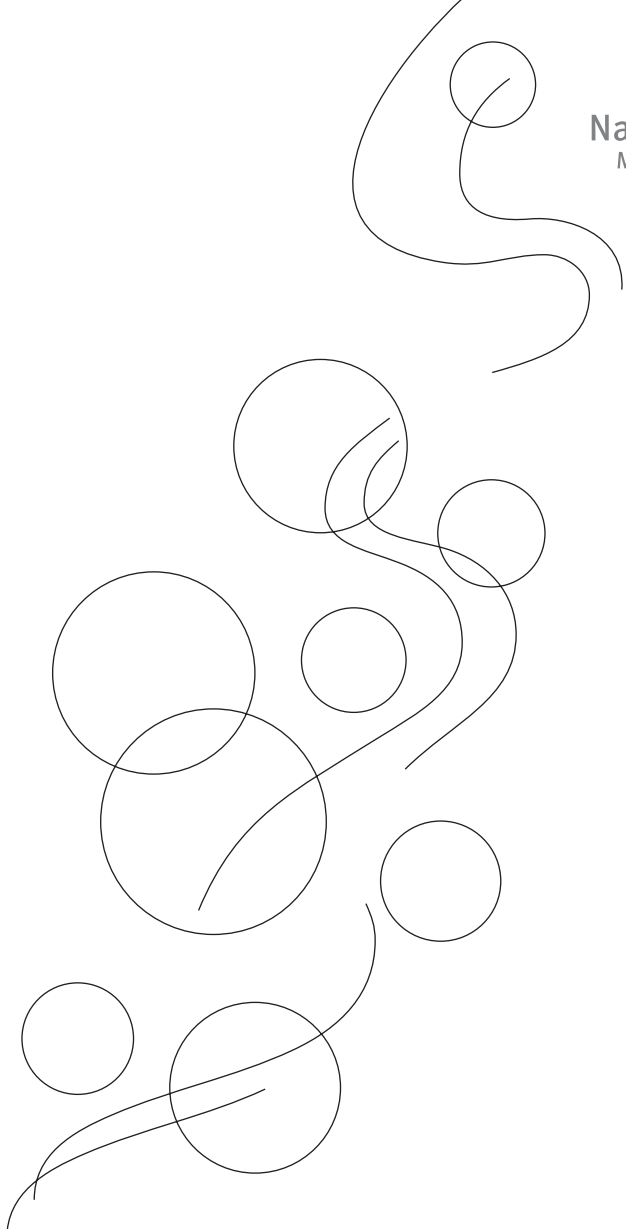




Fraser wild river

declaration 2007



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Part 1 – Preliminary

1 *Short title*

This wild river declaration for the Fraser Wild River Area may be cited as the *Fraser Wild River Declaration 2007*.

2 *Commencement*

This declaration commences on assent of the *Wild Rivers and Other Legislation Amendment Act 2007*.

3 *Definitions*

The dictionary in Schedule 6 defines particular words used in this declaration.

Part 2 – Areas to which the declaration applies

4 *Wild river features*

- (1) The wild rivers for the wild river area are—
 - (a) Wanggoolba Creek;
 - (b) Bogimbah Creek;
 - (c) Woonggang Creek;
 - (d) Tumbowah (Yankee Jack) Creek;
 - (e) Eli Creek;
 - (f) Yidney Creek;
 - (g) Coongul Creek;
 - (h) Yeerall Creek;
 - (i) Gerrowea Creek;
 - (j) Bowarrady Creek;
 - (k) Boon Boon Creek;
 - (l) Dundonga Creek;
 - (m) Bennett Creek; and
 - (n) Ungowa Creek.
- (2) The wild rivers mentioned in subsection (1) are as shown on the map in Schedule 1.
- (3) There are no major tributaries for the wild river area.
- (4) The special features of the wild river area are—
 - (a) the Fraser Island Lake System;
 - (b) Coastal Wetlands Complex; and
 - (c) the peat swamps of Moon Point, Coongul, Towoi, and Wathumba.
- (5) The special features mentioned in subsection (4) have strong hydrologic connections to the river system and play a significant role in maintaining the natural values.
- (6) The special features mentioned in subsection (4) are as shown on the map in Schedule 1.

