in accordance with the agreement. The Authority is also provided with the flexibility to set up other committees as required, including (for example) an Aboriginal advisory committee or a geographically localised committee in relation to a particular management plan. Local Government will be represented on relevant committees.

### **PART 3—MANAGEMENT PLANS**

The Wet Tropics of Queensland is a complex multi tenured area encompassing a range of land uses, ownerships and activities. In this it is unique amongst Australia's World Heritage Areas. This part has been designed to address this complexity, and provide for coordinated management through statutory planning.

This Part provides for plans to prevail over Local Government planning schemes where inconsistencies occur.

The provision is considered necessary because of the significant number of existing Local Government planning schemes that are likely to be affected by future Wet Tropics management plans.

Many of these planning schemes are existing and others are in the course of preparation or amendment. Accordingly they generally do not give due regard to the protection of World Heritage values and therefore there is a potential for them to conflict with future management plans.

The Government is committed to the preservation of the World Heritage values of the Area and believes that this provision is necessary to overcome any inconsistencies that may threaten that preservation. It is also committed to a co-operative approach with Local Government and other authorities with a land use and planning interest in the Area to ensure that conflicts are avoided wherever possible.

The objective will be to work in partnership with Local Government and others with a direct planning interest in the Area to develop consistency between management plans and Local Government strategic plans.

Local Government will continue to be the first point of contact for private development applications and will decide all applications in accordance with the provisions of these planning schemes as well as the relevant provisions of Wet Tropics plans. The Wet Tropics Management Authority will be a concurrence authority for all significant developments in the Area.

In addition consequential amendments to the *Local Government (Planning and Environment) Act 1990* will require early notification of development applications in areas neighbouring the Wet Tropics Area to enable the Authority to be informed of activity which may affect the Area, to make submissions and, if relevant, lodge appeals against what it considers to be undesirable proposals.



*Clause 41* enables the Authority to prepare management plans. Preparation of at least one plan, for the entire Area, will be a mandatory requirement on the Authority. Additional management plans may be prepared for the Wet Tropics Area, or part thereof.

Management plans will normally be documents containing words and maps, describing management issues and outlining management policies, management zones, and restrictions and conditions on land use, as well as proposed actions of the Authority. Plans may be prepared for discrete geographical areas or for issues (e.g. pest control, fire management).

*Clause 42* requires the Authority to give public notice of its intention to prepare a plan and to invite submissions.

*Clause 43* requires the Authority to consider all submissions made in preparing a draft plan.

*Clause 44* requires the Authority to exhibit publicly a draft plan and invite submissions on it. A minimum exhibition time is set. It is envisaged that plans will frequently be exhibited for longer than this minimum period, depending on the complexity of the plan, or the level of public interest and controversy.

*Clause 45* The Authority must consider all submissions made when preparing the final plan.

*Clause 46* requires the Authority to provide a copy of the final plan to the Ministerial Council, along with a report on all submissions received. This will ensure that suggestions and objections from the community are transmitted to the relevant Ministers.

*Clause 47* provides that the Governor in Council may approve a final plan, by regulation, subject to the recommendation of the Ministerial Council. Approved plans must be available for public inspection and for sale.

*Clause 48* declares a contravention of part of an approved management plan to be an offence against the Act, and sets a maximum penalty for such an offence.

*Clause 49* provides for plans to prevail over Local Government planning schemes where inconsistencies occur. Local Government authorities will continue to determine applications for development consent, but will be bound by the provisions of Wet Tropics plans, where relevant. If a decision made by a local authority based on the provisions of a Wet Tropics plan is appealed by the applicant, the Management Authority will become a

co-respondent to the appeal. This is provided for by consequential amendments to the *Local Government (Planning and Environment) Act 1990*.

*Clause 50* prohibits local authorities from approving developments contrary to the provisions of a management plan.

*Clause 51* allows for the possibility that inconsistencies may arise (potentially, before the Courts) between Wet Tropics plans and plans prepared under the *Nature Conservation Act 1992*. This is intended very much as a “fail-safe” clause, as any obvious inconsistencies would normally be resolved within the portfolio before Governor in Council approval. Nevertheless, unintentional and undetected inconsistencies may easily occur, especially when one plan is prepared some time after another, with more information available, or when plans are prepared for different primary purposes (eg. a wildlife conservation plan and a visitor access plan which partly overlap geographically). Where an inconsistency is detected after approval, the Minister will determine which plan gives the appropriate level of protection. In making this determination, the Minister must have regard to the protection of the area’s natural heritage and biodiversity, the public interest and financial considerations. Plans will not be permitted to affect the rights of Aborigines, under the *Nature Conservation Act 1992*, to take or keep native wildlife for traditional purposes.

