



Wet Tropics World Heritage Protection and Management Act 1993

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Queensland

Wet Tropics World Heritage Protection and Management Act 1993

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Wet Tropics World Heritage Protection and Management Act 1993

An Act to provide for the protection and management of the Wet Tropics of Queensland World Heritage Area, and for related purposes

Because—

- 1 The General Conference of the United Nations Education, Scientific and Cultural Organization adopted the World Heritage Convention for the purpose of assuring the protection of the world's cultural and natural heritage of outstanding universal value.
- 2 Australia is a party to the convention.
- 3 The wet tropics area has been listed in the World Heritage list kept under the convention as forming part of the world's natural heritage of outstanding universal value.
- 4 The Parliament recognises that Australia's obligation under the convention is to ensure the protection, conservation, presentation, rehabilitation, and transmission to future generations, of the natural heritage of the area.
- 5 It is the intention of the Parliament that the area should be established and maintained as a world heritage area of the highest standard.
- 6 The Commonwealth and the State have, under the agreement, agreed to broad structural and funding arrangements in relation to the management of the area.
- 7 It is, therefore, the intention of the Parliament to make provision, by this Act, to ensure that effective, active measures are taken to meet Australia's obligation under the convention.

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- 8 It is also the intention of the Parliament to acknowledge the significant contribution that Aboriginal people can make to the future management of cultural and natural heritage within the area, particularly through joint management agreements.

Part 1 Preliminary

1 Short title

This Act may be cited as the *Wet Tropics World Heritage Protection and Management Act 1993*.

3 Crown bound

- (1) This Act binds the Crown in right of Queensland and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.
- (3) However, subsection (2) does not prevent an officer, employee or agent of the Crown from being prosecuted for an offence.

4 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

5 Aboriginal people particularly concerned with land

For the purposes of this Act, Aboriginal people are particularly concerned with land if—

- (a) they are members of a group that has a particular connection with the land under Aboriginal tradition; or
- (b) they live on or use the land or neighbouring land.

Part 2 **Wet Tropics Management Authority and its board**

Division 1 **Establishment, functions and powers of authority**

6 **Establishment of authority**

An authority called the Wet Tropics Management Authority is established.

7 **Object of establishment of authority**

The authority is established to ensure that Australia's obligation under the World Heritage Convention in relation to the wet tropics area is met.

8 **Authority is body corporate etc.**

The authority—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

9 **Authority represents the Crown**

- (1) The authority represents the Crown.
- (2) Without limiting subsection (1), the authority has all the privileges and immunities of the Crown.

9A **Excluded matter for Corporations legislation**

The authority is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the following provisions of the Corporations Act—

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- (a) parts 2D.1 and 2D.6;
- (b) chapters 2K and 2L;
- (c) parts 5.7, 5.7B, 5.9 and 5B.2.

10 Authority's functions

- (1) The authority's functions are to—
- (a) develop and implement policies and programs in relation to the management of the wet tropics area; and
 - (b) formulate performance indicators for the implementation of policies and programs approved by the Ministerial Council; and
 - (c) advise and make recommendations to the Minister and the Ministerial Council in relation to—
 - (i) the management of the wet tropics area; and
 - (ii) Australia's obligation under the World Heritage Convention in relation to the wet tropics area; and
 - (d) prepare, and ensure the implementation of, management plans for the wet tropics area; and
 - (e) administer funding arrangements in relation to the wet tropics area; and
 - (f) enter into, and facilitate the entering into of, cooperative management agreements (including joint management agreements) with land-holders, Aboriginal people particularly concerned with land in the wet tropics area and other persons; and
 - (g) enter into arrangements for the provision of rehabilitation and restoration works in relation to any land in the wet tropics area; and
 - (h) gather, research, analyse and disseminate information on the wet tropics area; and
 - (i) develop public and community education programs in relation to the wet tropics area; and

- (j) promote the wet tropics area locally, nationally and internationally; and
 - (k) liaise with the governments and authorities of the State, the Commonwealth, other States and the Territories, and international and foreign organisations and agencies; and
 - (l) monitor the state of the wet tropics area; and
 - (m) advise and report to the Minister and the Ministerial Council on the state of the wet tropics area; and
 - (n) perform functions incidental to a function under another paragraph of this subsection.
- (2) The functions of the authority under subsection (1) to advise, report to and make recommendations to the Minister and the Ministerial Council may be performed by the authority on request or its own initiative.
- (3) A cooperative management agreement under subsection (1)(f) may make provision for financial, scientific, technical or other assistance in relation to the management of the wet tropics area.
- (4) The authority must perform its functions in a way that is consistent with the protection of the natural heritage values of the wet tropics area.
- (5) Subject to subsection (4), in performing its functions, the authority must, as far as practicable—
- (a) have regard to the Aboriginal tradition of Aboriginal people particularly concerned with land in the wet tropics area; and
 - (b) liaise, and cooperate with, Aboriginal people particularly concerned with land in the wet tropics area.

Note—

‘Aboriginal tradition’ is defined under the *Acts Interpretation Act 1954*.
See schedule 1 of that Act.

- (6) Subject to subsection (4), the authority must, as far as practicable, perform its functions in a way that is consistent

with the objectives and principles of the National Strategy for Ecologically Sustainable Development.

11 Authority's powers

- (1) The authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) Without limiting subsection (1), the authority has such powers as are conferred on it by this Act.
- (3) Without limiting subsection (1), the authority has, for or in connection with the performance of its functions, all the powers of an individual, and may, for example—
 - (a) enter into contracts; and
 - (b) acquire, hold, dispose of, and deal with, property; and
 - (c) appoint agents and attorneys; and
 - (d) charge, and fix terms, for goods, services and information supplied by it; and
 - (e) engage consultants.

Division 2 The board of directors

12 The board

There is a board of directors of the authority.

13 Role of the board

- (1) The board is responsible for the way in which the authority performs its functions and exercises its powers.
- (2) Without limiting subsection (1), it is the board's role—
 - (a) to decide the objectives, strategies and policies to be followed by the authority; and

- (b) to ensure that the authority performs its functions in a proper, effective and efficient way.

14 Composition of board

- (1) The board is to consist of the following 7 directors—
 - (a) the chairperson, appointed on the nomination of the Ministerial Council;
 - (ab) 1 Aboriginal person appointed on the nomination of the Ministerial Council;
 - (b) 2 persons appointed on the nomination of the Commonwealth;
 - (c) 2 persons appointed on the nomination of the State;
 - (d) the executive director.
- (2) The Aboriginal person appointed under subsection (1)(ab) must be particularly concerned with land in the wet tropics area.

Note—

For when an aboriginal person is particularly concerned with the land, see section 5 (Aboriginal people particularly concerned with land).

Division 3 Provisions relating to directors other than the executive director

15 Application of division

This division applies to the directors other than the executive director.

16 Appointment

- (1) The directors are to be appointed by the Governor in Council.
- (2) If the Ministerial Council or the Commonwealth fails to nominate a qualified person for appointment under

[s 17]

section 14(a) or (b) within 3 months after being requested to do so by the Minister, the Governor in Council may appoint a qualified person as a director.

- (3) A person is qualified to be a director if the person—
 - (a) is not an officer of the public service of the State or the Commonwealth; and
 - (b) has qualifications or extensive experience in a field related to the authority's functions.

17 Duration of appointment etc.

- (1) The appointment of a director is for a term (not longer than 3 years) as is specified in the director's instrument of appointment.
- (2) A director is eligible for reappointment for a further term unless—
 - (a) the director has completed 6 consecutive years as a director; or
 - (b) the total period of the appointment, including the further term, would be 6 consecutive years or more.

18 Terms of appointment

- (1) A director is appointed on a part-time basis.
- (2) A director is to be paid such remuneration and allowances as are determined by the Governor in Council.
- (3) A director holds office on such terms not provided in this Act as are determined by the Governor in Council.

20 Appointment of acting chairperson

- (1) The board may appoint 1 of its directors to act as chairperson during any period, or all periods, of not longer than 3 months, when the chairperson is absent from duty or Australia or is, for another reason, unable to perform the functions of office.

-
- (2) The Governor in Council may, after consultation with the Ministerial Council, appoint a person to act as chairperson—
- (a) during a vacancy in the office; or
 - (b) during any period, or all periods, of longer than 3 months, when the chairperson is absent from duty or Australia or is, for another reason, unable to perform the functions of office.

21 Appointment of acting director

- (1) Subject to subsection (2), the Governor in Council may appoint a person to act as a director (other than the chairperson)—
- (a) while the office of the director is vacant; or
 - (b) during any period, or all periods, when the director is absent from duty or Australia or is, for another reason, unable to perform the functions of office.
- (2) A person may be appointed to act as a director mentioned in section 14(b) only after consultation with the Commonwealth.