- (7) Further detail on the special features mentioned in subsection (4) may be obtained from the department.

5 *Areas*

- (1) The wild river area contains the following areas -
- (a) the high preservation area;
 - (b) the preservation area;
 - (c) the subartesian management area; and
 - (d) designated urban areas.
- (2) The location of the boundaries of the wild river area and the areas mentioned in subsection (1) are
- (a) shown on the map in Schedule 2, which is indicative only; and
 - (b) detailed by data in digital electronic form held by the department's Spatial Information Resource which may be inspected at the department's offices, including at -
 - i Gympie; Government Office Building, 27 O'Connell Street;
 - ii Cairns; 3rd Floor William McCormack Place, 5B Sheridan Street;
 - iii Central Office Brisbane; Level 2 Mineral House, 41 George Street.
- (3) There is no floodplain management area or nominated waterway in the wild river area.

Part 3 – Taking of natural resources

6 *Taking of natural resources*

Sections 7 to 10 describe the wild river requirements that must be considered in deciding whether to allow the taking of certain natural resources in the wild river area. These sections deal with the allocation of resources that can be taken, rather than the actual physical taking of the resource which is regulated by Part 4.

Division 1 – Taking of water

7 *Water to which this division applies*

This division 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.

8 *Total volume of water to be allocated*

- (1) This division does not apply to authorisations to take subartesian water in the wild river area for stock purposes.
- (2) The total of the annual volumetric limit for all water entitlements to take water at any time must not exceed 720 megalitres.

- (3) Of the water mentioned in subsection (2), the amount of water that can be allocated at any time for purposes other than eco-tourism and town water supply must not exceed 220 ML/year.

9 Granting, reserving and dealing with unallocated water

- (1) For this section, unallocated water is that volume of water mentioned in subsection 8(2) less the total volumetric amount of granted water entitlements at any time.
- (2) Under section 212 of the *Water Act 2000*, an authority to take unallocated water in the wild river area can only be granted—
 - (a) using the process in Schedule 3; or
 - (b) to the Environmental Protection Agency, following commencement of this declaration, in accordance with Schedule 4, table 1.

Division 2 – Taking of other natural resources

10 Quarry material allocations

As part of the criteria listed in section 282 of the *Water Act 2000* (for deciding application for allocation of quarry material), a reasonable distance for subsection (3)(b) is taken to be 3km.

Part 4 – Regulating activities

11 Carrying out of activities

Sections 12 to 26 describe the wild river matters that must be considered in deciding whether to allow the carrying out of an activity in the wild river area.

12 Taking or interfering with water in a watercourse, lake or spring

- (1) The code mentioned in section 62(a) of the *Water Regulation 2002* is an applicable code for the operational works that allows the taking of water from, or interfering with water in a watercourse or lake, or water in a spring that is self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(a).
- (2) There is no applicable code for wild river matters for the operational works, not covered by subsection (1), that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(a).

Division 1 – Carrying out water works

13 Taking or interfering with water in a watercourse, lake or spring

- (3) The code mentioned in section 62(a) of the *Water Regulation 2002* is an applicable code for the operational works that allows the taking of water from, or interfering with, water in a watercourse or lake, or water in springs that is self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(a).

- (4) There is no applicable code for wild river matters for the operational works, not covered by subsection (1), that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(a).

Division 2 – In-stream works and activities

14 Destroy vegetation, excavate or place fill in a watercourse, lake or spring

In deciding whether to grant or refuse an application under section 269 of the *Water Act 2000*, the chief executive must consider part 9 of the *Wild Rivers Code* as criteria under section 268 of the *Water Act 2000*.

15 Waterway barriers

Part 8 of the *Wild Rivers Code* is an applicable code for an application for operational works that is the constructing or raising of a waterway barrier and is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 6.

16 Works in a declared fish habitat area

- (1) Part 4 of the *Wild Rivers Code* is an applicable code for an application for the following works in a declared fish habitat area—
 - (a) building work that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 1, item 2; and
 - (b) operational works that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 7.
- (2) There is no applicable code, for wild river matters, for applications for the following works in a declared fish habitat area—
 - (a) building work that is self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 1, item 3; and
 - (b) operational works that is self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 3.

