

Wenlock Basin Wild River Declaration 2010

Prepared by
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Foreword

The Queensland Government is planning for the state's future by protecting our world-class natural environment. Part of this commitment is preserving Queensland's wild rivers for current and future generations through the *Wild Rivers Act 2005* (the Wild Rivers Act).

Following the release of the Wenlock Basin Wild River Declaration Proposal in late 2008, the Department of Environment and Resource Management consulted extensively with stakeholders who live, work or have interests in the Wenlock Basin to ensure there was a widespread understanding of the proposal. This included engaging with Indigenous communities to ensure that Traditional Owners were made aware of the proposed declaration and what it would mean for their country.

Declaring the Wenlock Basin as a wild river area is an important step in preserving the natural values of the state's unique rivers, which have been largely untouched by development and are a vital part of our natural heritage. A critical element is in the definition of High Preservation Areas to afford the maximum protection to those areas that most need it.

Generally, for the Wenlock wild river area, a one kilometre High Preservation Area will extend from the Wild River and its major tributaries as well as the Port Musgrave Wetland and the majority of the Embley Range special features. The High Preservation Area extent around the Coolibah Springs special feature is set at 500 metres.

The High Preservation Areas proposed in the declaration proposal have generally been maintained, with one exception. The extent of the High Preservation Area around Lydia Creek and smaller streams that are part of the Embley Range special feature has been reduced from the one kilometre in the proposal to 500 metres. This change is the result of higher resolution imagery analysis to define the extent of the special feature and also reflects the advice provided through consultation and submissions, particularly from Batavia Downs Traditional Owners.

The Wenlock Basin Wild River Declaration 2010 (the declaration) provides a framework for preserving these natural values in a way that balances the needs of a wide range of stakeholders. The intent of the declaration, to preserve the natural values of the Wenlock River, does not prevent economic development in the wild river area.

Existing developments and activities are not impacted by the declaration, and most new economic development activities can occur if they do not adversely impact on the natural values the declaration is aiming to preserve.

Under the declaration, activities such as mining, grazing, fishing, ecotourism and outstation development can all still occur. The declaration also does not impact native title and traditional activities such as camping, hunting, fishing, use of fish traps, collecting bush foods and medicines, conducting ceremonial activities, manufacture of traditional artefacts and traditional fire management.

Stephen Robertson
Minister for Natural Resources, Mines and Energy
and Minister for Trade

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Chapter 1 Preliminary

1. Short title

This wild river declaration may be cited as the *Wenlock Basin Wild River Declaration 2010*.

2. Purpose of this declaration

The purpose of this declaration is to preserve the relevant natural values of the wild river in the Wenlock Basin Wild River Area.

3. Relevant natural values

The relevant natural values of the wild river in the wild river area, which this declaration intends to preserve, include, but are not limited to—

- (a) hydrologic processes including the natural flow of water in the wild rivers' catchments and river systems. These processes include hydrological connectivity between the river system, aquifers, offstream water bodies, adjacent floodplains, and estuaries; and
- (b) geomorphic processes including the natural erosion, transport and deposition of sediments by water throughout the catchments of the wild rivers and along the river systems to their respective estuaries. Natural geomorphic processes contribute to the physical integrity of the river system, including bed and bank stability as well as channel alignment; and
- (c) riparian function including a range of processes that occur in, or as a result of, the vegetation growing adjacent to the streams, estuaries, lakes, floodplains and wetlands. This function maintains the physical integrity of bed and banks, provides aquatic habitat, pollution control, food sources for native aquatic and terrestrial fauna and maintains links between in-stream and land-based ecosystems; and
- (d) wildlife corridor function including areas of natural habitat within and along the river systems to allow native aquatic and terrestrial fauna to safely migrate within their natural ranges; and
- (e) water quality including the physical, chemical and biological attributes of water in the wild rivers that supports and maintains natural aquatic and terrestrial ecosystems.

4. Setback and slope thresholds for the Wild Rivers Code

Setback and slope thresholds relevant to the Wild Rivers Code are—

- (a) for all parts of the Wild Rivers Code except part 12 as per schedule 3 Part 1; and
- (b) for part 12 of the Wild Rivers Code as per schedule 3 Part 2.

Chapter 2 Areas to which the declaration applies

5. Wild river area

The Wenlock Basin Wild River Area (the wild river area) applies to the area that is the extent of the catchment of the Wenlock River.

6. Wild rivers, major tributaries and special features

- (1) The wild river in the wild river area is—
 - (a) Wenlock River.
- (2) The major tributaries in the wild river area are—
 - (a) Nimrod Creek;
 - (b) Moonlight Creek;
 - (c) Cox Creek;
 - (d) Arthur Creek;
 - (e) Necktie Creek;
 - (f) Schramm Creek;
 - (g) Lydia Creek;
 - (h) Dry Creek;
 - (i) Rocky Creek;
 - (j) Heskett Creek;
 - (k) Capsize Creek;
 - (l) Sefton Creek; and
 - (m) Tent Pole Creek.
- (3) The special features in the wild river area are—
 - (a) Port Musgrave Wetland Complex;
 - (b) Embley Range Aggregation; and
 - (c) Coolibah Springs Complex.
- (4) The special features mentioned in subsection (3) are—
 - (a) for (3)(a), an estuarine wetland complex with hydrologic connections to the wild river, some of its major tributaries and/or nominated waterways;
 - (b) for (3)(b), an aggregation of upland wetlands and associated streams flowing off the range with significant areas of habitat. These features have hydrologic connections to the wild river, some of its major tributaries and/or nominated waterways;
 - (c) for (3)(c), a complex of springs and associated streams with significant areas of habitat. These features have hydrologic connections to the wild river and its major tributaries.
- (5) The location of the boundaries of the wild river area mentioned in Section 5, the wild rivers mentioned in subsection (1), the major tributaries mentioned in subsection (2) and the location of the special features mentioned in subsection (3) are—
 - (a) shown on the map in schedule 1, which is indicative only; and
 - (b) detailed by data in digital electronic form by the department's Spatial Information Resource which may be inspected at the department's offices, including at—
 - (i) Mareeba: 28 Peters Street;
 - (ii) Cairns: 3rd Floor William McCormack Place, 5B Sheridan Street; and
 - (iii) Brisbane: Level 2 Corner of Main and Vulture streets (Landcentre) Woolloongabba.

7. High preservation area, preservation area, floodplain management area, subartesian management area, designated urban area and nominated waterways

- (1) The wild river area contains the following areas—
 - (a) high preservation areas;
 - (b) the preservation area;

- (c) floodplain management areas; and
- (d) subartesian management areas.
- (2) The wild river area contains nominated waterways in the preservation area.
- (3) The location of the areas mentioned in subsection (1), and the location of the nominated waterways mentioned in subsection (2) are—
 - (a) shown on the map in schedule 2, which is indicative only; and
 - (b) detailed by data in digital electronic form by the department's Spatial Information Resource which may be inspected at the department's offices, including at—
 - (i) Mareeba: 28 Peters Street;
 - (ii) Cairns: 3rd Floor William McCormack Place, 5B Sheridan Street; and
 - (iii) Brisbane: Level 2 Corner of Main and Vulture streets (Landcentre) Woolloongabba.

Chapter 3 Taking of natural resources

Part 1 Taking of water

8. Application and scope of part 1

- (1) This part sets out the process for making available and dealing with, unallocated water mentioned in division 3.
- (2) This part applies to the following water in the wild river area—
 - (a) water in a watercourse or lake or water in a spring; and
 - (b) subartesian water in the subartesian management area.
- (3) This part does not apply to the following water in the wild river area—
 - (a) water in springs connected to—
 - (i) artesian water; and
 - (ii) subartesian water connected to artesian water; or
 - (b) artesian water; or
 - (c) subartesian water connected to artesian water.