22 Removal from office

- (1) Subject to subsections (2) and (3), the Governor in Council may remove a director from office if the director—
- (a) is convicted of an indictable offence; or
 - (b) is guilty of misconduct or neglect of duty; or
 - (c) contravenes a provision of this Act without reasonable excuse; or
 - (d) is unable to perform the functions of office because of physical or mental incapacity.
- (2) The director mentioned in section 14(a) may be removed only after consultation with the Ministerial Council.
- (3) A director mentioned in section 14(b) may be removed only after consultation with the Commonwealth.

Division 4 Provisions relating to the executive director

23 Executive director

The executive director is to be appointed under the *Public Sector Act 2022* after consultation between the Ministerial Council, the Minister and the authority.

24 Executive director's duties

- (1) The executive director is, under the board, to manage the authority.
- (2) Anything done in the name of, or on behalf of, the authority by the executive director is taken to have been done by the authority.
- (3) The executive director may, subject to section 31 (Disclosure of interests by directors), take part in any of the board's deliberations but has no voting rights at a meeting of the board.
- (4) The executive director holds the position of secretary to the Ministerial Council.

25 Disclosure of interests by executive director

- (1) The executive director must give written notice to the chairperson of all direct or indirect pecuniary interests that the executive director has or acquires in any business or in any corporation carrying on any business.
- (2) The obligations of the executive director under subsection (1) are in addition to any obligations that the executive director has under this Act or any other law.

Division 5 Business and meetings of the board

26 Conduct of business

Subject to this division, the board may conduct its business (including its meetings) in the way it considers appropriate.

27 Times and places of meetings

- (1) Subject to subsections (2) and (3), meetings of the board are to be held at such times and places as the board determines.
- (2) The board must meet at least 4 times in each calendar year.
- (3) The chairperson—
 - (a) may at any time convene a meeting; and
 - (b) must convene a meeting when requested by 2 or more directors.

28 Presiding director

- (1) The chairperson is to preside at all meetings at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, a director (other than the executive director) chosen by the directors present at the meeting is to preside.

29 Quorum and voting at meetings

At a meeting of the board—

- (a) 4 directors (exclusive of the executive director) constitute a quorum; and
- (b) a question is to be decided by a majority of the votes of the directors present and voting; and
- (c) the director presiding has a deliberative vote and, if the votes are equal, also a casting vote.

30 Conduct of meetings

- (1) The board may permit directors to participate in a particular meeting, or all meetings, by—
 - (a) telephone; or
 - (b) closed-circuit television; or
 - (c) any other means of communication.
- (2) A director who participates in a meeting under a permission under subsection (1) is taken to be present at the meeting.
- (3) The board may invite a person to attend a meeting for the purpose of advising or informing it on any matter.
- (4) The board must keep minutes of its meetings.

31 Disclosure of interests by directors

- (1) If—
 - (a) a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the director's duties in relation to consideration of the matter;the director must, as soon as practicable after the relevant facts come to the director's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) The disclosure must be recorded in the board's minutes and, unless the board otherwise determines, the director must not—
 - (a) be present during any deliberations of the board in respect of the matter; or
 - (b) take part in any decision of the board in respect of the matter.
- (3) A director who makes a disclosure must not—

- (a) be present at any deliberation by the board for the purpose of making a determination under subsection (2); or
- (b) take part in the making by the board of such a determination.

Division 6 Provisions relating to staff

32 Arrangements relating to staff

- (1) The authority may arrange with the chief executive of a department, or with an authority of the State, for the services of officers or employees of the department or authority to be made available to it.
- (2) The authority may arrange with the appropriate authority of the Commonwealth, another State or a Territory, or with an authority of the Commonwealth, another State or a Territory, for the services of officers or employees of the public service of the Commonwealth, State or Territory, or of the authority, to be made available to it.
- (3) The authority may arrange for the services of an employee of the authority to be made available to the Commonwealth, a State or Territory or to an authority of the Commonwealth, a State or Territory.

33 Authority's officers and employees employed under Public Service Act

The authority's officers and employees are to be employed under the *Public Sector Act 2022*.

34 Protection from liability

- (1) This section applies to—
 - (a) an authorised officer; and

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- (b) a person acting under the direction of an authorised officer.
- (2) The person does not incur civil liability for an act or omission done honestly and without negligence under, or for the purposes of, this Act.
- (3) A liability that would, but for this section, attach to the person attaches instead to the authority.
- (4) This section does not apply to a person if the person is a prescribed person under the *Public Sector Act 2022*, section 267.

Division 7 Miscellaneous

35 Delegation of authority's powers

- (1) Subject to subsection (2), the board may delegate the authority's powers to—
 - (a) an advisory committee; or
 - (b) a director; or
 - (c) an officer or employee of the authority; or
 - (d) the chief executive of a department; or
 - (e) an officer of the public service; or
 - (f) the chief executive officer or an employee of a local government.
- (2) The board may not delegate powers under any of the following provisions—
 - (a) part 3 (Management plans);
 - (b) section 64 (Budget).
- (3) A certificate signed by the chairperson stating any matter in relation to a delegation of a power under subsection (1) is evidence of the matter.

- (4) A document purporting to be a certificate under subsection (3) is, unless the contrary is established, taken to be such a certificate and to have been properly given.

36 Delegation of the executive director's powers

The executive director may delegate the executive director's powers to an officer of the authority.

37 Authority's seal

- (1) The authority's seal must be kept in such custody as the board directs and may be used only as authorised by the board.
- (2) Judicial notice must be taken of the imprint of the authority's seal appearing on a document and the document must be presumed to have been properly sealed until the contrary is proved.

38 Judicial notice of certain signatures

Judicial notice must be taken of—

- (a) the official signature of a person who is or has been chairperson or executive director; and
- (b) the fact that the person holds or has held the office concerned.

39 Authentication of documents

A document made by the authority (other than a document that is required to be sealed) is sufficiently made if it is signed by the chairperson or a person authorised by the board.

40 Advisory committees

- (1) For the purposes of the administration of this Act, the authority—
- (a) must establish—

-
- (2) The authority may prepare such other management plans for the wet tropics area, or any part of the area, as the authority considers appropriate.
 - (3) A management plan may divide the area in respect of which it is made into management zones.
 - (4) A management plan may make provision for any matter for which a regulation may be made under this Act, including, for example—
 - (a) prescribing offences for contraventions of the plan, and fixing a maximum penalty of a fine of not more than 165 penalty units for the contravention; and
 - (b) exempting and prescribing acts for section 56(3), definition *prohibited act*.
 - (5) Also, a management plan may make provision for any matter relating to cooperative management agreements entered into, or proposed to be entered into, by the authority, for the purposes of the management plan.
 - (6) Without limiting subsection (5), a management plan may—
 - (a) impose requirements about—
 - (i) entering into a cooperative management agreement for the purposes of the management plan; or
 - (ii) the content of a cooperative management agreement entered into, or proposed to be entered into, for the purposes of the management plan; or

Example of a requirement for subparagraph (ii)—

a requirement that a cooperative management agreement states it is an agreement to which a particular provision of the management plan applies
 - (b) provide for a cooperative management agreement mentioned in paragraph (a) to apply in a way that is inconsistent with particular provisions of the management plan, including, in relation to the following—
 - (i) a party to the agreement;

- (ii) land that is the subject of the agreement, including, for example, in relation to an activity that may be carried out on the land.
- (7) To remove any doubt, it is declared that subsection (5) does not prevent the authority from entering into a cooperative management agreement other than for the purposes of a management plan.

42 Notice of proposal to prepare draft plan

- (1) The authority must give public notice that the authority proposes to prepare a draft management plan.
- (2) The notice must—
 - (a) be published in—
 - (i) a newspaper circulating throughout Queensland; and
 - (ii) such other newspapers as the authority determines; and
 - (b) specify the area concerned; and
 - (c) invite submissions from government departments, public authorities, land-holders, local authorities, Aboriginal people particularly concerned with land in the area, interested groups and persons and members of the public; and
 - (d) specify a day (not earlier than 40 days from the publication of the notice in the newspaper mentioned in paragraph (a)(i)) by which submissions may be made to the authority.

43 Preparation of draft plan

When preparing a draft management plan, the authority must consider all submissions properly made to the authority.

44 Notice of preparation of draft plan

- (1) The authority must give public notice when a draft management plan has been prepared.
- (2) The notice must—
 - (a) be published in—
 - (i) a newspaper circulating throughout Queensland; and
 - (ii) such other newspapers as the authority determines; and
 - (b) specify the area concerned; and
 - (c) specify the addresses at which copies of the draft plan may be inspected and, on payment of the prescribed fee, purchased; and
 - (d) invite submissions from government departments, public authorities, land-holders, local authorities, Aboriginal people particularly concerned with land in the area, interested groups and persons and members of the public; and
 - (e) specify a day (not earlier than 40 days from the publication of the notice in the newspaper mentioned in paragraph (a)(i)) by which submissions may be made to the authority.