17 Riverine quarry material extraction

Part 10 of the *Wild Rivers Code* is an applicable code for an application for all aspects of removing quarry material from a watercourse or lake that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 1.

Division 3 – Activities in tidal areas

18 Remove, damage, or destroy marine plants

- (1) Part 4 of the *Wild Rivers Code* is an applicable code for an application for operational works for the removal, destruction or damage of marine plants that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 8.

- (2) There is no applicable code for wild river matters for applications for operational works for the removal, destruction or damage of marine plants that is self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 4.

19 Works in a Coastal Management District

Part 4 of the *Wild Rivers Code* is an applicable code for an application for operational works that is tidal work or work within a coastal management district and is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 5.

Division 4 – Other activities

20 Commercial fishing

In deciding whether to refuse or issue an authority under subsection 55(2) of the *Fisheries Act 1994*, the chief executive of the department that administers the *Fisheries Act 1994* must consider the impacts the operation may have on the natural values

21 Aquaculture

- (1) Part 2 of the *Wild Rivers Code* is an applicable code for an application for development that is a material change of use of premises for aquaculture that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 8.
- (2) For the code mentioned in subsection (1) the applicable setbacks and land slopes are listed in Schedule 3.

22 Agricultural activities

- (1) Part 1 of the *Wild Rivers Code* is an applicable code for an application for development that is—
 - (a) a material change of use of premises for agricultural activities that are assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 11; and
 - (b) operational works for agricultural activities that are assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 10.
- (2) For the code mentioned in subsection (1) the applicable setbacks and land slopes are listed in Schedule 3.

23 Animal husbandry activities

- (1) Part 1 of the *Wild Rivers Code* is an applicable code for an application for development that is a material change of use of premises for an animal husbandry activity that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 11.
- (2) For the code mentioned in subsection (1) the applicable setbacks and land slopes are listed in Schedule 3.

- (3) There is no applicable code for wild river matters for operational works for animal husbandry activities that are assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 10.

24 Native vegetation clearing

- (1) Part 12 of the *Wild Rivers Code* is an applicable code for an application for operational works for clearing native vegetation that is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 1, items 1A to 1G.
- (2) For the code mentioned in subsection (1) the applicable setbacks and land slopes are listed in Schedule 3.

25 Environmentally relevant activities

- (1) Assessable development, under the *Integrated Planning Act 1997*, in a wild river area is—
 - (a) material change of use of premises for an environmentally relevant activity (schedule 8, part 1, table 2, item 1); and
 - (b) various aspects of development for an environmentally relevant activity where a code of environmental compliance has been made under the *Environmental Protection Regulation 1998* (schedule 8, part 1, table 5, item 4).
- (2) For an application for the assessable development mentioned in subsection (1), an applicable code is—
 - (a) Part 10 of the *Wild Rivers Code* for environmentally relevant activities 19 and 20 for the purpose of riverine quarry material extraction; and
 - (b) Part 3 of the *Wild Rivers Code* for environmentally relevant activities other than those mentioned in subsection (2) (a).
- (3) For the code mentioned in subsection (2) the applicable setbacks and slopes are listed in Schedule 3.