*Clause 52* provides for the amendment of plans by the same process followed in preparing and approving plans.

*Clause 53* provides, similarly, for regular review of plans. The mandatory review period will be 7 years.

*Clause 54* specifies that compensation will be payable to landholders whose existing rights of use are injuriously affected by restrictions or prohibitions imposed by a plan. Procedures for making claims are set out and guidance is given to the Land Court in those matters to be considered when determining a compensation claim. Compensation is not payable where a restriction imposed has the same effect as an existing restriction under another law or where compensation has already been paid in respect of the same restriction or prohibition.

## **PART 4—PROHIBITED PRACTICES**

This Part is intended to provide for the protection of the values and integrity of the World Heritage Area from major threats and damage. It is intended to be complementary to Part 3 which provides for management of the Area through statutory planning.

This Part recognises that certain activities are unacceptable in a World Heritage Area, listed for the natural values associated principally with its forests. This has already been formally recognised by the Commonwealth in regulating, under the *World Heritage Properties Conservation Act 1983*, to prohibit commercial forestry operations.

This Act will prohibit forestry operations and destruction of forest products (especially through large scale clearing of rainforest) within the Wet Tropics Area and provide the capacity, through regulation, to identify and prohibit further incompatible activities from time to time.

The rights of Aboriginal people to collect forest products for traditional purposes will not be affected. Permits and exemptions will be developed to allow public utility organisations to continue necessary clearing for safety and maintenance and necessary clearing of small areas of land, such as homesites, where building or other approvals have already been given. Prohibitions on clearing will not apply to exotic species.

*Clause 55* prohibits the use of certain words and phrases formally associated with the World Heritage Area, by commercial operations. This is in accordance with the requirements of Ss.102-103 of the World Heritage Operational Guidelines.

*Clause 56* prohibits certain acts within the Wet Tropics Area without a licence, permit or other authority. Licences, etc., may be issued by the Authority under a regulation or by the Governor in Council under another Act. Holders of authorities issued under the *Mineral Resources Act 1989* will not be required to seek an additional approval or licence from the Authority. Consequential amendments to the *Mineral Resources Act 1989* deem the Wet Tropics Area to be a reserve under that Act, thus requiring the Authority's consent before any mining licence, permit, lease, etc, is issued. If the Authority withholds its consent the matter will be referred to the Governor in Council for resolution. Prohibited acts include forestry operations and the destruction of forest products. Further prohibited acts may be prescribed, from time to time, by regulation. This provision is intended to provide the necessary powers to control those activities which

are considered to be most potentially destructive of World Heritage values, and incompatible with the basis for World Heritage listing of the Area. It is not intended to prevent activities such as necessary and appropriate maintenance or small scale clearing around homesites, or to override the power of the Government to determine that a given development should proceed in accordance with other laws. In addition to the issue of licences, etc., broad exemption categories may be specified by regulation. It is intended, for example, to provide exemptions for maintenance clearing in respect of public utilities. The clause does not affect the rights of Aborigines, under another law, to take or keep protected wildlife for traditional purposes.

*Clause 57* acknowledges that landholders may be adversely affected by such controls and provides a right of compensation where a land-holder's interest is injuriously affected by a prohibition on certain activities. The clause sets out the process by which compensation claims are to be made, and provides some guidance to the Land Court in matters to be considered when determining a compensation claim.

## **PART 5—ADMINISTRATION**

*Clause 58* empowers the Minister to appoint authorised officers. The categories of authorised officers are listed. Private persons with suitable qualifications may be appointed as authorised officers. A person does not become an employee of the Management Authority by virtue of appointment as an authorised officer.

*Clause 59* sets out, in broad terms, the legal powers of authorised officers. The majority of authorised officers will already be authorised under other Acts, especially the *Nature Conservation Act 1992*. Private persons appointed as authorised officers will normally have the power only to require names and addresses (in relation to suspected breaches of the Act) unless additional powers are given by regulation.

*Clause 60* Conservation officers under the *Nature Conservation Act 1992* will have the same powers as authorised officers under this Act.