45 Preparation of final plan

When preparing a final management plan, the authority must consider all submissions properly made to the authority.

46 Submission of final plan etc. to Ministerial Council

On preparation of a final management plan, the authority must give—

- (a) a copy of the plan; and

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- (b) a report on the submissions properly made to it in relation to the draft management plan;
to the Ministerial Council.

47 Approval of final plan

- (1) A final management plan does not have effect until approved by the Governor in Council.
- (2) An approval under subsection (1) may be made only on the recommendation of the Ministerial Council.
- (3) A final management plan is subordinate legislation.
- (4) The authority must—
 - (a) keep the approved plan open for inspection by members of the public during office hours on business days at—
 - (i) the authority’s office; and
 - (ii) such other places as the authority considers appropriate; and
 - (b) on payment of the prescribed fee by a person, give a copy of the approved plan to the person.

49 Plans prevail over planning schemes

If there is any inconsistency between a management plan and a planning scheme (whether made before or after the plan), the plan prevails over the planning scheme to the extent of the inconsistency.

50 Local authorities’ decisions to be consistent with management plans

A local authority must not issue or give any approval, consent, permit or other authority, in relation to a development on land in the wet tropics area, that is inconsistent with a management plan.

51 Inconsistency between plans

- (1) If, in relation to an area, there is any inconsistency between a management plan for the area and a conservation plan under the *Nature Conservation Act 1992* for the area, the Minister must determine, by written notice, which plan is to prevail to the extent of the inconsistency.
- (2) In making the determination, the Minister must have regard to the following matters—
 - (a) the protection of the area’s natural heritage;
 - (b) the protection of the biological diversity of the area’s native wildlife and its habitat;
 - (c) any other aspects of the public interest that the Minister considers relevant (including financial considerations).
- (3) Subsection (2) does not limit the matters to which the Minister may have regard in making the determination.
- (4) To remove any doubt, subsection (1) does not affect any rights that Aboriginal people have in relation to native wildlife under another Act.
- (5) A notice under subsection (1) is subordinate legislation.

52 Amendment of plans

- (1) The Governor in Council may approve the amendment of a management plan by a subsequent management plan only if the procedures applying to the preparation and approval of plans under this part (other than sections 42 (Notice of proposal to prepare draft plan) and 43 (Preparation of draft plan)) are followed.
- (2) However, the procedures mentioned in subsection (1) are not required to be followed in relation to the amendment of a management plan to—
 - (a) correct an error in the plan; or
 - (b) reflect an amendment of this Act in the plan; or

- (c) make another change to the plan that is not a change of substance; or
- (d) if the plan or a regulation provides that an amendment of a stated type may be made to the plan by amendment under this subsection—make an amendment of that type.

53 Review of plans

- (1) The authority must review the operation of each management plan—
 - (a) no later than 10 years after its approval; and
 - (b) before the end of each subsequent period of 10 years after its approval.
- (2) The procedures applying to the preparation and approval of plans under this part apply to the review of plans with any necessary modifications and any modifications prescribed by regulation.

54 Compensation

- (1) Subject to subsections (2) and (3), if a land-holder's interest in land is injuriously affected by a restriction or prohibition imposed under a management plan on the land-holder's existing use of the land, the land-holder is entitled to be paid by the authority such reasonable compensation because of the restriction or prohibition as is agreed between the authority and the land-holder or, failing agreement, as is determined by the Land Court.
- (2) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the management plan is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the plan.
- (3) Compensation is not payable if compensation has already been paid in respect of—

-
- (a) the restriction or prohibition; or
 - (b) a restriction or prohibition to the same effect.
- (4) A claim for compensation must be lodged with the authority within 6 months after the approval of the management plan or such longer period as the authority or the Land Court in special circumstances allows.
- (5) In making a determination, the Land Court must have regard to the following matters—
- (a) the capacity of the land to sustain the use;
 - (b) any change in the value of the land because of the approval of the management plan;
 - (c) any change in the profitability of the land because of the approval of the plan;
 - (d) any cooperative management agreement with the land-holder.
- (6) Subsection (5) does not limit the matters to which the Land Court may have regard in making a determination.
- (7) In this section—

existing use of land means a lawful use made, or a use that could lawfully be made as of right, of the land immediately before the commencement of the management plan that restricts or prohibits the use.

land-holder includes a person having an interest in land.

Part 4 Prohibited practices

55 Use of prohibited words

- (1) A person must not, without the prior written consent of the authority, use prohibited words in connection with a business, trade, profession or occupation.
- (2) A person must not use words in relation to an area that is not part of the wet tropics area in a way that is likely to cause

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another person to reasonably believe that the area is part of the wet tropics area.

(3) In this section—

prohibited words means—

- (a) ‘Wet Tropics of Queensland World Heritage’; or
- (b) ‘Wet Tropics World Heritage Area’; or
- (c) any other words prescribed by regulation.

56 Prohibited acts

(1) A person must not do, or attempt to do, a prohibited act in relation to land within the Wet Tropics Area, unless the person is the holder of a licence, permit or other authority—

- (a) issued or given by the Authority under a regulation; or
- (b) issued or given under the *Mineral Resources Act 1989*; or
- (c) issued or given by the Governor in Council under another Act.

Maximum penalty—3,000 penalty units, imprisonment for 2 years or both.

(2) To remove any doubt, subsection (1) does not affect any rights that Aboriginal people have in relation to forest products under another law.

(3) In this section—

prohibited act means—

- (a) in relation to a forestry operation—
 - (i) destroying a forest product; or
 - (ii) constructing or establishing a road or vehicular track; or
 - (iii) carrying out any excavation works; or
- (b) destroying a forest product, unless exempted under a regulation; or

- (c) another act prescribed by regulation to be a prohibited act.

57 Compensation

- (1) Subject to subsections (2) and (3), if a land-holder's interest in land is injuriously affected by a prohibition under section 56, the land-holder is entitled to be paid by the authority such reasonable compensation because of the prohibition as is agreed between the authority and the land-holder or, failing agreement, as is determined by the Land Court.
- (2) Compensation is payable only if the prohibition is a prohibited act merely because of paragraph (b) or (c) of the definition *prohibited act* in section 56.
- (3) Compensation is not payable if compensation has already been paid in respect of—
 - (a) the prohibition; or
 - (b) a similar prohibition.
- (4) A claim for compensation must be lodged with the authority within 6 months after the prohibition starts or such longer period as the authority or Land Court in special circumstances allows.
- (5) In making a determination, the Land Court must have regard to the following matters—
 - (a) the capacity of the land to sustain the prohibited act;
 - (b) any change in the value of the land because of the prohibition;
 - (c) any change in the profitability of the land because of the prohibition;
 - (d) any cooperative management agreement with the land-holder.
- (6) Subsection (5) does not limit the matters to which the Land Court may have regard in making a determination.
- (7) In this section—

land-holder includes a person having an interest in land.

Part 5 Administration

58 Appointment, and terms of appointment, of authorised officers

- (1) The Minister may appoint any of the following persons to be authorised officers—
 - (a) an officer or employee of the authority;
 - (b) an officer of the public service;
 - (c) an employee of the department;
 - (d) with the person’s consent, another person.
- (2) The Minister may appoint a person to be an authorised officer only if—
 - (a) in the Minister’s opinion, the person has the necessary expertise or experience to be an authorised officer; or
 - (b) the person has satisfactorily completed an appropriate course of training approved by the Minister.
- (3) An authorised officer appointed under subsection (1)(a), (b) or (c) holds office subject to the conditions specified in the instrument of appointment.
- (4) An authorised officer appointed under subsection (1)(d)—
 - (a) holds office for the period, and on the conditions, specified in the instrument of appointment; and
 - (b) may resign by signed notice given to the Minister.
- (5) An authorised officer ceases to hold office—
 - (a) if the officer was appointed under subsection (1)(a)—if the officer ceases to be an officer or employee of the authority; or

- (b) if the officer was appointed under subsection(1)(b)—if the officer ceases to be an officer of the public service; or
- (c) if the officer was appointed under subsection (1)(c)—if the officer ceases to be an employee of the department; or
- (d) if the officer was appointed under subsection (1)(d)—if the officer resigns, or is removed from, office.

59 Powers of authorised officers

- (1) An authorised officer appointed under section 58(1)(a), (b) or (c) has, in relation to the wet tropics area—
 - (a) the powers given under this or another Act; and
 - (b) such other powers as may be prescribed by regulation.
- (2) An authorised officer appointed under section 58(1)(d) has, in relation to the wet tropics area—
 - (a) the powers of an authorised officer under section 74; and
 - (b) such other powers as may be prescribed by regulation.

