



# **Cape York Peninsula Heritage Act 2007**

**Reprinted as in force on 18 December 2009**

**Reprint No. 1B**

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# Information about this reprint

This Act is reprinted as at 18 December 2009. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

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**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

**Replacement reprint date** If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

# Cape York Peninsula Heritage Act 2007

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# Cape York Peninsula Heritage Act 2007

[as amended by all amendments that commenced on or before 18 December 2009]

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

## **Part 1 Preliminary**

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

#### **1 Short title**

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

#### **2 Commencement**

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

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

The objects of this Act are—

- (a) to identify significant natural and cultural values of Cape York Peninsula; and
- (b) to provide for cooperative management, protection and ecologically sustainable use of land, including pastoral land, in the Cape York Peninsula Region; and

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- (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.

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## 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 website.

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

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

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## **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



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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 Organization's website at <[whc.unesco.org/en/criteria](http://whc.unesco.org/en/criteria)>.

- (2) In this section—

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

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## **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.

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## **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;

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- (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

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- 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.

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- (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
  - (b) 1 person the Ministers consider has relevant experience or expertise in matters relating to cultural heritage; and
  - (c) 1 person the Ministers consider has relevant experience or expertise in matters relating to the economy.

## **Part 6 Miscellaneous**

### **24 Special provision about particular scientific purposes permit**

- (1) This section applies to a scientific purposes permit that—
  - (a) is for the taking, keeping or using of estuarine crocodile eggs; and
  - (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.
- (2) The holder of the scientific purposes permit may sell or give away, for a commercial purpose, any progeny derived from the estuarine crocodile eggs.

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- (3) The scientific purposes permit may be granted under the *Nature Conservation Act 1992* even though the holder of the permit can act as mentioned in subsection (2).
- (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.

## **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—

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- (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

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**29 Regulation-making power**

The Governor in Council may make regulations under this Act.

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# 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 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 *Sustainable Planning Act 2009* involving assessable development—

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

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



## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 18 December 2009. Future amendments of the Cape York Peninsula Heritage Act 2007 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	2 November 2007	
1A	—	26 October 2008	pts 4, 7 div 4 commenced
1B	2009 Act No. 36	18 December 2009	

## 5 List of legislation

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

date of assent 25 October 2007

ss 1–2 commenced on date of assent

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

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

amending legislation—

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

date of assent 22 September 2009

ss 1–2 commenced on date of assent

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

## 6 List of annotations

### **Special provision about particular scientific purposes permit**

s 24 [exp 30 June 2015](#) (see s 24(7))

### **PART 7—AMENDMENT OF ACTS**

pt hdg om R1A (see RA ss 7(1)(k))

#### **Division 1—Aboriginal Land Act 1991**

div 1 (ss 30–38) om R1 (see RA ss 7(1)(k) and 40)

#### **Division 2—Land and Other Legislation Amendment Act 2007**

div 2 (ss 39–41) om R1 (see RA ss 7(1)(k) and 40)

#### **Division 3—Nature Conservation Act 1992**

div 3 (ss 42–55) om R1 (see RA ss 7(1)(k) and 40)

**Division 4—Vegetation Management Act 1999**

**div 4 (s 56–61)** om R1A (see AIA ss 7(1)(k) and 40)

**Division 5—Wild Rivers Act 2005**

**div 5 (ss 62–65)** om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE—DICTIONARY**

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

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