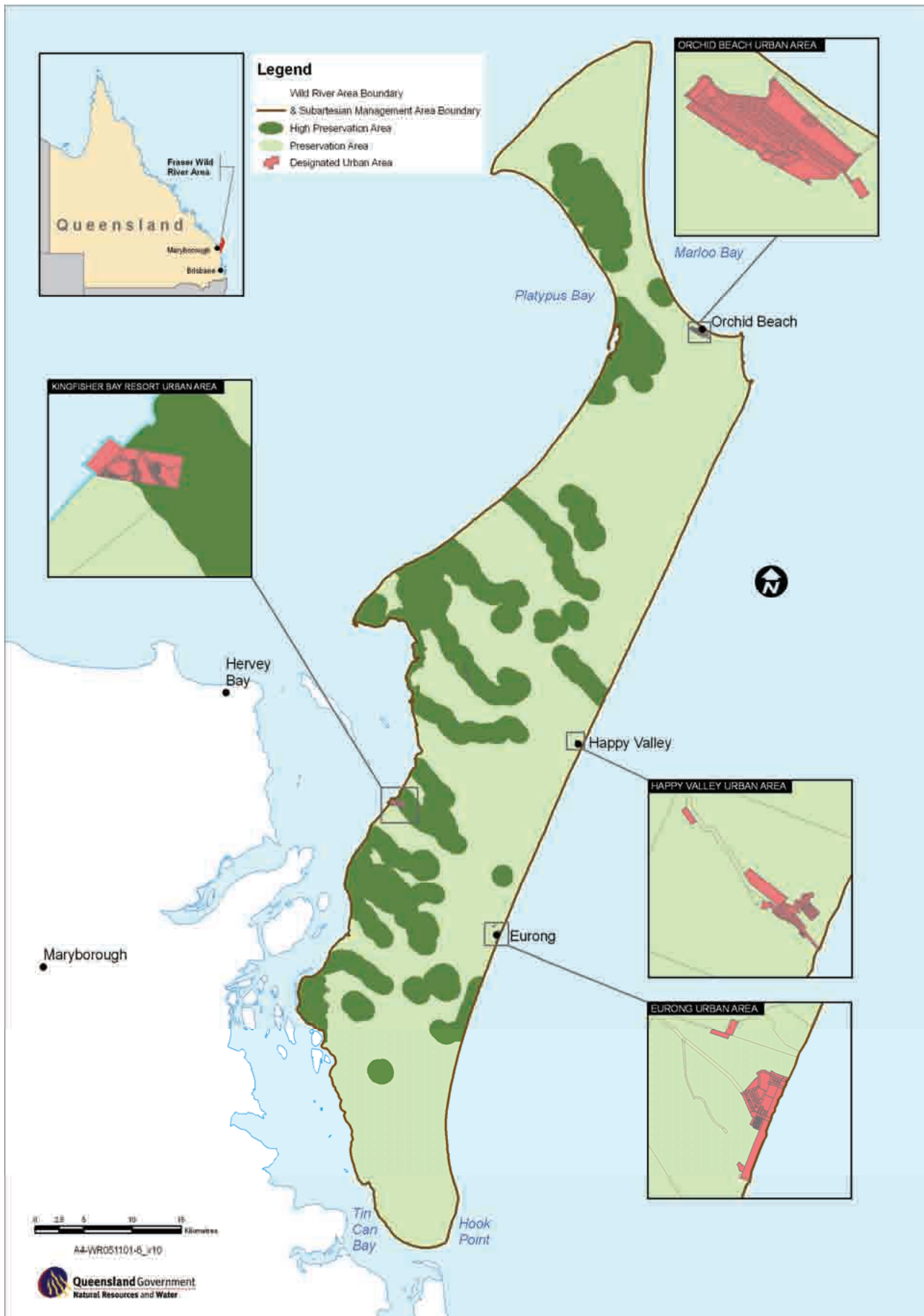
26 Residential, commercial or industrial development

- (1) Part 5 of the *Wild Rivers Code* is an applicable code for an application for residential, commercial and industrial development that is—
 - (a) operational works for the reconfiguring of a lot where it is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4; item 2; and
 - (b) a material change of use of premises where it is assessable under a local government planning scheme.
- (2) For the code mentioned in subsection (1) the applicable setbacks and slopes are listed in Schedule 3.
- (3) There is no applicable code, for wild river matters, for reconfiguring a lot where it is assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 3; item 1.