Division 1 Taking of water in the wild river area

9. Taking water

Subject to the provisions of the special agreement acts, water may only be taken in the wild river area under an authorisation in accordance with the *Water Act 2000*.

Division 2 Water available for allocation in the wild river area

10. Decisions not to increase amount of water taken

- (1) The chief executive must not make a decision that would increase the total annual volume of water available to be taken in the wild river area.
Note— the total annual volume of water available to be taken includes the water described in sections 11 and 12.
- (2) Subsection (1) does not apply to—
 - (a) a decision about unallocated water made under division 3; or
 - (b) a decision about a water permit.
- (3) A decision mentioned in subsection (1) includes a decision about an application, in relation to taking water under an authorisation, made but not dealt with before the commencement of this declaration.

Division 3 Existing authorisations under special agreement acts

11. Existing authorisations under the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* and the *Alcan Queensland Pty. Limited Agreement Act 1965*

- (1) This section applies to the holders of mining tenements for a project for which the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* and/or the *Alcan Queensland Pty. Limited Agreement Act 1965* were enacted ('the company'), to the extent the special agreement acts authorise the company to take or interfere with water in the wild river area.
- (2) This part does not apply to the carrying out of an activity or the taking of a resource pursuant to an authority under the special agreement acts until an amendment agreement between the state and the company is made, in accordance with the special agreement acts, to replace the authorities in the special agreement acts with water entitlements under the *Water Act 2000* with an annual maximum take and interference of up to 90 000 megalitres, subject to conditions of access in accordance with the special agreement acts.
- (3) In this part—
Special agreement act means *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* and/or the *Alcan Queensland Pty. Limited Agreement Act 1965*.

Division 4 Unallocated water reserves

12. Unallocated water reserves

- (1) Unallocated water is reserved as—
 - (a) Indigenous reserve;
 - (b) strategic reserve; and
 - (c) general reserve.
- (2) The total annual volumetric limit of each reserve at the time of declaration commencement is—
 - (a) Indigenous reserve—5000 megalitres;
 - (b) strategic reserve—2000 megalitres; and
 - (c) general reserve—1000 megalitres.

Division 5 Process for granting water from reserves

13. Process for granting unallocated water

- (1) Unallocated water may be granted from the general, strategic or Indigenous reserve.
- (2) The process for granting unallocated water is the process prescribed in the *Water Regulation 2002*.

14. Unallocated water product specification

Where the chief executive decides to grant unallocated water it will be as a water licence.

Division 6 Terms and conditions for water licences

15. Purpose

- (1) Unallocated water held as general reserve may be made available for any purpose.
- (2) Unallocated water held as strategic reserve may be made available for—
 - (a) a project of State significance;
 - (b) a project of regional significance;
 - (c) town water supply; and
 - (d) ecotourism in the wild river area.
- (3) Unallocated water held as Indigenous reserve may be made available only for the purpose of helping Indigenous communities in the wild river area achieve their economic and social aspirations.

16. Criteria for deciding application for water licence

- (1) In assessing any application for water licences in the wild river area, the chief executive must consider the impact that the proposed taking of water may have on the relevant natural values as described in Section 3.
- (2) Subsection (1) does not limit the matters the chief executive may consider.

Part 2 Taking of other natural resources

17. Application and scope of part 2

This part sets out requirements for the taking of natural resources in the wild river area other than those mentioned in Part 1.

18. Quarry material allocations

- (1) This section applies to applications for the allocation of quarry material in the wild river area under the *Water Act 2000* and the *Coastal Protection and Management Act 1995*.
- (2) For an application under the *Water Act 2000*, section 280, if any part of the application relates to the wild river area, the application is taken not to have been made unless the quarry material for the proposed allocation is to be used for specified works or residential complexes in the wild river area.
- (3) Under the *Water Act 2000*, section 282, as part of the criteria for deciding whether to grant or refuse an application or what should be the conditions of the allocation, the chief executive must consider this declaration.
- (4) Under the *Coastal Protection and Management Act 1995*, section 73, if any part of the application for allocation of quarry material relates to the wild river area, the application is of no effect.

19. Forest products

- (1) This section applies to—
 - (a) the management of State forests, timber reserves and forest entitlements areas in the wild river area; and
 - (b) getting forest products in the wild river area, under the *Forestry Act 1959*.
- (2) Under the *Forestry Act 1959*, section 33A, the chief executive must prepare a management plan for the management of State forests, timber reserves and forest entitlements areas in the wild river area.

- (3) For subsection (2), in preparing the plan, the chief executive must—
 - (a) have regard to any relevant code of practice approved under section 44A; and
 - (b) ensure the plan is not inconsistent with this declaration.
- (4) Under the *Forestry Act 1959*, section 44B, the chief executive must ensure that any lease, licence or permit granted, or any agreement or contract entered, for getting forest products in the wild river area requires the getting of the forest products to be in accordance with—
 - (a) the code approved by the chief executive under section 44A that applies for the area and any other requirement stated to apply in this declaration; or
 - (b) if a code of practice has not been approved—Part 11 of the Wild Rivers Code.
- (5) For subsection (4)(a) there are no other requirements to apply to the wild river area.
- (6) Under the *Forestry Act 1959*, subsection 44B, if the code approved by the chief executive under section 44A, for the wild river area is inconsistent with Part 11 of the Wild Rivers Code, the code that gives a greater level of protection for the area prevails to the extent of the inconsistency.

Chapter 4 Regulating activities

20. Application and scope of this chapter

- (1) This chapter identifies those activities which are regulated and/or prohibited within the wild river area.
- (2) Regulation of the activities in this chapter does not affect the application of any legal requirements under other legislation.

Part 1 Carrying out water works

Division 1 Taking or interfering with water in a watercourse, lake or spring

21. Taking or interfering with water in a watercourse, lake or spring (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 12 (a) and schedule 1, item 12(b)— Development that is operational work that is or allows the taking of, or interfering with, water under the *Water Act 2000* and is assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, to the extent the development is—

- (a) operational work in a wild river high preservation area that interferes with the flow of water in a watercourse, lake or spring as defined under the *Water Act 2000*, in the wild river high preservation area; or
- (b) operational work in a wild river preservation area that interferes with the flow of water in a nominated waterway, as defined under the *Wild Rivers Act 2005*, and is not a dam or weir, as defined under the *Water Act 2000*.

Division 2 Taking or interfering with overland flow water

Subdivision 1 Taking overland flow water

22. Application of subdivision 1

- (1) This subdivision applies to the following works that involve taking overland flow water in the high preservation area and floodplain management area—
 - (a) operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 3(c)(i); and
 - (b) operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 2, table 4, item 1(b)(ii).
- (2) This subdivision does not apply to—
 - (a) existing overland flow works; or
 - (b) the repair or maintenance of the following works provided the repair or maintenance does not alter the design or capacity of the works—
 - (i) existing overland flow works; or
 - (ii) works constructed under a development permit.

23. Works that involve taking overland flow water in the high preservation area and floodplain management area (regulated activities)

- (1) Works that involve taking overland flow are assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 3(c)(i).
- (2) For subsection (1) and under the *Water Act 2000*, section 966A, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 6B of the Wild Rivers Code.
- (3) Subsection (1) does not apply to works mentioned in subsection (4).
- (4) Where they comply with Part 6A of the Wild Rivers Code, operational work for taking overland flow water for stock or domestic purposes are self-assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 2, table 4, item 1(b)(ii).

24. Works that take overland flow water in the high preservation area and floodplain management area (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 12 (c)—operational work in the high preservation area that takes overland flow water for any purpose, other than operational work that is for stock or domestic purposes and assessable or self-assessable under section 23 of this declaration.

