

Cape York Peninsula Heritage Bill 2007

Amendments agreed to during Consideration

1 Clause 19 (Development in indigenous community use area)—

At page 13, lines 31 to 34—

omit, insert—

‘(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;’.

2 Clause 19 (Development in indigenous community use area)—

At page 14, line 26—

omit, insert—

‘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.’.

3 Clause 24 (Special provision about particular scientific purposes permit)

At page 17, lines 11 to 17—

omit, insert—

‘(b) is granted to the State or to a tertiary institution or other institution administered by the State or Commonwealth for the conduct of research to assess the ecological

sustainability of the wild harvest of estuarine crocodile eggs in the study area.’.

4 Clause 24 (Special provision about particular scientific purposes permit)

At page 17, lines 24 to 30, and page 18, lines 1 to 3—

omit, insert—

- ‘(4) However, before granting the scientific purposes permit, the chief executive of the department in which the *Nature Conservation Act 1992* is administered must be satisfied that—
- (a) having regard to the relevant information and other information the chief executive considers appropriate, the granting of the permit will not adversely impact on the ecological sustainability of the estuarine crocodile population in the study area; and
 - (b) the proposed research under the permit will be appropriate to decide whether the harvest of estuarine 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.’.

5 **Clause 34 (Amendment of s 39 (Permitted dealings with transferred land))—**

At page 22, lines 3 to 6—

omit, insert—

- ‘(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.’.

6 Clause 36 (Amendment of s 76 (Permitted dealings with granted land))—

At page 22, lines 30 and 31, and page 23, lines 1 and 2—

omit, insert—

‘(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.’.

7 Clause 38 (Insertion of new pts 5A–5C)—

At page 24, line 9, ‘particularly’—

omit.

8 Clause 38 (Insertion of new pts 5A–5C)—

At page 24, line 16, ‘relevant’—

omit, insert—

‘applicable’.

9 Clause 38 (Insertion of new pts 5A–5C)—

At page 24, line 21, ‘relevant’—

omit, insert—

‘applicable’.

10 Clause 38 (Insertion of new pts 5A–5C)—

At page 25, lines 21 to 24—

omit, insert—

- ‘(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’.

11 Clause 38 (Insertion of new pts 5A–5C)—

At page 27, line 23—

omit, insert—

- ‘(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—’.

12 Clause 38 (Insertion of new pts 5A–5C)—

At page 29, lines 1 to 7—

omit, insert—

- ‘(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).’.

13 Clause 38 (Insertion of new pts 5A–5C)—

At page 29, lines 10 to 14—

omit, insert—

- ‘(1) This section applies to all national parks in the Cape York Peninsula Region, other than a national park that is claimable land.’.

14 Clause 49 (Insertion of new pt 4, div 3, sdiv 2)—

At page 33, lines 26 and 27—

omit, insert—

‘(b) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.’.

15 Clause 49 (Insertion of new pt 4, div 3, sdiv 2)—

At page 34, after line 2—

insert—

‘(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*.’.

16 Clause 49 (Insertion of new pt 4, div 3, sdiv 2)—

At page 34, lines 24 to 29—

omit, insert—

‘(a) under the *Aboriginal Land Act 1991*, a land trust has entered into an indigenous management agreement for the land; and’.

17 After clause 49—

At page 36, after line 16—

insert—

‘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).’.’.

18 Clause 55 (Amendment of schedule (Dictionary))—

At page 39, line 6—

omit, insert—

‘land.

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

19 Clause 57 (Insertion of new pt 2, div 4A)—

At page 39, lines 17 to 23—

omit, insert—

- ‘(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.’.

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

At page 41, line 25, ‘Section’—

omit, insert—

- ‘(1) Section’.

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

At page 41, after line 30—

insert—

‘(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)’.’.

22 After clause 62—

At page 42, after line 10—

insert—

‘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.’.’

23 Clause 63 (Amendment of s 44 (Relationship with other Acts))—

At page 42, line 16, ‘affect’—
omit, insert—
 ‘effect’.

24 After clause 64—

At page 42, after line 25—
insert—

‘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.'.'.