Schedule 1 – Wild river features



Schedule 2 – Areas



Schedule 3 – Setbacks and slopes

Part 1 Wild River Code requirements for development 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

Soil stability class*	Soil characteristics	Slope of Land
Very Stable	Soils that are Ferrosols (Krasnozems, Euchrozems and Xanthozems).	30%
Stable	Soils other than very stable soils, unstable soils or very unstable soils.	20%
Unstable	Soils that are Chromosols, Hydrosols, Kurosols, and Sodosols that do not have a hard-setting, fine sandy loam to silty clay loam surface (Soloths, Solodic soils and Solonchaks); OR Soils with a clear or abrupt textural B horizon and a) an A horizon at least 30 centimetres thick or a B horizon that is not dispersible and the soil does not exhibit hard-setting characteristics.	15%
Very Unstable	Soils that are Sodosols with hard-setting, fine sandy loam to silty clay loam surfaces (Solodic soils, Solodized solonetz and Solonetz); OR Soils with an A horizon less than 30 centimetres thick and a) the B horizon is dispersible; or the soil exhibits hard-setting characteristics.	10%

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

Part 2 Wild River Code requirements for vegetation clearing activities

3 Acceptable Solutions for part 12 of the Wild Rivers Code

- (1) The minimum setback distance for acceptable solutions for part 12, section W of the *Wild Rivers Code* are—
 - (a) stream order 5 or greater – 50 metres;
 - (b) stream order 3 or 4 – 25 metres; and
 - (c) stream order 1 or 2 – 10 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 sections E, P, R and W of the *Wild Rivers Code* are—
 - (a) for section P—
 - (i) very stable soils is 30%;
 - (ii) stable soils is 20%;
 - (iii) unstable soils is 15%; and
 - (iv) very unstable soils is 10%.
 - (b) for section R—
 - (i) very stable soils is 15%;
 - (ii) stable soils is 12%;
 - (iii) unstable soils is 8%; and
 - (iv) very unstable soils is 5%.
 - (c) for section W—
 - (i) very stable soils is 20%;
 - (ii) stable soils is 15%;
 - (iii) unstable soils is 12%; and
 - (iv) very unstable soils is 8%.
 - (d) There are no maximum slope values for section E.

Schedule 4 – Releasing unallocated water

1 General Provisions

- (1) This Schedule sets out the process for releasing unallocated water in the wild river area.
- (2) The method of release of unallocated water will be through—
 - (a) a tender as outlined in this Schedule; or
 - (b) a fixed price as determined by the chief executive.
- (3) The results of a tender may be used to guide the chief executive in determining a fixed price and reassessment of the fixed price may be undertaken at the chief executive's discretion.
- (4) A tender or fixed price application will constitute a bid application for a water licence.
- (5) There is no restriction on the volume of unallocated water that may be purchased by a single bidder.

2 Initiation of the process for making the water available

- (1) The process for releasing unallocated water will be initiated by an entity submitting an expression of interest on the approved form to the chief executive.
- (2) An expression of interest must be for a specific—
 - (a) volume of water; and
 - (b) purpose of use.
- (3) Until an initial expression of interest is received the chief executive must not commence the release of unallocated water in the wild river area.
- (4) A tender process will be used for the first sale of water after the commencement of this declaration.
- (5) Following the first sale of water, whether a tender process or a fixed price is used and the timing of these processes will be at the discretion of the chief executive.
- (6) Applications that were in existence, but not decided, at the time the chief executive decides to reinstate a tender process will be dealt with at the discretion of the chief executive.

Division 1 – Tender process

3 Interested parties to apply for unallocated water

- (1) If an expression of interest for unallocated water in the wild river area is received, the chief executive may publish a notice inviting all interested parties to apply to tender for the unallocated water available in the area.
- (2) The notice must be—
 - (a) published on the website of the department that administers the *Water Act 2000* and in a newspaper distributed throughout the wild river area; and
 - (b) sent to all local governments in the wild river area for public display.

- (3) The notice must contain information on the—
 - (a) water available for sale;
 - (b) wild river area specific to the tender;
 - (c) application process;
 - (d) the closing date and time for applications; and
 - (e) details of how tenders will be evaluated.

4 *Process to issue unallocated water*

- (1) The chief executive—
 - (a) must determine the reserve price per megalitre; and
 - (b) the reserve price—
 - (i) must not be made public; and
 - (ii) may be altered at any time.
 - (c) must not accept tenders unless the applicant has applied in accordance with section 8 of this Schedule; and
 - (d) must not sell the right to apply for a water licence if tenders do not meet the reserve price.
- (2) If the chief executive receives applications seeking volumes of water that will cause the total amount of water to be taken from the wild river area to exceed the volume of water available for that purpose, the chief executive will determine the distribution of the remaining available water having regard to the highest value use of the water and the purpose of the *Wild Rivers Act 2005*.