Subdivision 2 Interfering with overland flow water

25. Application of subdivision 2

- (1) This subdivision applies to the following works that interfere with overland flow water in the floodplain management area—
 - (a) operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 3(e); and
 - (b) operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 2, table 4, item 1(d).
- (2) This subdivision does not apply to—
 - (a) existing overland flow works;

- (b) the repair or maintenance of any of the following works if the repair or maintenance does not alter the design or capacity of the works—
 - (i) existing overland flow works; or
 - (ii) works constructed under a development permit.
- (c) a stock yard or fence;
- (d) an open drain or trench that is on average at a depth of less than 300 mm below ground; or
- (e) works for a residential complex that is not any of the following—
 - (i) specified works; or
 - (ii) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer.

26. Works that interfere with overland flow water in the floodplain management area (regulated activities)

- (1) The following works that interfere with overland flow water in the floodplain management area are assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 3(e)—
 - (a) specified works;
 - (b) a borrow pit;
 - (c) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer; and
 - (d) a levee bank or other solid earth work for a commercial or industrial development or a non-domestic agricultural building.
- (2) For subsection (1) and under the *Water Act 2000*, section 966B, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 7B of the Wild Rivers Code.
- (3) Subsection (1) does not apply to works mentioned in subsection (4).
- (4) Where they comply with Part 7A of the Wild Rivers Code, the following works for interfering with overland flow water are self-assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 2, table 4, item 1(d)—
 - (a) a borrow pit; and
 - (b) a levee bank or other solid earth work for a commercial or industrial development or a non-domestic agricultural building other than—
 - (i) specified works; or
 - (ii) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer.

27. Works that interfere with overland flow water in the floodplain management area (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 12 (d)—operational work that interferes with overland flow water in the floodplain management area, other than operational work that is assessable or self-assessable under section 26.

Subdivision 3 Works for taking subartesian water

28. Works for taking subartesian water (regulated activities)

This declaration does not regulate any works for taking subartesian water in the wild river area.

Part 2 In-stream works and activities

Division 1 Carrying out in-stream works and activities

Subdivision 1 Riverine protection permits

29. Application of subdivision 1

- (1) This subdivision applies to applications to the chief executive for a permit under the *Water Act 2000*, section 266, to do any of the following activities—
 - (a) destroy vegetation in a watercourse, lake or spring;
 - (b) excavate in a watercourse, lake or spring;
 - (c) place fill in a watercourse, lake or spring.
- (2) For this subdivision, the chief executive means the chief executive administering the *Water Act 2000*.

30. Destroying vegetation, excavating or placing fill in a watercourse, lake or spring (prohibited activities)

Under the *Water Act 2000*, section 266, an application is taken not to have been made if any part of the application—

- (a) relates to the high preservation area or a nominated waterway in the preservation area; and
- (b) relates to an activity other than—
 - (i) an activity necessary to control non-native plants or declared pests in the area; or
 - (ii) an activity necessary for specified works in the area; or
 - (iii) an activity that is a necessary and unavoidable part of installing or maintaining works or infrastructure required to support other development for which a development permit is not required, or if a development permit is required, the permit is held or has been applied for.

31. Destroying vegetation, excavating or placing fill in a watercourse, lake or spring (regulated activities)

Under the *Water Act 2000*, section 268, in deciding whether to grant or refuse an application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring, or what should be the conditions of the permit, the chief executive must consider—

- (a) this declaration; and
- (b) Part 9 of the Wild Rivers Code.

Subdivision 2 Riverine quarry material extraction

32. Riverine quarry material extraction (regulated activities)

- (1) This section applies to a development application for operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 5, item 1—all aspects of development for removing quarry material.
- (2) For the *Water Act 2000*, section 966C, the assessment manager's and any concurrence agency's decision must comply with Part 10 of the Wild Rivers Code.

Division 2 Carrying out in-stream works and activities

33. Waterway barrier works (prohibited activities)

The following development is prohibited in the high preservation area under the *Sustainable Planning Act 2009*, schedule 1, item 6 (b)—assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, to the extent it is development in a wild river high preservation area and is operational work that is the constructing or raising of a waterway barrier works.

34. Waterway barrier works (regulated activities)

- (1) This section applies to a development application for operational work mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 6—Operational work that is the constructing or raising of waterway barrier works.
- (2) Under the *Fisheries Act 1994* section 76DA, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 8 of the Wild Rivers Code.

35. Works in declared fish habitat areas (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 8 (a) and schedule 1, item 8 (b)—assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, to the extent it is development in the wild river high preservation area other than development for specified works—

- (a) building work in a declared fish habitat area;
- (b) operational work completely or partly within a declared fish habitat area.

36. Works in declared fish habitat areas (regulated activities)

- (1) This section applies to a development application for development mentioned in the Sustainable Planning Regulation 2009 schedule 3, part 1, table 1, item 2 and schedule 3, part 1, table 4, item 7, for—
 - (a) building work in a declared fish habitat area; and
 - (b) operational work in a declared fish habitat area.
- (2) For the *Fisheries Act 1994*, section 76DC, to the extent an application relates to development in—
 - (a) the wild river preservation area; or
 - (b) for specified works in the wild river area,the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the Wild Rivers Code.

Division 3 Carrying out in-stream works and activities

37. Transport Infrastructure works (prohibited activities)

- (1) This section applies to works carried out in the wild river area under the *Transport Infrastructure Act 1994*.
- (2) The *Transport Infrastructure Act 1994* does not authorise the chief executive to carry out the following activities in the wild river area—
 - (a) for section 35, to carry out road works—extract quarry material from a watercourse.¹

¹ Quarry material in this instance is as defined under the *Water Act 2000*.

- (b) for section 39, to carry out road works to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse;
 - (c) for section 167, to carry out railway works to grant an approval under this section to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse;
 - (d) for section 306, to carry out busway transport infrastructure works to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse.
- (3) For this section, chief executive means the chief executive administering the *Transport Infrastructure Act 1994*.

Part 3 Activities in tidal areas

Division 1 Carrying out activities in tidal areas

38. Removal, destruction or damage of marine plants (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 7 (a) and schedule 1, item 7 (b)—operational work that is assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009* and the removal, destruction or damage of a marine plant, to the extent it involves operational work in the wild river area, other than operational work—

- (a) for specified works in the area; or
- (b) that is a necessary and unavoidable part of installing or maintaining works or infrastructure required to support other development for which a development permit or compliance permit is not required or, if a development permit or request for compliance assessment is required, the permit is held or has been applied for.

39. Removal, destruction or damage of marine plants (regulated activities)

- (1) This section applies to a development application for development mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 8—operational work that is the removal, destruction or damage of a marine plant.
- (2) For the *Fisheries Act 1994*, section 76DB, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the Wild Rivers Code.

Division 2 Carrying out activities in tidal areas

40. Tidal work or work within a coastal management district (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 4—assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009* that—

- (a) is in a wild river area; and

- (b) is operational work for tidal works or works completely or partly within a coastal management district, other than operational work for specified works.

41. Tidal work or work within a coastal management district (regulated activities)

- (1) This section applies to a development application for operational works that are tidal works or work within a coastal management district mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 5.
- (2) For the *Coastal Protection and Management Act 1995*, section 104A, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the Wild Rivers Code.

42. Dredge management plans (regulated activities)

- (1) This section applies to the preparation, approval or refusal and renewal of dredge management plans under the *Coastal Protection and Management Act 1995*.
- (2) Under the *Coastal Protection and Management Act 1995*, section 90, in preparing a dredge management plan where the area to which the plan relates includes all or part of the wild river area, a person² must consider this declaration.
- (3) Under the *Coastal Protection and Management Act 1995*, section 93, the chief executive may approve the dredge management plan if satisfied the removal of quarry material and the placement or disposal of spoil under the plan do not adversely affect management of, amongst other things, the wild river area.
- (4) For renewing approvals under the *Coastal Protection and Management Act 1995*, section 96, if the area to which the approved plan relates includes all or part of the wild river area, the plan must include consideration of this declaration.

