

ENVIRONMENTAL LEGISLATION AMENDMENT BILL 1995

EXPLANATORY NOTES

This is a Bill to amend legislation about the environment and other purposes.

Objectives of the Legislation

The policy objectives of this legislation are to:

correct drafting errors, clarify the interpretation of a number of provisions and to amend where necessary, the legislation to accord with modern drafting practice.

These policy objectives will be achieved by:

correcting in the *Environmental Protection Act 1994* a number of drafting errors pertaining to cross references and definition and clarifying the interpretation of other provisions; and

inserting a standard clause in the *Marine Parks Act 1982* to take account of decisions of the Courts concerning the charging of fees; and

clarifying the interpretation of a number of sections of the *Nature Conservation Act 1992* and overcoming minor operational deficiencies; and

clarifying the interpretation of a number of sections of the *Queensland Heritage Act 1992* and removing impediments to the reappointment of members to the Heritage Council; and

inserting a standard clause in the *Recreation Areas Management Act 1988* to take account of decision of the Courts concerning the charging of fees; and

clarifying the interpretation of a number of sections of the *Wet Tropics World Heritage Protection and Management Act 1993* including the publication and consultation provisions necessary for the preparation of the Wet Tropics Management Plan and ensuring consistency with other portfolio legislation.

Such amendments are reasonable and appropriate in accordance with the policy objectives. There are no significant administrative costs to Government resulting from these amendments.

The proposed amendments are consistent with fundamental legislative principles.

External consultation is not required for this legislation as the amendments are minor.

The Act contains the following provisions:

PART 1—PRELIMINARY

Clause 1 states that the short title of this legislation is the *Environmental Legislation Amendment Act 1995*.

PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

Clause 2 states that this Part amends the *Environmental Protection Act 1994*.

Clause 3 provides a correction of a cross referencing error and simply replaces the words “paragraph (a)” with “subparagraph (i)”.

Clause 4 substitutes the definition of “environmental authority” in this section with the definition of “interstate environmental authority”. This clarifies the meaning of interstate environmental authority.

Clause 5 mirrors the amendment in clause 4.

Clause 6 corrects a cross referencing error and simply replaces “s.103(1)” with “s.104(1)”.

Clauses 7 & 8 clarify the distinction between the powers of authorised persons and the powers of police officers in relation to the abatement of noise.

Clause 9 (1) & (2) corrects the cross referencing errors in the definition of **“approval”** and **“noise abatement direction”**.

Clause 9(3) insert new definitions of **“engaging”** and **“interstate environmental authority”**. These new definitions clarify the application of certain aspects of the Act.

PART 3—AMENDMENT OF MARINE PARKS ACT 1982

Clause 10 states that this Part amends the *Marine Parks Act 1982*.

Clause 11 inserts a standard clause relating to the meaning of “fee” to include “tax”.

PART 4—AMENDMENT OF NATURE CONSERVATION ACT 1992

Clause 12 states that this Part amends the *Nature Conservation Act 1992*.

Clause 13 clarifies the interpretation of Section 35(1) to make it clear that the references to a regulation can only be construed as a regulation made for the purpose of this section, and not a reference to the *Nature Conservation Regulation 1994* or any other regulation.

Clause 14 clarifies the interpretation of Section 37(2) to make it clear that the reference to a regulation can only be construed as a regulation made for

the purposes of this section, and not a reference to the *Nature Conservation Regulation 1994* or any other regulation.

Clause 15 clarifies the matters that provision may be made for under a Conservation Plan. The provision makes it clear that a Conservation Plan may create offences and penalties and provides controls on development of land identified in the Conservation Plan.

Clause 16 clarifies the position of section 123 relating to Local Government decisions concerning developments on, and use of, land identified in a Conservation Plan.

Clause 17 provides for amendments of a minor nature to be made to a Conservation Plan without the need for further consultation.

PART 5—AMENDMENT OF QUEENSLAND HERITAGE ACT 1992

Clause 18 states that this Part amends the *Queensland Heritage Act 1992*.

Clause 19 inserts a definition of “aesthetic significance” and a new definition of “cultural heritage significance” to overcome ambiguities in interpretation.

Clause 20 omits the restriction on members of the Heritage Council serving only two terms. This will allow the knowledge and expertise of existing members to continue to be utilised.

Clause 21 clarifies the interpretation of the criterion for entry on the Heritage Register relating to aesthetic significance.

Clause 22, in accordance with current drafting practice, decisions of the Governor in Council which were previously made by an Order in Council will be made as regulation.

Clause 23 allows for the omission of a section not required because of other amendments made in this Act and the consequent changing of the section numbers affected by these amendments.

PART 6—AMENDMENT OF RECREATION AREAS MANAGEMENT ACT 1988

Clause 24 states that this Part amends the *Recreation Areas Management Act 1988*.

Clause 25 inserts a standard clause relating to the meaning of “fee” to include “tax”.

PART 7—AMENDMENT OF WET TROPICS WORLD HERITAGE PROTECTION AND MANAGEMENT ACT 1993

Clause 26 states that this Part amends the *Wet Tropics World Heritage Protection and Management Act 1993*.

Clause 27 allows a management plan to make provision for any matter allowed to be made by regulation. It also provides that a regulatory impact statement under the *Statutory Instruments Act 1992* is not required for the first management plan for the Wet Tropics Area.

Clause 28 clarifies the procedure for the approval by the Governor in Council of a final management plan and ensures that the plan does not have effect until it is approved by Governor in Council. It also provides that a final management plan is subordinate legislation.

Clause 29 deletes the general penalty provision for breaching a management plan. This section is no longer required because this Act allows a management plan to provide penalty provisions.

Clause 30 provides for amendments of a minor nature to be made to a management plan.