60 Conservation officers to be authorised officers

All conservation officers under the *Nature Conservation Act 1992* are, by virtue of their office, authorised officers, and have the same powers as authorised officers appointed under section 58(1)(a).

61 Identity cards

- (1) The Minister must issue an identity card to each authorised officer other than an authorised officer of a prescribed class.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised officer; and

- (b) be in a form approved by the Minister; and
 - (c) be signed by the officer.
- (3) A person who ceases to be an authorised officer must not, without reasonable excuse, fail to return the person's identity card to the authority as soon as practicable after ceasing to be an authorised officer.

Maximum penalty for subsection (3)—50 penalty units.

62 Proof of authority

An authorised officer may exercise a power in relation to a person only if the officer first produces his or her identity card for inspection by the person.

63 Annual report

- (1) The authority must, within 3 months after the end of each financial year, give to the Minister and the Commonwealth a report on—
- (a) the administration of this Act during the year; and
 - (b) financial statements for the year; and
 - (c) the state of the wet tropics area.
- (2) The Minister must lay a copy of the report before the Legislative Assembly within 14 sitting days after its receipt by the Minister.

64 Budget

- (1) The authority must prepare a draft budget for each financial year showing—
- (a) estimates of receipts and expenditure for the year; and
 - (b) the purposes of estimated expenditure.

- (2) The authority must submit the draft budget to the Ministerial Council for approval within the time, and in the form, required by the Ministerial Council.
- (3) The Ministerial Council must approve the draft budget (with or without modifications) within 60 days after the draft budget is submitted to it.
- (4) If the Ministerial Council does not approve the authority's draft budget for a financial year under subsection (3), the draft budget submitted by the authority is taken to be approved by the Ministerial Council.
- (5) Subject to any financial agreement between the State and the Commonwealth, the authority must observe the budget approved under subsection (3) or (4).

65 Delegation by Minister

The Minister may delegate to an officer of the public service the Minister's powers under this Act.

66 Records to be maintained by registrar

- (1) The registrar must maintain records in relation to private land within the wet tropics area.
- (2) The records must show—
 - (a) that the private land is subject to the prohibitions under section 56; and
 - (b) in relation to private land that is subject to a management plan—that the land is subject to the management plan.
- (3) The registrar must maintain the records in such a way that a search of the register maintained by the registrar under any Act relating to the private land will show that the land is subject to—
 - (a) the prohibitions; and
 - (b) if subsection (2)(b) applies—the management plan.

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- (4) The registrar must, within 14 days after—
 - (a) the repeal of a management plan over private land; or
 - (b) the removal of private land from the operation of a management plan;remove the particulars of the land from the registrar's records.

Part 6 Investigation and enforcement

67 Power to stop and search vehicles etc.

- (1) In this section—

person in control of a vehicle includes—

 - (a) the driver of the vehicle; and
 - (b) the person in command of the vehicle; and
 - (c) the person who appears to be in control or command of the vehicle.

vehicle includes a boat or an aircraft.
- (2) This section applies if an authorised officer suspects on reasonable grounds that—
 - (a) a vehicle is being, or has been, used in the commission of an offence against this Act; or
 - (b) a vehicle, or anything on or in a vehicle, may afford evidence of the commission of an offence against this Act.
- (3) The authorised officer may, with such assistance and by such force as is necessary and reasonable—
 - (a) enter or board the vehicle; and
 - (b) exercise the powers set out in section 70.
- (4) If—
 - (a) the vehicle (not being an aircraft) is moving or about to move; or

(b) the vehicle (being an aircraft) is moving, or about to move, on the ground;

the authorised officer may signal the person in control of the vehicle—

(c) to stop the vehicle; or

(d) not to move the vehicle.

(5) A person must not, without reasonable excuse, disobey a signal under subsection (4) to stop or not to move a vehicle.

Maximum penalty—165 penalty units or 1 year's imprisonment.

(6) It is a reasonable excuse for the person to fail to stop or not to move the vehicle if—

(a) to obey immediately the signal would have endangered the person or another person; and

(b) the person obeys the signal as soon as it is practicable to do so.

(7) The authorised officer may require the person in control of the vehicle—

(a) to give such reasonable assistance as the officer requires to enable the vehicle to be entered or boarded under subsection (3); or

(b) to do both of the following—

(i) bring the vehicle to a specified place;

(ii) remain in control of the vehicle at the place for a reasonable time to enable the officer to exercise the officer's powers in relation to the vehicle.

(8) A person must not, without reasonable excuse, contravene a requirement under subsection (7).

Maximum penalty—165 penalty units or 1 year's imprisonment.

(9) If, while searching the vehicle the authorised officer finds a thing that the officer believes, on reasonable grounds, will

afford evidence of the commission of an offence against this Act, section 69(2) applies to the thing.

- (10) If, after searching the vehicle the authorised officer believes on reasonable grounds that the vehicle will afford evidence of the commission of an offence against this Act, section 69(2)(a) and (b) apply to the vehicle.

68 Entry and search—monitoring compliance

- (1) An authorised officer may, for the purpose of finding out whether this Act is being complied with—
- (a) enter any place at any reasonable time of the day or night; and
 - (b) exercise the powers mentioned in section 70.
- (2) An authorised officer may enter a place or exercise a power under subsection (1) only if—
- (a) the occupier of the place consents to the entry or exercise of the power; or
 - (b) a warrant under section 71 authorises the entry or exercise of the power.

69 Entry and search—evidence of offences

- (1) If an authorised officer has reasonable grounds for suspecting that there is in a place a particular thing (the *evidence*) that may afford evidence of the commission of an offence against this Act, the officer may—
- (a) enter the place; and
 - (b) exercise the powers mentioned in section 70.
- (2) If the authorised officer enters the place and finds the evidence—
- (a) the officer may seize the evidence; and
 - (b) the officer may keep the evidence—
 - (i) for 6 months; or

- (ii) if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is started within that period—until the completion of the proceeding for the offence and any appeal in relation to the proceeding; and
- (c) if the evidence is a document—while the officer has possession of the document, the officer—
 - (i) may take extracts from and make copies of the document; and
 - (ii) must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the officer's possession.
- (3) The authorised officer may enter the place, or exercise a power under subsection (1), only if—
 - (a) the occupier of the place consents to the entry or exercise of the power; or
 - (b) a warrant under section 72 that was issued in relation to the evidence authorises the entry or exercise of the power.
- (4) If, while searching the place under subsection (1) under a warrant under section 72, the authorised officer finds a thing (the *secondary evidence*) that is not the evidence, then, subject to subsection (5), subsection (2) applies to the secondary evidence as if it were the evidence.
- (5) Subsection (4) applies only if the authorised officer believes, on reasonable grounds, that—
 - (a) the secondary evidence will afford evidence of the commission of—
 - (i) the offence mentioned in subsection (1); or
 - (ii) another offence against this Act; and
 - (b) it is necessary to seize the secondary evidence to prevent—

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- (i) its concealment, loss, death or destruction; or
- (ii) its use in committing, continuing or repeating either of the offences.

70 General powers in relation to places and vehicles

- (1) An authorised officer who enters a place, or enters or boards a vehicle, under this part may exercise any of the following powers—
- (a) search any part of the place or vehicle;
 - (b) inspect, examine, photograph or film anything in or on the place or vehicle;
 - (c) take extracts from, and make copies of, any documents in or on the place or vehicle;
 - (d) take into or onto the place or vehicle any persons, equipment and materials that the authorised officer reasonably requires for the purpose of exercising any powers in relation to the place or vehicle;
 - (e) require—
 - (i) the occupier of the place; or
 - (ii) any person in or on the place or vehicle;to give to the authorised officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
 - (f) the powers mentioned in the following provisions—
 - (i) section 74 (Power to require name and address);
 - (ii) section 75 (Power to require answers to questions);
 - (iii) section 76(1)(b) to (c) (Other powers of authorised officers).
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1)(e).
- Maximum penalty—50 penalty units.

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- (3) It is a reasonable excuse for a person to fail—
 - (a) to answer a question; or
 - (b) produce a document (other than a document required to be kept by the person under a regulation);if answering the question, or producing the document, might tend to incriminate the person.
 - (4) An authorised officer who seizes or damages anything under this part must, as soon as practicable, give written notice of the particulars of the thing or damage.
 - (5) The notice must be given to—
 - (a) for a seizure—the person from whom the thing was seized; or
 - (b) for injury or damage—the person who appears to the authorised officer to be the owner of the thing.
 - (6) This section does not limit any power that an authorised officer has apart from this section.
 - (7) In this section—

vehicle includes a boat and an aircraft.

71 Monitoring warrants

- (1) An authorised officer may apply to a magistrate for a warrant under this section in relation to a particular place (other than premises, or the part of premises, used exclusively for residential purposes).
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is necessary and reasonable that the authorised officer should have access to the place for the purpose of finding out whether this Act is being complied with.
- (3) If the magistrate requires further information about the grounds on which the issue of the warrant is being sought, the magistrate may issue the warrant only if the authorised officer or another person has given the information to the magistrate

in the form (either orally or by affidavit) that the magistrate requires.