Part 4 Mining and petroleum activities

Division 1 Mining tenements

Subdivision 1 Granting of mining tenements

43. Application and scope of subdivision 1

This subdivision applies to the granting of mining tenements over certain parts of the wild river area under the *Mineral Resources Act 1989*, section 383.

44. Granting of mining tenements other than an exploration permit or mining lease

If a mining tenement other than an exploration permit or a mining lease is granted over land that includes the wild river area, the following parts of the wild river area are excluded from the land to which the mining tenement applies—

- (a) the high preservation area; and
- (b) nominated waterways in the preservation area.

² A dredge management plan is prepared by a person proposing to remove quarry material below high water mark or place spoil derived from the removal. A person may include a government entity or a port authority.

45. Granting of exploration permit or mining lease

- (1) If an exploration permit is granted over land that includes the wild river area, exploration may be carried out—
 - (a) to the extent the exploration permit applies to the high preservation area, other than watercourses, lakes and springs—using only low impact activities³; and
 - (b) to the extent the exploration permit applies to watercourses, lakes and springs in the high preservation area or nominated waterways—using only limited hand sampling techniques.
- (2) If a mining lease is granted over land that includes the wild river area, mining lease activities must not be carried out—
 - (a) on the surface of the land in the high preservation area; or
 - (b) in a nominated waterway.
- (3) Subsection (2)(b) does not apply if—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.
- (4) This section does not apply to a mining tenement—
 - (a) for a project for which a special agreement act was enacted; and
 - (b) application for which was allowed, under the special agreement act, to be made.

Subdivision 2 Renewal of mining tenements

46. Application and scope of subdivision 2

This subdivision applies to the renewal of mining tenements over certain parts of the wild river area under the *Mineral Resources Act 1989*, section 384.

47. Renewal of mining tenements other than an exploration permit, mining lease or mining claim

- (1) If a mining tenement, other than an exploration permit, a mining lease or a mining claim, is renewed over land that, at the time of renewal, includes the wild river area, the following parts of the wild river area are excluded from the land to which the mining tenement applies—
 - (a) the high preservation area; and
 - (b) nominated waterways in the preservation area.
- (2) This section does not apply to a mining tenement—
 - (a) for a project for which a special agreement act was enacted; and
 - (b) application for which was allowed, under the special agreement act, to be made.

³ Low impact activities are as defined in the *Mineral Resources Act 1989*, section 482.

48. Renewal of exploration permit, mining lease or mining claim

- (1) If an exploration permit is renewed over land that, at the time of renewal, includes the wild river area, exploration may be carried out—
 - (a) to the extent the renewed exploration permit applies to the high preservation area, other than watercourses, lakes and springs—using low impact activities; and
 - (b) to the extent the renewed exploration permit applies to watercourses, lakes and springs in the high preservation area or nominated waterways—using only limited hand sampling techniques.
- (2) If a mining lease is renewed over land that, at the time of renewal, includes the wild river area, mining lease activities must not be carried out—
 - (a) on the surface of the land in the high preservation area; or
 - (b) in a nominated waterway.
- (3) Subsection (2)(b) does not apply if—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.
- (4) This declaration does not regulate the renewal of a mining claim over the wild river area.
- (5) This section does not apply to a mining tenement—
 - (a) for a project for which a special agreement act was enacted; and
 - (b) application for which was allowed, under the special agreement act, to be made.

Subdivision 3 Conditions of mining tenements

49. Application and scope of subdivision 3

- (1) This subdivision applies to the conditions placed on the grant of mining tenements in the wild river area under the following sections of the *Minerals Resources Act 1989*, sections 25, 81, 141, 194 and 276.
- (2) To remove any doubt, the conditions set out in section 50 do not prevent the use of limited hand sampling techniques to the extent an exploration permit applies to watercourses, lakes and springs in the high preservation area or nominated waterways.

50. Conditions of mining tenements

- (1) Under the *Mineral Resources Act 1989*, section 25, if a prospecting permit is granted over land that includes the wild river area, the prospecting permit is subject to the condition that the activity must not occur within 20 lateral metres of a nominated waterway.
- (2) Under the *Mineral Resources Act 1989*, section 81, if a mining claim is granted over land that includes the wild river area, the mining claim is subject to the condition that the activity must not occur within 20 lateral metres of a nominated waterway.

- (3) Under the *Mineral Resources Act 1989*, section 141, if an exploration permit is granted over land that includes the wild river area, the exploration permit shall be subject to a condition that the activity must not occur within 100 lateral metres of a watercourse, lake or spring for that part of the tenement granted over the high preservation area.
- (4) Under the *Mineral Resources Act 1989*, section 141, if an exploration permit is granted over land that includes the wild river area, the exploration permit is subject to the condition that the activity must not occur within 50 lateral metres of a nominated waterway.
- (5) Under the *Mineral Resources Act 1989*, section 194, if a mineral development licence is granted over land that includes the wild river area, the mineral development licence is subject to the condition that the activity must not occur within 50 lateral metres of a nominated waterway.
- (6) Under the *Mineral Resources Act 1989*, section 276, if a mining lease is granted over land that includes the wild river area, the mining lease is subject to the condition that the activity must not occur within 100 lateral metres of a nominated waterway unless—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.

Division 2 Environmental authority (mining activity)

51. Meaning of certain terms

For this division—

- (a) Minister means the Minister responsible for the *Environmental Protection Act 1994*; and
- (b) The terms ‘administering authority’ and ‘mining activities’ have the meaning as defined in schedule 4 of the *Environmental Protection Act 1994*.

52. Decision on environmental impact statement requirement

- (1) This section applies to the decision of an administering authority, as to whether an environmental impact statement is required for an application for mining activity in the wild river area.
- (2) Under the *Environmental Protection Act 1994*, section 162, the administering authority must, in making the decision whether an environmental impact statement is required, consider if any part of the application relates to the wild river area—this declaration.
- (3) Under the *Environmental Protection Act 1994*, section 162, an environmental impact statement is required for the application if any part of the application relates to mining activities—
 - (a) below the surface of the high preservation area; or

- (b) under a nominated waterway in the preservation area.
- (4) Under the *Environmental Protection Act 1994*, section 163, in making a decision whether an EIS is required for an application, the Minister must consider—if any part of the application relates to the wild river area—this declaration.

53. Draft terms of reference for an environmental impact statement

- (1) This section applies to the submission of the draft terms of reference for an environmental impact statement under the *Environmental Protection Act 1994*, section 41—
 - (a) for applications for level 1 environmental authorities (mining activities);
 - (b) where any of the operational land is within the wild river area.
- (2) Under the *Environmental Protection Act 1994*, section 41, the proponent must submit to the chief executive draft terms of reference that must—
 - (a) include the following—
 - (i) any potential impacts of the activity on the relevant natural values; and
 - (ii) the manner in which the proponent proposes to minimise the impacts identified under (i); and
 - (b) if mining activities are to be carried out in the high preservation area or under a nominated waterway—include a statement of how the proponent proposes to decide the minimum depth below the surface of the land under which the mining activities can be carried out to comply with this declaration; and
 - (c) for a level 1 mining authority (mining lease), if mining activities are to be carried out in the high preservation area or under a nominated waterway—include in the draft terms of reference for the environmental impact statement, the following matters—
 - (i) how the activity will occur at a sufficient depth so that there will be no collapse or subsidence of the land above;
 - (ii) how there will be minimal impact on hydrologic connections between groundwater aquifers and a watercourse, lake or spring in the high preservation area or a nominated waterway;
 - (iii) how there will be no contamination of hydrologically-linked groundwater; and
 - (iv) an assessment of the structural elements of the underlying geology, including—
 - (A) identifying the location and extent of fault lines;
 - (B) identifying the depth and extent of alluvial material;
 - (C) identifying the depth and extent of bedrock;
 - (D) identifying the bedrock formations;
 - (E) identifying the extent of aquifers;
 - (F) identifying the expected impacts, if any, on groundwater flow direction.