*Clause 61* requires that authorised officers (other than officers in a prescribed class—for example, police officers who already carry identity cards) be issued with identity cards.

*Clause 62* Authorised officers must produce identity cards when exercising powers under this Act.

*Clause 63* requires the Authority to produce an annual report for the Minister and the Commonwealth.

*Clause 64* requires the Authority to prepare a draft budget annually. The draft budget must normally be approved by Ministerial Council. The Authority will be required to observe the approved budget, subject to any current financial agreement between the Commonwealth and the State.

*Clause 65* provides the Minister with powers of delegation to officers of the public service.

*Clause 66* requires the Registrar to maintain records of any prohibitions on the land, such that this information will be apparent from a search of the register.

## **PART 6—INVESTIGATION AND ENFORCEMENT**

This Part sets out in detail the powers, and the limits on the powers, of authorised officers. These powers correspond closely with the powers accorded to conservation officers under the *Nature Conservation Act 1992* but do not include those powers specifically relating to wildlife protection.

In the interests of simplification and coherence, the necessary provisions have been taken in full from the *Nature Conservation Act 1992* rather than being cross-referenced.

*Clause 67* outlines the powers of authorised officers in relation to stopping and searching of vehicles, boats and aircraft if an officer suspects, on reasonable grounds, that an offence against this Act has occurred or is occurring. The exercise of these powers is subject to the provisions of *Clause 69(2)* of the Act. *Clause 69(2)(b)* provides that anything seized in this circumstance must be returned to the person from whom it was seized, if a prosecution for an offence is not instituted within 6 months of the seizure. Further, the provisions of *Clause 70(4), (5) and (6)* of the Act require a notice of seizure or damage of anything to be given by an officer. A Court may order the payment of compensation to a person for any loss resulting from the unreasonable exercise of these powers by an authorised officer.

*Clause 68* provides authorised officers with the power to enter land or premises, subject to the consent of the occupier or a legal warrant. This power is intended to enable officers to monitor compliance with the provisions of the Act.

*Clause 69* also enables authorised officers to enter land or premises, in this case where there are reasonable grounds for suspecting that a particular thing that may afford evidence of the commission of an offence against this Act is within the place. Such entry will be subject to the consent of the occupier or the terms of a warrant issued under *Clause 72* of this Act.

*Clause 70* provides general powers of authorised officers to carry out investigations in regard to vehicles, boats, aircraft, land and premises.

*Clause 71* An authorised officer may apply to a magistrate for a warrant in relation to a particular place (other than a premises used exclusively for residential purposes). The magistrate may issue the warrant if the magistrate is satisfied that it is reasonably necessary that the authorised officer should have access to the place for the purpose of monitoring compliance with the provisions of the Act.

*Clause 72* An authorised officer may apply to a magistrate for a warrant in relation to a particular place, as in the clause above. In this case, the magistrate may issue the warrant if the magistrate is satisfied that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing that may afford evidence of the commission of an offence against this Act.

*Clause 73* provides that warrants granted under *Clauses 71* and *72* of the Act may be applied for by way of telephone, facsimile, radio or other form of communication in urgent circumstances or other circumstances such as the officer's remote location. A warrant issued under such circumstances must be produced to the Court where the Court so requires.

*Clause 74* requires that a person must give an authorised officer his or her name and address and, in certain circumstances, evidence of the correctness thereof. A person who fails to comply with these requirements, without reasonable excuse, commits an offence.

*Clause 75* An authorised officer may require a person to provide information relevant to the enforcement of this Act in certain circumstances. A person is not required to answer a question if the answer might tend to incriminate the person.

*Clause 76* provides other general powers of authorised officers in relation to:—

- \* entry upon land to inspect the state of the Wet Tropics Area;
- \* production of a licence, permit or other authority issued under the Act and held by the person;
- \* inspecting, making extracts from, making copies of or keeping a document.

*Clause 77* creates offences in relation to the obstruction of authorised officers without reasonable excuse.

*Clause 78* Compensation may be claimed by a person incurring loss or expense due to an unreasonable exercise of power or to their own efforts to comply with this Part.

*Clause 79* creates offences in relation to the provision of false or misleading information or documents.

*Clause 80* creates an offence in relation to the impersonation of an authorised officer.