- (4) The warrant must—
 - (a) authorise the authorised officer, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 70(1)(a) to (e); and
 - (b) state whether the entry is authorised to be made—
 - (i) at any reasonable time of the day or night; or
 - (ii) only during specified reasonable hours of the day or night; and
 - (c) specify the day (not later than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
 - (d) state the purpose for which the warrant is issued.

72 Offence related warrants

- (1) An authorised officer may apply to a magistrate for a warrant under this section in relation to a particular place.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, 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.
- (3) If the magistrate requires further information about the grounds on which the issue of the warrant is being sought, the magistrate may issue the warrant only if the authorised officer or another person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.
- (4) The warrant must—

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- (a) authorise the authorised officer, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 70(1)(a) to (e); and
 - (iii) to seize a specified thing; and
 - (b) state whether the entry is authorised to be made—
 - (i) at any time of the day or night; or
 - (ii) only during specified hours of the day or night; and
 - (c) specify the day (not later than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
 - (d) state the purpose for which the warrant is issued.

73 Warrants may be issued by various forms of communication

- (1) If an authorised officer considers it necessary to do so because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the officer's remote location;

the officer may, under this section, apply by telephone, facsimile, radio or another form of communication for a warrant under section 71 or 72.
- (2) Before applying for the warrant, the authorised officer must prepare an information of the kind mentioned in section 71(2) or 72(2) that sets out the grounds on which the issue of the warrant is sought.
- (3) If it is necessary to do so, an authorised officer may apply for the warrant before the information has been sworn.
- (4) If the magistrate—

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- (a) after having considered the terms of the information; and
- (b) after having received any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought;

is satisfied that there are reasonable grounds for issuing the warrant, the magistrate may, under section 71 or 72, complete and sign the warrant that the magistrate would issue under the section if the application had been made under the section.

- (5) If the magistrate completes and signs the warrant, the magistrate must—
 - (a) immediately send a copy of the warrant to the authorised officer by facsimile; or
 - (b) if it is not reasonably practicable to do so—
 - (i) tell the officer what the terms of the warrant are; and
 - (ii) tell the officer the day and time when the warrant was signed; and
 - (iii) record on the warrant the reasons for granting the warrant.
- (6) If the magistrate takes the action mentioned in subsection (5)(b), the authorised officer must—
 - (a) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
 - (b) write on the form of warrant—
 - (i) the name of the magistrate; and
 - (ii) the day and time when the magistrate signed the warrant.
- (7) The authorised officer must also send to the magistrate—
 - (a) the information mentioned in subsection (2), which must have been properly sworn; and

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- (b) if a form of warrant was completed by the authorised officer under subsection (6)—the completed form of warrant.
 - (8) A document mentioned in subsection (7) must be sent—
 - (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or
 - (b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph.
 - (9) When the magistrate receives the documents mentioned in subsection (7), the magistrate must—
 - (a) attach them to the warrant that the magistrate completed and signed; and
 - (b) deal with them in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 71 or 72.
 - (10) A facsimile copy of a warrant, or a form of warrant properly completed by the authorised officer under subsection (6), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.
 - (11) If—
 - (a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
 - (b) the warrant completed and signed by the magistrate authorising the exercise of power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

74 Power to require name and address

- (1) This section applies if an authorised officer—
 - (a) finds a person committing an offence against this Act; or

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- (b) finds a person who the officer has reasonable grounds for suspecting has committed an offence against this Act; or
 - (c) believes on reasonable grounds that the name and address of a person is required for the purpose of the administration or enforcement of this Act.
- (2) The authorised officer may—
 - (a) require the person to state the person's name and address; and
 - (b) if the officer believes on reasonable grounds that the name and address given by a person is false—require evidence of its correctness.
- (3) If the authorised officer makes a requirement under subsection (2), the officer must warn the person that it is an offence against this Act to fail, without reasonable excuse, to comply with the requirement.
- (4) A person who is required under subsection (2) to state the person's name or address must not—
 - (a) without reasonable excuse, fail to comply with the requirement; or
 - (b) state a false name or address.Maximum penalty—100 penalty units.
- (5) A person who is required under subsection (2) to give evidence of the correctness of a name or address must not—
 - (a) without reasonable excuse, fail to give the evidence; or
 - (b) give false evidence.Maximum penalty—100 penalty units.
- (6) If—
 - (a) an authorised officer makes a requirement under subsection (2) on a suspicion of a person having committed an offence; and
 - (b) the person is not proved to have committed the offence;

the person is not guilty of an offence against this section.

75 Power to require answers to questions

- (1) If an authorised officer believes on reasonable grounds that a person may be able to provide information relevant to the enforcement of this Act, the officer may require the person to answer a question relevant to the enforcement of this Act.
- (2) If the authorised officer makes a requirement under subsection (1), the officer must warn the person that it is an offence against this Act—
 - (a) to fail to answer a question relevant to the enforcement of this Act without reasonable excuse; or
 - (b) to make a statement that the person knows is false or misleading in a material particular.
- (3) A person who is required under subsection (1) to answer a question must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—100 penalty units.

- (4) It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.
- (5) If—
 - (a) an authorised officer makes a requirement under subsection (1) on the basis of a reasonable belief; and
 - (b) the information is not in fact relevant to the enforcement of this Act;

the person is not guilty of an offence against this section.

76 Other powers of authorised officers

- (1) An authorised officer may, for the purposes of this Act, exercise any of the following powers—

- (a) enter any land at any reasonable time for the purpose of inspecting the state of the wet tropics area;
 - (b) require a person to produce to the officer—
 - (i) any licence, permit or other authority held by the person under a regulation; or
 - (ii) any document required to be kept by the person under a regulation;
 - (c) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (b).
- (2) Before exercising the power mentioned in subsection (1)(a), an authorised officer must—
- (a) obtain, or, in urgent circumstances, take all reasonable steps to obtain, the consent of the land-holder concerned; or
 - (b) give at least 14 days' written notice to the land-holder concerned of—
 - (i) the officer's intention to enter the land; and
 - (ii) the proposed purpose in entering the land; and
 - (iii) the day and time when the officer proposes to enter the land.
- (3) In exercising the power mentioned in subsection (1)(a), an authorised officer must take all reasonable steps to ensure that the officer causes as little inconvenience, and does as little damage, as is practicable.
- (4) An authorised officer—
- (a) may keep a document under subsection (1)(c) only for the purpose of taking copies of the document; and
 - (b) must, as soon as practicable after taking the copies, return the document to the person who produced it.

77 Obstruction of authorised officers

A person must not, without reasonable excuse, obstruct, hinder or resist, or attempt to obstruct, hinder or resist, an authorised officer in the exercise of a power under this Act.

Maximum penalty—100 penalty units.

78 Compensation

- (1) A person who incurs any loss or expense—
 - (a) because of the exercise or purported exercise of a power under this part; or
 - (b) in complying with a requirement made of the person under this part;may claim compensation from the State.
- (2) A payment of compensation may be claimed and ordered—
 - (a) in an action for compensation brought in a court of competent jurisdiction for the recovery of compensation; or
 - (b) during a proceeding for a charge under this Act against the person by whom the claim is made.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.

79 False or misleading information and documents

- (1) A person must not—
 - (a) make a statement to an authorised officer that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made to an authorised officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

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- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.
- (3) A person must not give to an authorised officer a document containing information that the person knows is false, misleading or incomplete in a material particular.
Maximum penalty—100 penalty units.
- (4) Subsection (3) does not apply to a person if, when the person gives the document to the authorised officer, the person—
 - (a) indicates to the officer that the document is false, misleading or incomplete; and
 - (b) indicates the respect in which the document is false, misleading or incomplete; and
 - (c) gives the correct information to the officer if the person has, or can reasonably obtain, the correct information.

80 Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—50 penalty units.

Part 7 Legal proceedings

81 Evidentiary provisions

- (1) This section applies to any proceeding under or in relation to this Act.
- (2) It is not necessary to prove the appointment of an authorised officer or the authority of an authorised officer to do any act under this Act.
- (3) A signature purporting to be that of the executive director or an authorised officer is evidence of the signature it purports to be.

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- (4) A certificate purporting to be signed by the executive director stating that—
- (a) a specified document is a copy of a notice, order, licence, permit or other authority issued or given under this Act; or
 - (b) on a specified day, or during a specified period, a specified person was or was not the holder of a licence, permit or other authority issued or given under a regulation or another Act; or
 - (c) a licence, permit or other authority was or was not issued or given for a specified term, or was or was not subject to specified conditions; or
 - (d) on a day mentioned in the certificate, a specified person was given a notice under this Act;
- is evidence of the matter stated in the certificate.
- (5) A statement in a complaint starting the proceeding of any of the following matters is evidence of the matters—
- (a) that the matter of the complaint came to the knowledge of the complainant on a specified day;
 - (b) that the place where the offence was committed was in a specified zone in the wet tropics area.