54. Decision about environmental management plan requirements

- (1) This section applies to a decision on whether an environmental management plan is required for non-code compliant applications for an environmental authority under the *Environmental Protection Act 1994* in the wild river area.

- (2) Under the *Environmental Protection Act 1994*, section 163B, the administering authority must decide whether an environmental management plan is required for the application, and the authority must, in making the decision, consider this declaration and the potential impact on the relevant natural values of the following—
 - (a) a non-code compliant environmental authority (exploration);
 - (b) a non-code compliant environmental authority (prospecting); and
 - (c) a non-code compliant environmental authority (mining claim).

55. Content requirements for submitted environmental management plan

- (1) This section applies to a submitted environmental management plan under the *Environmental Protection Act 1994*—
 - (a) under section 189, for a non-code compliant application for environmental authority (exploration), and a non-code compliant application for environmental authority (mineral development); and
 - (b) under section 203, for a non-code compliant application for environmental authority (mining lease).
- (2) For the Environmental Management Plan mentioned in (1)(a) and (1)(b)—a submitted environmental management plan must, to the extent the plan relates to mining activities in the wild river area, state the way in which the applicant proposes to minimise any adverse effect of the mining activities on the wild river area, having regard to this declaration.

56. Conditions to be imposed

- (1) This section applies to the decision by the administering authority to impose additional conditions on the following non-code compliant applications for environmental authorities under the *Environment Protection Act 1994*—
 - (a) under section 170, for applications for a level 2 mining project if no relevant mining tenement is a mining claim or mining lease;
 - (b) under section 176, for applications (mining claim) for a level 1 mining project; and
 - (c) under section 210, for applications (mining lease) for a level 1 mining project.
- (2) For applications mentioned in subsection (1)(a) the administering authority in deciding whether to impose an additional condition on the environmental authority must consider to the extent the application relates to mining activities in the wild river area, this declaration, including the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse, lake or spring in the high preservation area or a nominated waterway; and
 - (b) the impact of contaminated wastewater on the natural values of the wild river area.
- (3) For applications mentioned in subsection (1)(b) the administering authority in fixing proposed conditions for the draft environmental authority must consider, to the extent the application relates to mining activities in the wild river area, this declaration and if the tenure area covers all or part of the high preservation area or nominated waterway, the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse, lake or spring in the high preservation area or a nominated waterway; and

- (b) the impact of contaminated wastewater on the natural values of the wild river area.
- (4) For applications mentioned in subsection (1)(c) the administering authority in fixing proposed conditions for the draft environmental authority must consider, to the extent the application relates to mining activities in the wild river area, this declaration and if the tenure area covers all or part of the high preservation area or nominated waterway, the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse, lake or spring in the high preservation area or a nominated waterway; and
 - (b) the impact of contaminated wastewater on the natural values of the wild river area; and
 - (c) if mining underground—
 - (i) impacts on the relevant wild river natural values;
 - (ii) collapse or subsidence of the land above;
 - (iii) impacts on hydrologic connections between groundwater aquifers and water courses, lakes or springs in the high preservation area or nominated waterways; and
 - (iv) contamination of hydrologically linked groundwater.

57. Decision whether to grant or refuse application

- (1) This section applies to the decision by the administering authority to grant or refuse the environmental authority under the *Environmental Protection Act 1994*.
- (2) Under the *Environmental Protection Act 1994*, section 171, for non-code compliant applications for a level 2 mining project if no relevant mining tenement is a mining claim or mining lease the administering authority in deciding to grant or refuse and to impose any additional conditions must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (3) Under the *Environmental Protection Act 1994*, section 173, for non-code compliant applications for environmental authority (mining claim) for level 1 mining project, the administering authority in deciding either to refuse or allow it to proceed under the *Environmental Protection Act 1994*, divisions 3 or 4, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (4) Under the *Environmental Protection Act 1994*, section 193, for non-code compliant applications for environmental authority (exploration) or environmental authority (mineral development) for level 1 mining project, the administering authority, in deciding whether to grant or refuse the application or to impose a condition, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (5) Under the *Environmental Protection Act 1994*, section 207, for non-code compliant applications for environmental authority (mining lease) for level 1 mining projects, the administering authority in deciding either to refuse or allow it to proceed under the *Environmental Protection Act 1994*, divisions 5 to 7, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.

Division 3 Fossicking activities

58. Fossicking (prohibited activities)

- (1) Under the *Fossicking Act 1994*, section 3, a protected area means, in the wild river area—
 - (a) the high preservation area; or
 - (b) a nominated waterway in the preservation area.
- (2) Under the *Fossicking Act 1994*, section 9 of that Act does not apply to a protected area.

Division 4 Petroleum activities

59. Environmental authority (petroleum activity)

- (1) This section applies to an environmental authority (petroleum activities) in the wild river area regulated under the *Environmental Protection Act 1994*.
- (2) Under the *Environmental Protection Act 1994*, section 309T, for a code compliant level 2 petroleum activity carried out in the wild river area, the applicable codes are the codes mentioned in the *Environmental Protection Act 1994*, section 309T(2) and the conditions as follows—
 - (a) in the high preservation area, a level 2 petroleum activity must not occur within 200 lateral metres of a watercourse, lake or spring; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.
- (3) Under the *Environmental Protection Act 1994*, section 309Y, in deciding whether to grant or refuse the application or to impose a condition under section 309Z, for a non-code compliant level 2 petroleum activity the administering authority must consider, if any part of the application relates to the wild river area, this declaration.
- (4) Under the *Environmental Protection Act 1994*, section 309Z, for a non-code compliant level 2 petroleum activity, the administering authority must include the following conditions for relevant petroleum activities for the authority carried out in the wild river area—
 - (a) in the high preservation area, a petroleum activity must not occur within 200 lateral metres of a watercourse, lake or spring; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.
- (5) Under the *Environmental Protection Act 1994*, section 310N, in deciding whether to grant or refuse the application for a level 1 petroleum activity, the administering authority must consider, if any part of the application relates to the wild river area, this declaration.
- (6) Under the *Environmental Protection Act 1994*, section 310O, for a level 1 petroleum activity, the administering authority—must include, for relevant petroleum activities for the authority carried out in the wild river area, the following conditions—
 - (a) in the high preservation area, a petroleum activity must not occur within 1 lateral kilometre of a watercourse, lake or spring; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.

Part 5 Other regulated activities

60. Residential, commercial or industrial development (regulated activities)

- (1) This section applies to—
 - (a) a development application for a material change of use of premises, reconfiguring a lot or operational work; and
 - (b) to the extent—
 - (i) the application relates to the wild river area; and
 - (ii) the application is in relation to residential, commercial or industrial development; and
 - (iii) the proposed development is made assessable under—
 - (A) a local government planning scheme; or
 - (B) the Sustainable Planning Regulation 2009, schedule 3, part 1, table 3, item 1; or
 - (C) the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 2.
- (2) This section does not apply to residential, commercial or industrial development in a designated urban area.
- (3) For subsection (1)(b)(iii)(B) there is no applicable code for wild river matters.⁴
- (4) For all other applications, for the *Wild Rivers Act 2005*, section 43, the assessment manager's decision must comply with Part 5 of the Wild Rivers Code.

61. Protected area management plans

- (1) This section applies to a final management plan for a protected area under the *Nature Conservation Act 1992*.
- (2) Under the *Nature Conservation Act 1992*, section 117, a final management plan for a protected area may, where this declaration applies to a part or all of the protected area, be inconsistent with this declaration only to the extent the management plan provides for a greater level of protection for the area than is provided for in this declaration.