5 *Tenders for unallocated water*

- (1) The process for submitting a tender is detailed in division 3 of this Schedule.
- (2) The process for the finalisation of conditions and the issuing of a water licence is detailed in division 4 of this Schedule.

Division 2 – Fixed price process

6 *Process to issue unallocated water*

- (1) The chief executive must—
 - (a) determine the fixed price per megalitre;
 - (b) make the fixed price publicly available; and
 - (c) must not accept an application if it is for water reserved for a specific purpose where water reserved for that purpose has been fully allocated.
- (2) Any entities applying to purchase unallocated water will be required to pay the price determined by the chief executive once the process detailed in division 4, sections 10 to 12 of this Schedule have been completed.
- (3) Applications for unallocated water will be considered in the order in which they are received.
- (4) Applications will not be accepted unless applied for in accordance with section 8 of this Schedule.

- (5) If the chief executive receives an application which seeks a volume that will cause the total amount of water to be taken from the wild river area to exceed the volume of water available for that purpose, the chief executive will determine the distribution of the remaining available water having regard to the highest value use of the water and the purpose of the *Wild Rivers Act 2005*.

7 Fixed price for unallocated water

- (1) The process for applying for unallocated water through a fixed price is detailed in division 3 of this Schedule.
- (2) The process for the finalisation of conditions and the issuing of a water licence is detailed in division 4 of this Schedule.

Division 3 – Process for applying for unallocated water

8 Tender or fixed price application for unallocated water

- (1) A tender or fixed price application for unallocated water must be made in the form approved by the chief executive.
- (2) The chief executive will provide, on the website of the department that administers the *Water Act 2000*, a copy of the form referred to in subsection (1).
- (3) The chief executive may require a one-off, non-refundable, processing fee to be lodged. Information required will include—
 - (a) an outline of the proposal;
 - (b) the source and location of water;
 - (c) maximum annual take;
 - (d) method of take;
 - (e) purpose of use;
 - (f) rate of take;
 - (g) evidence that the applicant has investigated other sources of water such as recycling and rainwater tanks to meet the proposal contained in the tender;
 - (h) evidence of efficient water use;
 - (i) for a tender only, the tender price in dollars per megalitre; and
 - (j) any other matters the chief executive requests.
- (4) This information must be provided to the chief executive at the time of tender or application to allow the determination of conditions that may be applied to the water licence.
- (5) With regard to subsection (3), the chief executive may request the applicant to provide additional information with regard to the proposal. If the applicant fails to provide this information within 30 business days of the request, the chief executive will not accept the tender or application.

9 Process to issue unallocated water

- (1) In addition to the requirements for tenders specified in section 4 of this Schedule and fixed price applications specified in section 6 of this Schedule, the chief executive must consider whether the application is consistent with the purpose of the *Wild Rivers Act 2005*.

- (2) In assessing the application the chief executive must consider—
 - (a) the impact that the proposed taking of water may have on the following natural values—
 - (i) water quality;
 - (ii) movement of fish and other aquatic animals; and
 - (iii) natural movement of sediment.
 - (b) maintaining stream flows to preserve the following—
 - (i) longitudinal connectivity of low flow habitats throughout the river system;
 - (ii) natural seasonality of flows and zero flows;
 - (iii) the replenishment of refuge pools that enable movement of instream biota;
 - (iv) contributions from aquifers to the flow of water in watercourses;
 - (v) lateral connectivity between the river and adjacent riverine environments, including floodplains; and
 - (c) contributions from aquifers to the flow of water in watercourses and lakes.
- (3) Subsection (2) does not limit the matters the chief executive may consider.