82 Proceedings for offences

- (1) A proceeding for an offence against section 56 (Prohibited acts) may be taken—
- (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment;
- at the election of the prosecution.
- (1A) An offence against section 56 is a misdemeanour.
- (2) Any other offence against this Act is punishable summarily.
- (3) Subject to subsection (4), a proceeding—

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- (a) with a view to the summary conviction of a person on a charge of an offence against section 56; or
 - (b) for an examination of witnesses in relation to such a charge;
- must be before a magistrate.
- (4) If a proceeding for an offence against section 56 is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.
- (5) A proceeding for an offence by way of summary proceeding under the *Justices Act 1886* must start within 1 year after—
- (a) the commission of the offence; or
 - (b) the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence;
- whichever is the later.
- (6) If—
- (a) a person charged with an offence against section 56, in respect of which a proceeding is taken by way of summary proceeding, requests, at the start of the proceeding, that the charge be prosecuted on indictment; or
 - (b) the magistrate hearing and determining a charge of an offence against section 56 is of the opinion that the charge ought to be prosecuted on indictment;
- the magistrate—
- (c) must not hear and determine the charge summarily; and
 - (d) must proceed by way of an examination of witnesses in relation to an indictable offence.
- (7) If a magistrate acts under subsection (6)—
- (a) any plea of the person charged at the start of the proceeding must be disregarded; and

- (b) any evidence brought in the proceeding before the magistrate decided to act under subsection (6) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and
 - (c) before committing the person for trial or sentence the magistrate must make a statement to the person in accordance with section 104(2)(b) of the *Justices Act 1886*.
- (8) The maximum penalty that may be imposed for a summary conviction of an offence against section 56 is 165 penalty units or 1 year's imprisonment.

83 Court may order costs of rehabilitation or restoration

On conviction of a person for an offence against this Act, the court may order the person to pay to the State such amount as it considers appropriate for, or towards, the cost of rehabilitation or restoration of the wet tropics area because of the offence.

84 Penalties payable to consolidated fund

All penalties ordered to be paid in relation to offences against this Act must be paid into the consolidated fund.

Part 8 Miscellaneous

85 Regulations

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) A regulation may be made with respect to any of the following matters—
 - (a) the use of land in the wet tropics area;
 - (b) activities in the wet tropics area;

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- (c) access to the wet tropics area by persons or animals;
- (d) the removal from the wet tropics area of—
 - (i) trespassers; or
 - (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (e) the presence and use of vehicles and boats in, and the flight of aircraft over, the wet tropics area;
- (f) the impounding, removal and disposal of vehicles, boats, aircraft or property—
 - (i) found in the wet tropics area in contravention of a regulation; or
 - (ii) found abandoned in the wet tropics area;
- (g) the taking of soil, gravel, animals or plants into, or out of, the wet tropics area and the impounding, removal, destruction or disposal of animals found straying in the wet tropics area;
- (h) offences under a regulation or management plan for which a notice may be given to an offender or affixed in or on any place advising that a prescribed penalty may be paid for any such offence without involving court proceedings;
- (i) requiring environmental impact assessments, studies or reports in relation to developments in the wet tropics area;
- (j) giving effect to, and enforcing compliance with, management plans;
- (k) the matters for which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay fees, costs and charges, when the fees, costs and charges are payable, and the recovery of any unpaid amount of fees, costs and charges;
- (l) exemption from compliance with provisions of a regulation or a management plan;

- (m) reconfiguring a lot in the wet tropics area;
 - (n) prescribing offences for contraventions of a regulation and fixing a maximum penalty of a fine of not more than 165 penalty units for such a contravention.
- (3) Without limiting subsection (2)(e), a regulation may—
- (a) provide, in relation to a contravention of a provision of a regulation relating to the presence or use of vehicles in the wet tropics area, that the owner of the vehicle (whether or not the owner was in charge of the vehicle at the relevant time) is taken to have committed an offence against the provision contravened; and
 - (b) define who is the owner of the vehicle for the purpose of the regulation.

Part 9

Validation and declaratory provisions for Environmental Protection and Other Legislation Amendment Act 2023

86 Validation of management plan provisions about cooperative management agreements

- (1) This section applies in relation to a provision of a management plan, as in force from time to time before the commencement, relating to a cooperative management agreement.
- (2) To remove any doubt, it is declared that the management plan has always been able to make provision for the matters mentioned in new section 41(5) and (6).
- (3) In this section—
new, in relation to a provision, means the provision as in force on the commencement.

87 Particular cooperative management agreements not invalid

- (1) This section applies to a cooperative management agreement that—
 - (a) was in effect immediately before the commencement; and
 - (b) does not—
 - (i) state it is an agreement to which a provision of a management plan applies; or
 - (ii) otherwise purport to have been entered into for the purposes of, or to be subject to, a provision of a management plan.
- (2) To remove any doubt, it is declared that the agreement is not invalid merely because, on the commencement, the agreement contravenes, or is otherwise inconsistent with, a requirement about cooperative management agreements under a provision of a management plan.
- (3) In this section—

provision, of a management plan, includes a provision of the management plan as in force from time to time before the commencement.

Schedule 1 Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area

schedule 3, definition *agreement*

Background

The broad basis for the establishment of a management scheme for the Wet Tropics of Queensland World Heritage Area was the Agreement signed by the Prime Minister and the Premier of Queensland in November 1990. This Agreement sets out broad structural and funding arrangements for the management scheme.

The *Wet Tropics World Heritage Protection and Management Act 1993* (Queensland) was subsequently developed in close cooperation with the Commonwealth and commenced (with the exception of ss.56 and 57) on 1 November 1993. Complementary Commonwealth legislation, *Wet Tropics of Queensland World Heritage Area Conservation Act 1994* (Commonwealth) commenced on 15 March 1994.

Apart from the development of legislation, a number of other changes necessitate updating of the original Agreement. These include changes to public service arrangements in Queensland, practical arrangements which have evolved in relation to the management of the Area and the expiry of the three year period to which some of the initial funding arrangements applied.

As the original Agreement forms a schedule to the Queensland Act, and is referred to in the Commonwealth Act, it is important that it be updated to reflect both practical and statutory realities.

Primary Goal

To provide for the implementation of Australia's international duty for the protection, conservation, presentation, rehabilitation and transmission to future generations of the Wet Tropics of Queensland World Heritage Area within the meaning of the World Heritage Convention.

Structure of the Management Scheme

The elements of the management scheme are the—

- Ministerial Council, consisting of Commonwealth and State Ministers;
- Wet Tropics Management Authority consisting of a Board of Directors, an Executive Director and staff; and
- Community Consultative Committee, the Scientific Advisory Committee and such other advisory committees as the Authority considers appropriate.

With the exception of the Ministerial Council, all of these elements are established under the Queensland Act.

Wet Tropics Ministerial Council

The joint Ministerial Council will comprise four members, with two members each nominated by the Commonwealth and Queensland. The Ministerial Council will be chaired by the Minister administering the Queensland Act (a Queensland Minister).

The Executive Director of the Wet Tropics Management Authority will be Secretary to the Ministerial Council.

A quorum shall be one Minister from each Government and the Council will meet at least once a year.

The Ministerial Council's function shall be to co-ordinate policy and funding for the Wet Tropics of Queensland between the Commonwealth and Queensland Governments at a Ministerial level and, where appropriate, to liaise with the Management Authority and the Board of Directors.

The Ministerial Council—

- shall nominate the Chairperson of the Board of the Authority for appointment under the Queensland Act by the Queensland Governor in Council;
- shall consult with the Board of the Authority and the Queensland Minister on the appointment of the Executive Director of the Authority;
- shall co-ordinate policy and funding for Wet Tropics management between the two Governments;
- shall recommend to the Queensland Governor in Council approval of management plans under the Queensland Act;
- shall approve annual and other programs for implementing approved management plans;
- may recommend financial appropriations from the respective Governments;
- shall approve or amend and approve draft budgets submitted by the Authority within 60 days of the submission being made; and
- may approve Authority annual reports for transmission to both Parliaments.

Wet Tropics Management Authority

The Wet Tropics Management Authority is a statutory body under the Queensland Act. The Authority has a Board of Directors, an Executive Director and staff.

Board of Directors

The Board will comprise six directors. The Chairperson shall be appointed on the nomination of the Ministerial Council. Two directors shall be appointed on the nomination of the Commonwealth and two on the nomination of the State. The Executive Director of the Authority is also a director of the Board but does not have any voting rights. Other than the

Executive Director, directors shall be appointed by the Queensland Governor in Council.