62. Master planned areas

- (1) This section applies to the identification of master planned areas.
- (2) Under the *Sustainable Planning Act 2009*, section 132 (6), the wild river area cannot be included in a master planned area.

63. Applications for authorities under the *Fisheries Act 1994*

- (1) This section applies to an application for the issue of an authority under the *Fisheries Act 1994*, section 55.
- (2) In considering an application for the issue of an authority, the chief executive must consider this declaration.
- (3) For this section, chief executive means the chief executive administering the *Fisheries Act 1994*.

⁴ Reconfiguring a Lot (see the *Sustainable Planning Act 2009* for a full description).

64. Aquaculture (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 6 (a)— Assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, to the extent it is development in the wild river high preservation area relating to a material change of use of premises for aquaculture.

65. Aquaculture (regulated activities)

- (1) This section applies to a development application for a material change of use of premises for aquaculture mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 2, item 9.
- (2) For the *Fisheries Act 1994*, section 76DA, the assessment manager's and any concurrence agency's decision must comply with Part 2 of the Wild Rivers Code.

66. Release of non-indigenous fisheries resources

- (1) This section applies to the release and possession of non-indigenous fisheries resources under the *Fisheries Act 1994*.
- (2) Under the *Fisheries Act 1994*, section 90, a person must not unlawfully release non-indigenous fisheries resources, or cause non-indigenous fisheries resources to be placed or released, in a waterway or lake in the wild river area.

67. Agricultural activities (prohibited activities)

The following development in the wild river area is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 1 (a) and schedule 1, item 1 (b)—

- (a) a material change of use of premises in a wild river area if the proposed use is for agricultural activities, to the extent the development is—
 - (i) in a wild river high preservation area; or
 - (ii) in a wild river preservation area in relation to the production of a high risk species; or
- (b) operational work for agricultural activities, if the operations are assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, to the extent the development is—
 - (i) in a wild river high preservation area; or
 - (ii) in a wild river preservation area in relation to the production of a high risk species.

68. Agricultural activities (regulated activities)

- (1) The following developments in a wild river area is assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 1, table 2, item 11, and schedule 3, part 1, table 4, item 9—
 - (a) making a material change of use of premises to the extent the premises is in a wild river area and the proposed use is for agricultural activities as defined under the *Wild Rivers Act 2005*; and
 - (b) operational work for agricultural activities.
- (2) For subsection (1) and under the *Wild Rivers Act 2005*, section 42, the assessment manager's and any concurrence agency's decision must comply with Part 1 of the Wild Rivers Code.

69. Animal husbandry activities (prohibited activities)

The following development in the wild river area is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 1 (a) and schedule 1, item (b)—

- (a) a material change of use of premises in a wild river area if the proposed use is for animal husbandry activities, to the extent the development is in a wild river high preservation area.

70. Animal husbandry activities (regulated activities)

- (1) The following development in the wild river area is assessable development for the Sustainable Planning Regulation 2009, schedule 3, part 1, table 2, item 11—to the extent that section 69 does not apply—making a material change of use of premises to the extent the premises is in a wild river area and the proposed use is for animal husbandry activities, as defined under the *Wild Rivers Act 2005*;
- (2) For subsection (1) and under the *Wild Rivers Act 2005* section 42, the assessment manager's and any concurrence agency's decision must comply with Part 1 of the Wild Rivers Code.

71. Native vegetation clearing activities (prohibited activities)

The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 3—assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*, that is operational work that is the clearing of native vegetation and—

- (a) is proposed in the wild river high preservation area; and
- (b) is not for any of the following relevant purposes under the *Vegetation Management Act 1999*, section 22A—
 - (i) necessary to control non-native plants or declared pests; or
 - (ii) to ensure public safety; or
 - (iii) for establishing a necessary fence, firebreak, road or vehicular track, or for constructing necessary built infrastructure, (each **relevant infrastructure**) and the clearing for the relevant infrastructure can not reasonably be avoided or minimised; or
 - (iv) a natural and ordinary consequence of other assessable development for which a development approval was given under the repealed *Integrated Planning Act 1997*, or a development application was made under that Act, before 16 May 2003; or
 - (v) for clearing regrowth vegetation on freehold land, indigenous land or leases issued under the *Land Act 1994* for agriculture or grazing purposes, in an area shown as a registered area of agriculture on a registered area of agriculture map in a wild river high preservation area.

72. Native vegetation clearing activities (regulated activities)

- (1) This section applies to a development application for operational works for clearing native vegetation mentioned in the Sustainable Planning Regulation 2009, schedule 3, part 1, table 4, item 1—to the extent the application relates to a wild river high preservation area.
- (2) For the *Vegetation Management Act 1999*, section 21, for the aspect of the application relating to the clearing of vegetation—
 - (a) the *Sustainable Planning Act 2009*, section 326, does not apply; and

- (b) the assessment manager's decision must comply with Part 12 of the Wild Rivers Code.
- (3) Under the *Vegetation Management Act 1999*, section 17, the high preservation area is taken to be declared to be an area of high nature conservation value and the declared area code is Part 12 of the Wild Rivers Code.

73. Pest control notices

- (1) This section applies to the issuing of a pest control notice under the *Land Protection (Pest and Stock Route Management) Act 2002* for a class 3 pest.
- (2) Under the *Land Protection (Pest and Stock Control Route Management) Act 2002*, section 78, the issuing entity may give the owner a written notice (a *pest control notice*) if the issuing entity reasonably believes a class 3 pest on the owner's land is causing, or as the potential to cause, an adverse economic, environmental or social impact on—
 - (a) the owner's land that is, or is in or adjacent to, an environmentally significant area; or
 - (b) an environmentally significant area adjacent to the owner's land.
- (3) Under the *Land Protection (Pest and Stock Route Management) Act 2002*, section 78, environmentally significant area includes the wild river area.

74. Environmentally relevant activities (prohibited activities)

- (1) The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 9—
 - (a) an environmentally relevant activity (ERA), or a material change of use of premises for an ERA; and
 - (b) assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*; andto the extent it involves development in waters in a wild river area that is for an extraction ERA, other than if the development application is accompanied by an allocation notice.
- (2) The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 10—assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009* and an ERA, or a material change of use of premises for an ERA, to the extent it involves development in a wild river high preservation area, other than for the following—
 - (a) a sewage ERA as defined under the *Environmental Protection Act 1994*, section 73AA(4);
 - (b) a water treatment ERA as defined under the *Environmental Protection Act 1994*, section 73AA(4);
 - (c) a dredging ERA;
 - (d) an extraction ERA, if the activity is a low impact activity⁵ carried out outside waters and is for specified works, or residential complexes, in the area;
 - (e) a screening ERA, if the activity is carried out outside waters and is for specified works, or residential complexes, in the area;
 - (f) a crude oil or petroleum product storage ERA, if the activity is for residential complexes in the area and is carried out outside a designated urban area;

⁵ Low impact activity in this instance is as defined in the *Sustainable Planning Act 2009* and means a borrow pit of not more than 10 000m³

- (g) an exempt environmentally relevant activity, as defined under the *Environmental Protection Act 1994*, section 73AA(4), in a designated urban area.
- (3) The following development in the floodplain management area of the wild river area is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 11—
 - (a) assessable development prescribed under section 232(1) of the *Sustainable Planning Act 2009*; and
 - (b) an ERA, or a material change of use of premises for an ERA that is an extraction ERA, in a wild river floodplain management area, other than an ERA that is—
 - (i) a low impact activity carried out outside waters; and
 - (ii) for specified works, or residential complexes, in the area.