## **PART 7—LEGAL PROCEEDINGS**

*Clause 81* sets out standard provisions that provide evidence but not conclusive evidence in relation to proceedings before a Court. These provisions may be subject to judicial review.

*Clause 82* sets out standard provisions which enable proceedings for offences against this Act to be undertaken in the Courts.

*Clause 83* sets the monetary penalty for offences committed by corporations (in contrast to those committed by individuals). Similar provisions are found in other legislation, including the *Nature Conservation Act 1992*.

*Clause 84* enables a Court to order costs (at its discretion) of rehabilitation or restoration of the Wet Tropics Area to be paid by a convicted person, in respect of damage caused by the offence.

*Clause 85* provides that all penalties ordered to be paid in relation to offences against this Act must be paid into the Consolidated Fund.

## **PART 8—MISCELLANEOUS**

*Clause 86* provides the power for the Governor in Council to make regulations for the purposes of this Act. The regulations made in respect of matters outlined in this clause will allow detailed provisions to be made in relation to the operation of all aspects of this Act. Specific regulation making powers reflect those provided in *S.157(2)(a) to (f)* of the *Nature Conservation Act 1992*. Regulation making powers are also provided in relation to enforcing compliance with management plans, and creating exemptions from compliance with provisions of management plans or other regulations.

The provisions of the *Statutory Instruments Act 1992* also apply to the making of regulations.

## **PART 9—CONSEQUENTIAL AND OTHER AMENDMENTS**

*Clause 87* provides that the Acts specified in Schedule 3 are amended as set out in the Schedule. This provides additional necessary powers in respect of the management and protection of the Wet Tropics Area, allows proper interpretation of these Acts when this Act is proclaimed and ensures consistency across the legislation of Queensland.

## **PART 10—TRANSITIONAL PROVISIONS**

*Clause 88* defines the existing Management Authority and Management Agency as former authorities.

*Clause 89* ensures that it will not be necessary to restart the process for management plans currently in preparation and well advanced, in order for these to be legal plans under the Act.



*Clause 90* requires the Authority to notify the Registrar of all private lands within the Wet Tropics Area.

*Clause 91* provides for the Governor in Council to make any regulations necessary to facilitate the transition from management under the Management Scheme to management under this Act.

## **SCHEDULE 1**

This Schedule contains the text of the Management Scheme intergovernmental agreement signed by the Prime Minister and Premier of Queensland in November 1990, setting out broad management and financial arrangements for the World Heritage Area.

## **SCHEDULE 2**

This Schedule contains the text of the World Heritage Convention done at Paris on 16 November 1992. It is intended to provide assistance in interpreting the objects and intentions of the Act, specifically in respect of what constitutes natural heritage and the obligations of State parties in respect of listed areas.

## **SCHEDULE 3**

### **Acts Amended:**

*section 87*

*Local Government (Planning and Environment) Act 1990*

Gives the Wet Tropics Management Authority standing to appeal against development control decisions of Local Government authorities in respect of developments within the Wet Tropics Area and on neighbouring lands.

Deems the Management Authority to be a respondent to an appeal, where the relevant decision of the Local Government authority was based on the provisions of a management plan.

Requires local authorities to consult with the Management Authority over proposals for relevant development on land within and neighbouring the Wet Tropics Area.

### *Mineral Resources Act 1989*

Defines the Wet Tropics Area as a reserve and the Authority as an “owner” for the purposes of the Act.

Gives the Authority standing to object to an application made under that Act where the proposed activity (whether inside or outside the Wet Tropics Area) is likely to have a detrimental effect on World Heritage values.

### *Nature Conservation Act 1992*

When the *Nature Conservation Act 1992* is proclaimed in whole, these amendments will:

Replace all references to ‘Order in Council’ with ‘regulation’.

Make compensation provisions consistent with those in the present Act, and with Treasury requirements.

Include the Wet Tropics Area as a category of protected area for which the Minister may declare an interim conservation order when a threatening process is considered likely to have significant detrimental effect.

Prohibit local authorities from issuing development consent contrary to the provisions of a conservation plan.

Amend the powers of conservation officers, in certain instances, to provide further reasonable excuses for failure to comply with certain directions.

Amend the provision relating to proceedings for offences to provide for offences to be dealt with summarily by a Magistrate and to empower the Magistrate to remit the matter to a higher Court, consistent with the corresponding provisions in the present Act, as well as providing the person charged with an offence with the option of electing to proceed by indictment.