The appointment of a director is for a term of up to three years. A director is eligible for reappointment unless the director has completed six consecutive years as a director. A director nominated by the Commonwealth or the Ministerial Council may be removed from office only after consultation with the Commonwealth or the Ministerial Council respectively.

Persons appointed to the Board shall have qualifications or extensive experience in a field related to the Authority's functions, and shall not be officers of the public service of the Commonwealth or the State.

Under the Commonwealth Act at least one of the Commonwealth's nominees must be an Aboriginal person.

The Commonwealth and Queensland will consult on their nominees prior to appointment by the Queensland Governor in Council.

The Board is responsible for the way in which the Authority performs its functions and exercises its powers. It is the Board's role to decide the objectives, strategies and policies to be followed by the Authority and to ensure that the Authority performs its functions in a proper, effective and efficient way.

The Board may delegate its powers to an advisory committee, a director or an officer or employee of the Authority. The Board may not delegate its powers in relation to management plans or the submission of draft budgets to Ministerial Council.

The Management Authority is subject to the Ministerial Council and will report, via its Chair, to the Council. In the absence of a properly appointed Board at any time, such reporting shall be through the Authority's Executive Director as Secretary to Council.

The Board shall meet at least four times per year. Authority resolutions and recommendations to Ministerial Council shall be made through a majority vote. The Chair shall have a casting vote as well as a deliberative vote.

Where circumstances necessitate, it shall be acceptable for the Chair of the Board, in consultation with the Executive Director, to make recommendations to the Ministerial Council on behalf of the Authority. The Secretary to the Ministerial Council may, under specific direction of the Council or Council members, present material or make recommendations directly to Council.

Observers

One official from each of the portfolios represented on Ministerial Council may attend Board meetings as an observer. These officials will be nominated by the respective Ministers of those portfolios. Chairpersons of the Community Consultative Committee and the Scientific Advisory Committee may also attend Board meetings as observers. Observers will not have voting rights.

Authority's Powers and Functions

The Authority's paramount function will be the responsibility for achieving the primary management goal—the implementation of Australia's international obligations for the Area under the World Heritage Convention.

The Authority's functions are to—

- develop and implement policies and programs in relation to the management of the Wet Tropics Area;
- formulate performance indicators for the implementation of policies and programs approved by the Ministerial Council;
- advise and make recommendations to the Queensland Minister and the Ministerial Council in relation to the management of the Area and Australia's obligations under the World Heritage Convention;
- prepare and ensure the implementation of management plans for the Area;
- administer funding arrangements in relation to the Area;

- enter into, and facilitate the entering into, cooperative management agreements (including joint management agreements) with land-holders, Aboriginal people particularly concerned with land in the Area and other persons;
- enter into arrangements for the provision of rehabilitation and restoration works in relation to any land in the Area;
- gather, research, analyse and disseminate information on the Area;
- develop public and community education programs in relation to the Area;
- promote the Area locally, nationally and internationally;
- liaise with the Governments and authorities of the State, the Commonwealth, other States and the Territories, and international and foreign organisations and agencies;
- monitor the state of the Area; and
- advise and report to the Queensland Minister and the Ministerial Council on the state of the Area.

The functions of the Authority to advise, report to and make recommendations to the Minister and the Ministerial Council may be performed by the Authority on request or on its own initiative.

A cooperative management Agreement may make provision for financial, scientific, technical or other assistance in relation to the management of the Area.

The Authority must perform its functions in a way that is consistent with the protection of the natural heritage values of the Area. Subject to this requirement, in performing its functions, the Authority must, as far as practicable, have regard to the Aboriginal tradition of, and liaise and cooperate with, Aboriginal people particularly concerned with land in the Area.

Subject to performing its functions in a way which is consistent with the protection of the natural heritage values of the Area, the Authority must, as far as practicable, also

perform its functions in a way that is consistent with the objectives and principles of the National Strategy for Ecologically Sustainable Development and with the Intergovernmental Agreement on the Environment.

The Area is large and extremely complex in terms of tenure and use. Some people live in the Area and many live near to it. Many people and groups visit the Area, have a legitimate stake in its management, and a potentially profound effect on its future. The Authority will be mindful of this in meeting the primary goal.

In this context the Authority will work in partnership with the community as a means of building a sense of ownership and sharing both the benefits and burdens of sound management. In particular, the Authority will consult with the community, both through its committees and directly and extensively on matters with significant community impact, such as management plans.

The Authority will also endeavour, through its policies, programs and consultation, to meet the spirit of the World Heritage Convention by giving the Area a role in the life of the community.

A high priority function of the Authority will be the development of comprehensive statutory management plans for the Area which fully address Australia's international obligations.

As an important mechanism for protecting the Area and ensuring Australia's international obligations are met, the Authority will also be responsible for ensuring that otherwise prohibited activities are permitted only under appropriate circumstances.

Executive Director

The Executive Director is to be appointed under the *Public Service Management and Employment Act 1988* (Queensland) after consultation between the Ministerial Council and the Board.

The Executive Director is, under the Board, to manage the Authority. Anything done in the name of, or on behalf of, the Authority by the Executive Director is taken to have been done by the Authority.

The Executive Director is a director of the Board and may (subject to disclosure of interests as appropriate) take part in any of the Board's deliberations but has no voting rights at a meeting of the Board. The Executive Director holds the position of Secretary to the Ministerial Council. The Executive Director of the Authority shall identify a suitable senior member of Authority staff to function as Secretary to the Authority.

The Executive Director will develop, co-ordinate, implement and monitor, subject to the approval of the Board and the Ministerial Council, policies, plans and programs in order to meet the primary goal.

Performance appraisal of the Executive Director shall be the responsibility of the Board. The Board may undertake performance appraisal itself or through contractual arrangements with the Department administering the Queensland Act or other suitable Department.

The principal functions and responsibilities of the Executive Director shall be in accordance with the Authority's functions, as set out above.

In addition, the Executive Director will be responsible for—

- managing the Authority under the Board;
- administering the Queensland Act and any relevant regulations in force;
- coordinating all secretariat and operational support for the Ministerial Council, Board and official Committees;
- involving the community in the management of the World Heritage Area;
- liaising with Government agencies and Local Government authorities whose responsibilities affect or are affected by the management of the Area;

- liaising with Aboriginal people particularly concerned with the land;
- preparing and maintaining a comprehensive database of management related information concerning all aspects of the Area;
- developing mechanisms for facilitating and enhancing the appreciation and enjoyment of the Area by the public at large;
- directing all activities of Authority staff;
- exercising powers under relevant legislation including delegated powers from the Ministerial Council or from the Board; and
- preparing an annual report for the Board and the Ministerial Council.

Staff of the Authority

Staff of the Authority will be employed under Queensland legislation, and will be designated as staff of the Authority, and not staff of any other Government body.

Commonwealth, Queensland or other State public servants may be seconded to the Authority.

Staff employed by the Authority will be selected and appointed in accordance with Queensland Public Sector Management Commission procedures.

The Authority will establish supporting technical and administrative links with the Department administering the Queensland Act and/or other suitable Departments insofar as this is necessary to implement the primary goal.

The Authority will have sufficient staff with appropriate specialist expertise to ensure implementation of Australia's international obligations under the World Heritage Convention.

Advisory Committees

The Authority will establish a Community Consultative Committee and a Scientific Advisory Committee.

The Authority should ensure advisory Committees are broadly representative of their respective communities and able to channel information and opinion effectively between the community and the Board. In particular, the Authority should ensure that Aboriginal interests are adequately represented on each of its mandatory Committees.

The Authority should, within its human resource and budget constraints, provide adequate resources to its Committees to enable them to function effectively.

The Committees shall report through their chairpersons to the Board of the Authority. Chairpersons of mandatory committees or their delegates shall be invited to attend Board meetings as observers. Chairpersons of other Authority committees shall be invited to attend Board meetings at the discretion of the Board.

Community Consultative Committee

The function of the Community Consultative Committee shall be to advise the Authority on the views of the community on the Authority's policies and programs in relation to the Wet Tropics Area. In addition, the Community Consultative Committee shall disseminate information provided at Committee meetings on matters concerning—

- the attitudes of the various communities of interest to management objectives, plans, policies and actions undertaken by the Authority;
- provision of essential services to communities within and adjacent to the Area;
- provision for acceptable use of the Area compatible with maintaining World Heritage values and integrity; and
- the relationship of non-government agencies to the Authority.

Members of the Community Consultative Committee will have a duty to seek the views of the communities of interest that they represent on relevant issues. Committee members will be expected to advance the views of the community of interest they represent, to the best of their ability and knowledge, rather than their own personal views.

Committee members and especially the chairperson of the Committee will normally be chosen from among residents of northern Queensland. Where public servants are appointed, they will participate in their private capacity.