75. Environmentally relevant activities (regulated activities)

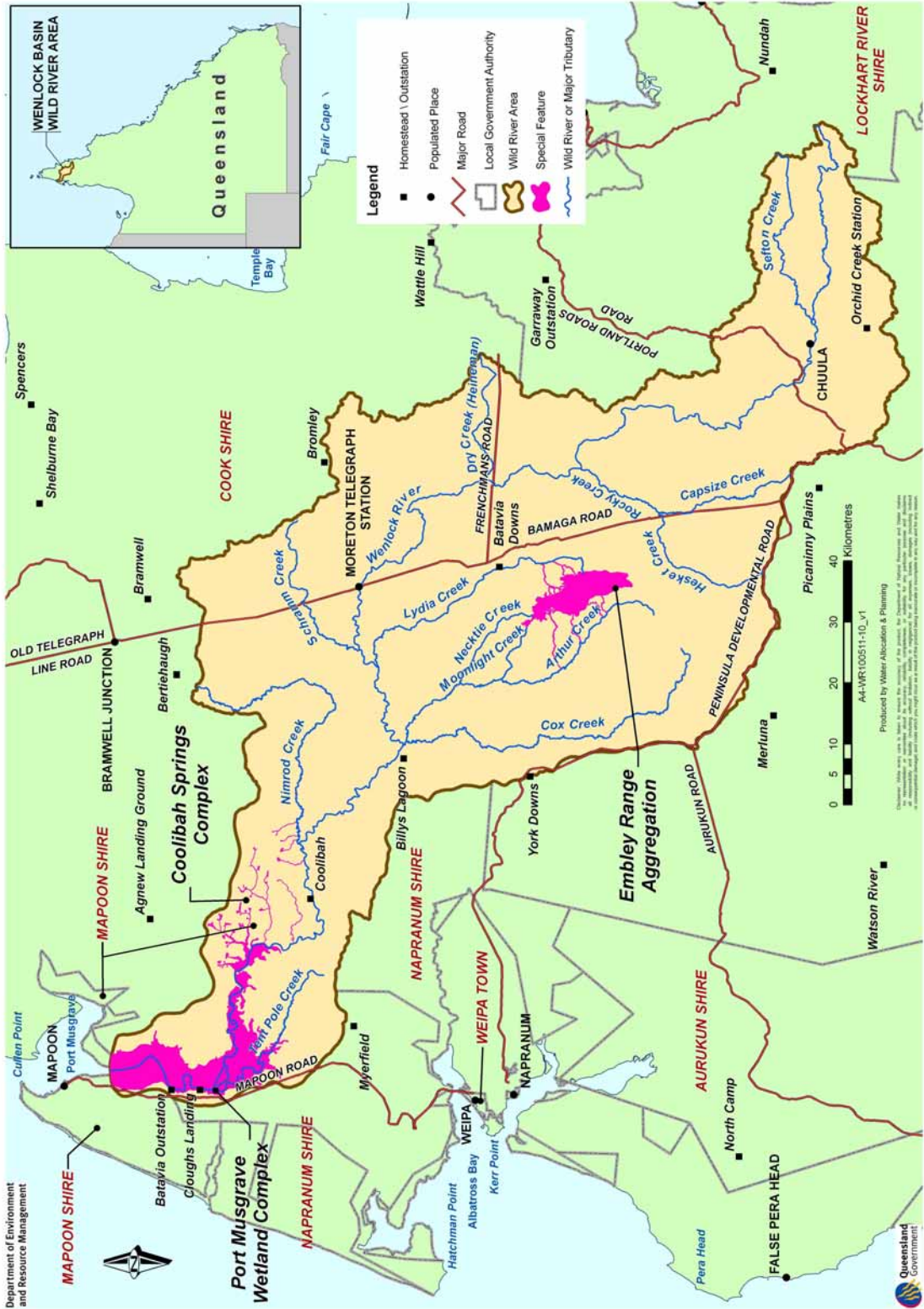
- (1) For the *Environment Protection Act 1994*, section 73AA, to the extent that an application relates to development in the wild river area the assessment manager's and any concurrence agency's decision must—
 - (a) in assessing and deciding an application for development mentioned in section 75(2)(a), or section 75(2)(b), be satisfied there is no viable location for the development outside the high preservation area; and
 - (b) comply with—
 - (i) Part 10 of the Wild Rivers Code for a dredging ERA or extraction ERA for the purpose of riverine quarry material extraction; and
 - (ii) for all other environmentally relevant activities, Part 3 of the Wild Rivers Code.
- (2) Subsection 1 does not apply to development in the wild river area for—
 - (a) a sewage ERA or water treatment ERA, if the development is in a designated urban area; and
 - (b) an exempt ERA within a designated urban area.

76. Property development plans

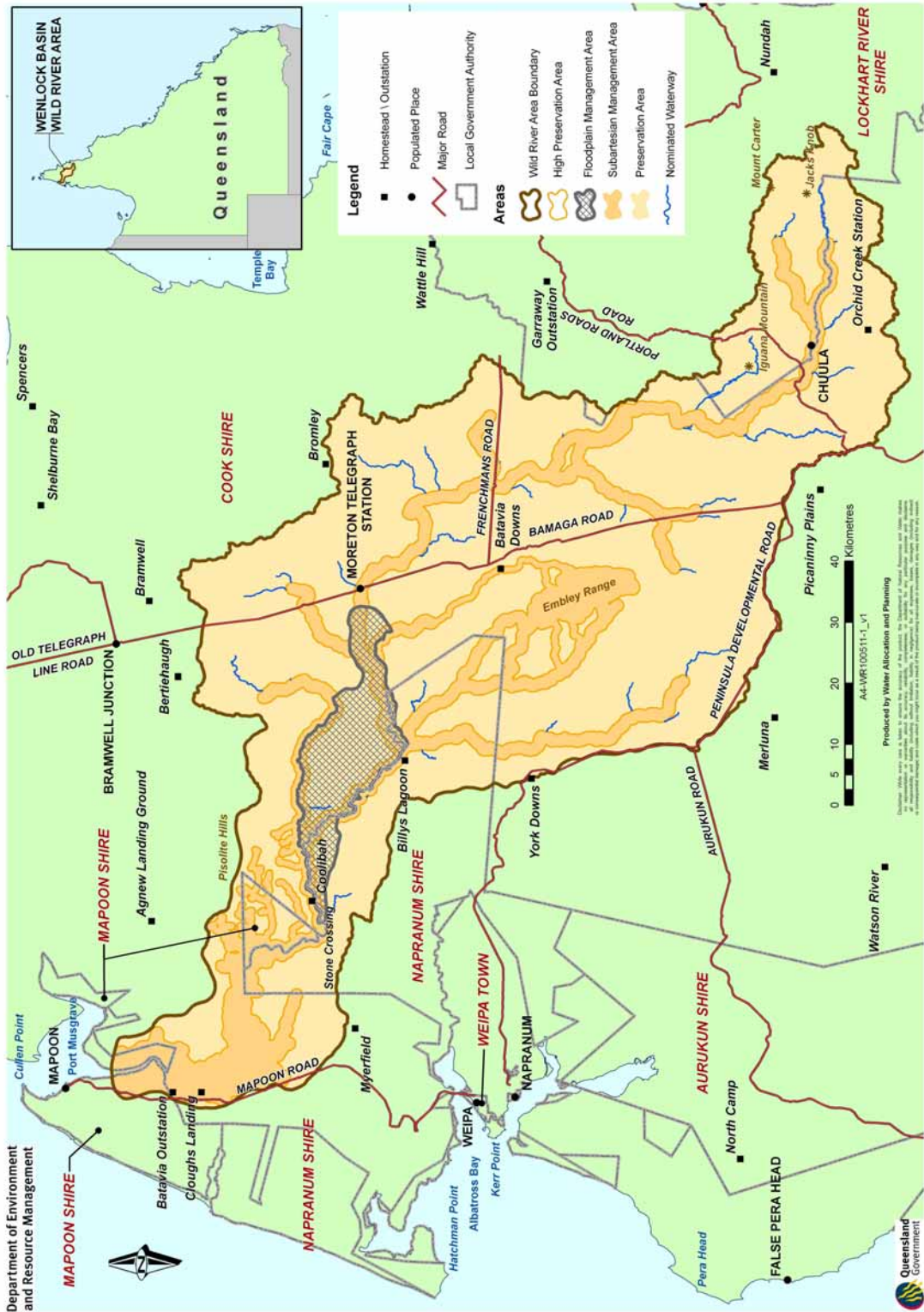
The following development is prohibited under the *Sustainable Planning Act 2009*, schedule 1, item 2—development that is—

- (a) assessable development prescribed under section 232(1); and
- (b) on land to which a property development plan under the *Wild Rivers Act 2005* applies; and
- (c) inconsistent with the property development plan.