Division 4 – Finalisation of conditions and issuing of a water licence

10 Process for setting conditions on water licences

- (1) Once the successful tender or application has been decided, the chief executive must determine conditions, if any, for the proposed water licence to ensure that the issuing of the water licence will be consistent with the requirements listed in section 9 of this Schedule.
- (2) If the conditions to be applied by the chief executive are not accepted by the prospective purchaser within a time frame as determined by the chief executive, then the fixed price application will be rejected or a tender deemed unsuccessful.

11 Public notification of successful bidders

- (1) Once the processes detailed in divisions 1, 2 and 3 have been finalised the chief executive must publicly advertise the intent to issue a water licence.
- (2) The advertisement must be—
 - (a) placed on the website of the department that administers the *Water Act 2000* and in a newspaper distributed throughout the wild river area; and
 - (b) sent to all local governments within the wild river area for public display.
- (3) For each of the water licences advertised in the public notice, the following must be specified—
 - (a) location of the proposed taking of water;
 - (b) volume (maximum annual volume);
 - (c) rate of take;
 - (d) purpose of take;

- (e) any draft conditions the chief executive proposes to apply to the proposed water licence;
- (f) that written submissions may be made by any entity regarding the issuing of the water licence; and
- (g) a day and time by which submissions must be made and the person to whom and the place where the submissions must be made.

12 Review of submissions and settling of applications or tenders

- (1) The chief executive must consider all valid submissions mentioned in subsection 11(3)(f) and any other matters the chief executive considers appropriate.
- (2) For each successful tender or application the chief executive must decide to—
 - (a) grant a water licence; or
 - (b) grant a water licence with amended conditions set under section 10 of this Schedule; or
 - (c) not issue the water licence.
- (3) If the amended conditions to be imposed by the chief executive are not acceptable to the prospective purchaser then the application or tender will be rejected and a water licence not issued.

13 Finalisation of sale and issuing of a water licence

- (1) If the chief executive decides to issue a water licence as a result of section 12 of this Schedule, the purchaser must ensure that the chief executive receives payment within 10 working days of the purchaser being notified that payment is required.
- (2) Following receipt of all monies associated with the payment the chief executive must issue the water licence.
- (3) If payment is not received within 10 working days of the purchaser being notified that payment is required, the water licence will not be issued and the fixed price application will be rejected or a tender deemed unsuccessful.

Schedule 5 – Granted water licence

Water licence granted to the Environmental Protection Agency.

Table 1: Water licence to take water from the Great Sandy National Park

Licence details	
Licensee	Environmental Protection Agency
Expiry Date	10 years from issue
Activity and description of land	The taking of water from a watercourse or lake, or water from a spring or subartesian aquifer within the Great Sandy National Park, Lot 21 on Plan NPW659
Volumetric limit	50 Megalitres per year
Purpose	Eco-tourism

Schedule 6 – Dictionary

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

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

chief executive means the chief executive of the department that administers the *Water Act 2000*

department, is the department that administers the *Wild Rivers Act 2005*, unless otherwise stated in this declaration.

eco-tourism, 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.

lake, as defined under the *Water Act 2000*

natural values mean the following—

- (a) hydrological processes include the natural flow of water, including subartesian water, in a catchment and its river system to the sea, wetlands or adjacent floodplains. These processes include hydrological connectivity between the river system, aquifers and adjacent floodplains;
- (b) geomorphic processes are the natural erosion, transport and deposition of sediments by water along a river system to its estuary or terminal wetland. Natural geomorphic processes contribute to the physical integrity of a river system, including bed and bank stability and channel alignment;
- (c) riparian function includes the provision of physical integrity, aquatic habitat, pollution control, food sources for water and land-based fauna and links between in-stream and land-based ecosystems. Most riparian function is provided by vegetation, which includes trees, shrubs, grasses, and sedges;
- (d) wildlife corridor function includes sufficient areas of natural habitat within and along the river system to allow native fauna to safely migrate within their natural ranges. These habitat areas may be deep pools connected by low water flows or riparian vegetation; and
- (e) water quality is the physical, chemical and biological attributes of water that affect its ability to support certain values and uses.

preserve means to keep intact, or maintain unchanged or as close as practicable in an unaltered state.

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

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

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*.

unallocated water, see section 9(1) of the declaration.