Scientific Advisory Committee

The function of the Scientific Advisory Committee shall be to advise the Authority on scientific research that will contribute to the protection and conservation of the Area and scientific developments relevant to the protection or conservation of the Area. In addition, the Scientific Advisory Committee shall provide advice on—

- scientific research and monitoring priorities which will contribute to the protection, conservation, rehabilitation and presentation of the Area;
- new information or developments in science relevant to protection, conservation or presentation of the Area;
- scientific basis of management principles and practices;
- appropriateness of research proposed for approval by the Authority and other relevant agencies in terms of scope, quality and relevance to management of the Area;
- maintenance of World Heritage values and integrity of the Area; and
- impacts of proposed developments on the World Heritage values of the Area.

The Scientific Advisory Committee will have powers to co-opt specialist advice.

Other Committees

The Authority may establish such other committees as it considers appropriate. The Authority may specify the functions of such committees, which may include advising the Authority on the suitability of management plans, or on matters generally relating to the management of the Area (including its management having regard to the Aboriginal tradition of Aboriginal people particularly concerned with land in the Area).

On Ground Management

Day to day land management operations including conservation, protection, rehabilitation and interpretation will be coordinated by the Authority, and generally carried out by land-holders and land managers including relevant Queensland agencies. Government agencies will carry out such management in accordance with plans, programs and policies approved by the Ministerial Council. The Authority will do everything in its power to ensure that non-Government land-holders and managers also manage in accordance with such plans, programs and policies.

Coordination of on-ground management operations of Queensland Government agencies will be undertaken through a principal agencies' forum. This will comprise senior regional officers from the Queensland Departments of Environment and Heritage, Primary Industries (Forest Service) and Lands, and other Queensland Government agencies at the discretion of the Executive Director of the Authority. This forum will be chaired by the Executive Director.

The Authority will undertake monitoring of the effectiveness of on-ground operations with reference to Ministerial Council policy and the primary management goal of implementing Australia's international obligations under the World Heritage Convention, and report on these to the Ministerial Council.

Management Plans

The Authority must prepare a management plan for the entire Area (the Wet Tropics Plan) as soon as practicable after the commencement of the Act. The Authority is also empowered to prepare such other management plans as it considers appropriate. A management plan may divide the area in respect of which it is made into management zones.

The Authority must undertake public consultation during the development of management plans and draft plans must be exhibited for public comment. When preparing a draft or final management plan the Authority must consider all submissions properly made to it. The Authority must give a copy of the final plan and a report on all submissions properly made in relation to the plan to the Ministerial Council.

The Queensland Governor in Council may, by regulation, approve a final management plan prepared by the Authority. The approval of the Governor in Council may be made only on the recommendation of the Ministerial Council.

The Authority must review the operation of each management plan not later than seven years after its approval.

The preparation, implementation and review as required of the Wet Tropics Plan and such other plans as it considers necessary will be a high priority for the Authority.

Management plans will take full account of Australia's international obligations, will be based on a comprehensive data base of management-oriented information, and will incorporate recognised scientific and conservation principles.

Management plans will prevail over Local Government planning schemes to the extent of any inconsistency. A local authority must not issue or give any approval, consent, permit or other authority, in relation to a development on land in the Area, that is inconsistent with a management plan.

Prohibited Acts

A person must not do or attempt to do a prohibited act in relation to land within the Area unless the person is the holder of a licence, permit or other authority—

- issued or given by the Authority under a regulation; or
- issued or given under the *Mineral Resources Act 1989* (Queensland); or
- issued or given by the Governor in Council under another Queensland Act; or
- issued or given under the *Commonwealth World Heritage Properties Conservation Act 1983*.

Prohibited acts will include—

- in relation to a forestry operation
 - (a) destruction of forest products (i.e. a native plant, or part thereof); or
 - (b) construction or establishment of a road or vehicular track; or
 - (c) carrying out excavation works; or
- destroying a forest product unless exempted under a regulation.

Legislative Arrangements

The management scheme will be based on the Queensland Act and the Commonwealth Act.

This Agreement is scheduled to the Queensland Act and referred to in the Commonwealth Act. To remove any doubt, the Agreement referred to in each of these Acts is the currently most up-to-date version of this Agreement, notwithstanding any reference in either Act specifically to the original Agreement.

Review of Management Arrangements

The Ministerial Council may conduct reviews at three yearly intervals (or such other period as it deems appropriate) of the effectiveness of the management scheme and this Agreement in meeting the primary goal. The Ministerial Council may agree on changes to the scheme or this Agreement to improve their effectiveness.

In conducting any such reviews, the Ministerial Council will have particular regard to—

- progress in the development and implementation of any statutory management plans;
- land tenure issues; and
- other relevant matters drawn to its attention by the Authority and the principal land-holders.

Funding Arrangements

Funding arrangements will continue under an exchange of letters by the State and Commonwealth Environment Ministers until such time that the new Financial Agreement has been signed by those Ministers. Funds will be appropriated to the Authority in accordance with programs and budgets approved by the Ministerial Council.

Addresses

The address of the Commonwealth Government for the purposes of the Agreement shall, unless otherwise notified in writing by the Commonwealth to Queensland, be—

Secretary
Department of the Environment, Sport and Territories
GPO Box 787
CANBERRA ACT 2601

The address of the Queensland Government for the purposes of the Agreement shall, unless otherwise notified in writing by Queensland to the Commonwealth, be—

Schedule 1

Director-General
Department of Environment and Heritage
PO Box 155
BRISBANE ALBERT STREET QLD 4022

Signed for and on behalf of the
COMMONWEALTH by:

Senator the Hon John Faulkner)
Minister for the Environment,)
Sport and Territories)
)

in the presence of)
)

Dated: 15 December 1995

Signed for and on behalf of the
STATE OF QUEENSLAND by:

The Hon Thomas Barton MLA)
Minister for Environment and)
Heritage)
)

in the presence of)
)

Dated: 15 December 1995

Schedule 3 Dictionary

section 4

advisory committee means an advisory committee established under this Act.

agreement means the agreement between the Commonwealth and the State dated 15 December 1995 (a copy of which is set out in schedule 1), as amended from time to time.

animal means any member of the animal kingdom (other than human), whether alive or dead.

authorised officer means an authorised officer appointed under this Act.

authority means the Wet Tropics Management Authority established under this Act.

biological diversity has the meaning given by the *Nature Conservation Act 1992*, section 10.

board means the board of directors of the authority.

boat means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

chairperson means the chairperson of the board.

cooperative management agreement means a cooperative management agreement mentioned in section 10(1)(f).

destroying, in relation to a forest product, means removing, clearing, killing, cutting down, felling, digging up, pushing over, pulling over, poisoning, ringbarking, topping, lopping, burning or damaging the forest product.

executive director means the executive director of the authority.

forest product means a native plant.

forestry operation means an operation for the commercial exploitation of a forest product.

habitat of native wildlife includes an area that is not presently occupied by the wildlife.

hovercraft means a vessel designed to be supported on a cushion of air.

interest, in relation to land, includes a mining interest.

land-holder includes—

- (a) if the land is reserved and set apart for a public purpose under the *Land Act 1994*—the trustees of the land; and
- (b) if the land is leased under the *Land Act 1994*—the lessee of the land.

management plan means a management plan approved under part 3.

mining interest means—

- (a) a mining claim, mineral development licence, or mining lease, granted under the *Mineral Resources Act 1989*; or
- (b) a petroleum lease granted under the *Petroleum Act 1923*.

Ministerial Council means the Ministerial Council mentioned in the agreement.

National Strategy for Ecologically Sustainable Development means the National Strategy for Ecologically Sustainable Development endorsed by the Council of Australian Governments on 7 December 1992.

native plant means a plant that was not originally introduced to Australia by human intervention.

native wildlife has the meaning given by the *Nature Conservation Act 1992*, schedule.

natural heritage has the meaning given by article 2 of the World Heritage Convention.

planning scheme means a planning scheme under the *Planning Act 2016*.

plant has the meaning given by the *Nature Conservation Act 1992*, schedule.

premises includes—

-
- (a) a building or structure, or a part of a building or structure, of any kind; and
 - (b) the land on which a building or structure is situated.

private land means—

- (a) freehold land; or
- (b) land held under a lease or licence under any Act.

rare wildlife has the meaning given by the *Nature Conservation Act 1992*, schedule.

reconfiguring a lot see the *Planning Act 2016*, schedule 2.

registrar means the registrar of titles or other official responsible for keeping registers in relation to dealings in land.

threatened wildlife has the meaning given by the *Nature Conservation Act 1992*, schedule.

wet tropics area means the Wet Tropics of Queensland World Heritage Area described in the World Heritage list kept under the World Heritage Convention.

World Heritage Convention means the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 16 November 1972.

Note—

The text of the World Heritage Convention is published on the United Nations Educational, Scientific and Cultural Organization's website.