Schedule 1 Wild river area features



Schedule 2 Areas



Schedule 3 Setbacks and slopes

Part 1 Wild Rivers Code requirements for activities other than vegetation clearing

1 **Setbacks**

The minimum setback distance for probable solutions, for the Wild Rivers Code, other than for Part 12, is 200 metres.

2 **Slopes and soil stability**

The maximum slope value for probable solutions, for the Wild Rivers Code, other than for Part 12, is outlined in Table 1.

Table 1— Maximum slope values for probable solutions for the Wild Rivers Code (other than Part 12)

Soil stability class*	Soil characteristics	Slope of land
Stable	<ul style="list-style-type: none"> • Soils that are Calcarosols, Rudosols (lithosols, shallow stony soils), Organosols (peats, organic soils), Dermosols (structured loams, prairie soils, rendzinas, red and yellow podzolics), Ferrosols (krasnozems, eucrozems, xanthozems), non saline Hydrosols (humic gleys), Podosols (podsols, humus podsols, coloured sands), Tenosols (lithosols, alluvial soils, earthy sands); or • Soils with no dispersible layers; or • Soils with dispersible layers where the dispersible layer is located at a depth greater than 45 centimetres. 	10%
Unstable	<ul style="list-style-type: none"> • Soils that are Chromosols (podzolics, acid and neutral texture contrast soils), shallow Dermosols, saline Hydrosols (Solonchacks), Kandosols (red, yellow and grey earths), shallow Tenosols, Vertosols (cracking clays, black, grey, red and brown), Kurosols; or • Soils with a dispersible layer located between 25 and 45 centimetres deep; or • Soils less than 45 centimetres deep. 	3%
Very unstable	<ul style="list-style-type: none"> • Soils that are Sodosols (Solodic soils, Solodised solonetz); or • Soils with a dispersible layer located less than 25 centimetres deep; or • Soils less than 25 centimetres deep. 	1%

*Where a soil meets the characteristics of two soil stability classes then the less stable class must be used.

Part 2 Wild Rivers Code requirements for vegetation clearing activities

1 Acceptable solutions for Part 12 of the Wild Rivers Code

- (1) The minimum setback distances for acceptable solutions for Part 12, section W of the Wild Rivers Code are—
 - (a) stream order 5 or greater—200 metres;
 - (b) stream order 3 or 4—100 metres; and
 - (c) stream order 1 or 2—50 metres.
- (2) The minimum setback distance for acceptable solutions for Part 12, other than section W, of the Wild Rivers Code is 200 metres.
- (3) The maximum slope values for acceptable solutions for Part 12, sections E, P, R and W of the Wild Rivers Code are—
 - (a) stable soils—10%;
 - (b) unstable soils—3%; and
 - (c) very unstable soils—1%.

Schedule 4 Dictionary

agricultural activities, as defined under the *Wild Rivers Act 2005*.

allocation notice, means an allocation notice given either under the *Water Act 2000*, section 283; or under the *Coastal Protection and Management Act 1995*, section 76.

animal husbandry activities, as defined under the *Wild Rivers Act 2005*.

chief executive, unless otherwise indicated means the chief executive of the Department of Environment and Resource Management.

crude oil or petroleum product storage ERA, as defined under Schedule 3 of the *Sustainable Planning Act 2009*.

domestic purposes, as defined under the *Water Act 2000*.

dredging ERA, as defined under Schedule 3 of the *Sustainable Planning Act 2009*.

ecotourism, includes commercially based enterprise that encompasses a spectrum of nature-based activities that foster visitor appreciation and understanding of natural heritage that are managed to be ecologically, economically and socially sustainable.

exempt environmentally relevant activity, as defined under section 73AA of the *Environmental Protection Act 1994*.

existing overland flow works means works that—

- (a) allow taking overland flow water; and
- (b) either—
 - (i) were in existence on 25 January 2007; or
 - (ii) were started, but not completed by 25 January 2007; and—
 - (A) if a variation to a moratorium notice was granted for the works under section 27 of the Act—have been, or are being, completed in accordance with the moratorium notices, as varied; or
 - (B) if subparagraph (A) does not apply—were completed by 30 June 2007.

extraction ERA, as defined under Schedule 3 of the *Sustainable Planning Act 2009*.

general reserve, means a reserve of water to be made available for any purpose—these may include the purposes of agricultural activities, aquaculture or general industrial uses.

groundwater means water that is—

- (a) artesian water; or
- (b) subartesian water.

high water mark, as defined under the *Coastal Protection and Management Act 1995*.

Indigenous reserve, means a reserve of water to be made available under a wild river declaration for the purpose of helping Indigenous communities in the area achieve their economic and social aspirations, as per the *Cape York Peninsula Heritage Act 2007*.

lake, as defined under the *Water Act 2000*.

limited hand sampling techniques, as defined under the *Mineral Resources Act 1989* section 382.

master planned area, means an area identified under the *Sustainable Planning Act 2009*, section 136 as a master planned area.

nominated waterway, as defined under the *Wild Rivers Act 2005*.

non-code compliant applications, as defined under the *Environmental Protection Act 1994*.

overland flow water, as defined under the *Water Act 2000*.

project of regional significance, means a project the Minister considers is significant for a region in the wild river area, having regard to the following—

- (a) the relevant natural values the wild river declaration intends to preserve;
- (b) the economic or social impact the project will have on the region;
- (c) the public interest and the welfare of people in the region; and
- (d) any other relevant consideration.

project of state significance, means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

quarry material, as defined under the *Water Act 2000* and the *Coastal Protection and Management Act 1995*

residential complex, as defined under Schedule 3 of the *Sustainable Planning Act 2009*.

screening ERA, as defined under Schedule 3 of the *Sustainable Planning Act 2009*.

sewage ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

slope, is a measure of the upward or downward incline of the land surface over any 30 metre length in the application area.

specified works, as defined under the *Wild Rivers Act 2005*.

spring, as defined under the *Water Act 2000*.

started, for existing overland flow works, means—

- (a) construction of the works had physically begun or, if construction had not physically begun, a contract had been entered into to begin construction; and
- (b) an independently verifiable construction program existed for progressive construction towards completion of the works; and
- (c) detailed design plans existed showing, amongst other things, the extent of the works; and
- (d) if a permit under the *Local Government Act 1993*, section 940, was required for the works—the permit had been issued; and
- (e) if a development permit was required for the works—the permit had been given.

stock purposes, as defined under the *Water Act 2000*.

strategic reserve, means a reserve of water to be made available for developments of state or regional significance, town water supplies and for ecotourism.

stream order, as defined as in the Regional Vegetation Management Codes approved under the *Vegetation Management Act 1999*.

subartesian water, as defined under the *Water Act 2000*.

watercourse, as defined under the *Water Act 2000*.

water entitlement, as defined under the *Water Act 2000*.

water in a watercourse or lake, as defined under the *Water Act 2000*.

water licence, as defined under the *Water Act 2000*.

water permit, as defined under the *Water Act 2000*.

water treatment ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.