

# Wild rivers

## Guide for local governments

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### Purpose of this Guide

This guide provides an overview of the wild rivers framework and explains the affects that it may have on local government operations.

More information about wild rivers is available:

- On the Department of Natural Resources and Water (NRW) website:  
<http://www.nrw.qld.gov.au/wildrivers>.
- By contacting a wild rivers officer (phone 4039 8281, 4039 8332 or email [wild.rivers@nrm.qld.gov.au](mailto:wild.rivers@nrm.qld.gov.au)).
- In other wild river guides available by accessing the NRW website, including the *Integrated Development Assessment System Guide - Development in a wild river area* and the *Wild Rivers Graziers Guide*.

## Background

A wild river is a river system that has all, or almost all, of its natural values intact. That is, the river system is in near natural condition. The *Wild Rivers Act 2005* (Wild Rivers Act) aims to preserve these rivers for the benefit of current and future generations.

The purpose of the Wild Rivers Act is achieved by declaring a wild river area, which contains management areas for applying wild river requirements on future development activities similar to different zones in a local government planning scheme).

These management areas are shown on diagram 1 and described in detail in the key terms section on page 6.

The wild river area may also contain nominated waterways in the preservation area.

The Wild Rivers Act applies certain requirements on particular types of development activity including the taking of natural resources in a wild river area to preserve the wild river's natural values. It requires decision makers to adopt a precautionary approach in order to minimise any adverse affects on these natural values. A key

part of achieving the preservation of a wild river is treating the wild river and its catchment as a single entity, linking the health of the river to the condition of the catchment. A link to the Wild Rivers Act is available through the NRW website.

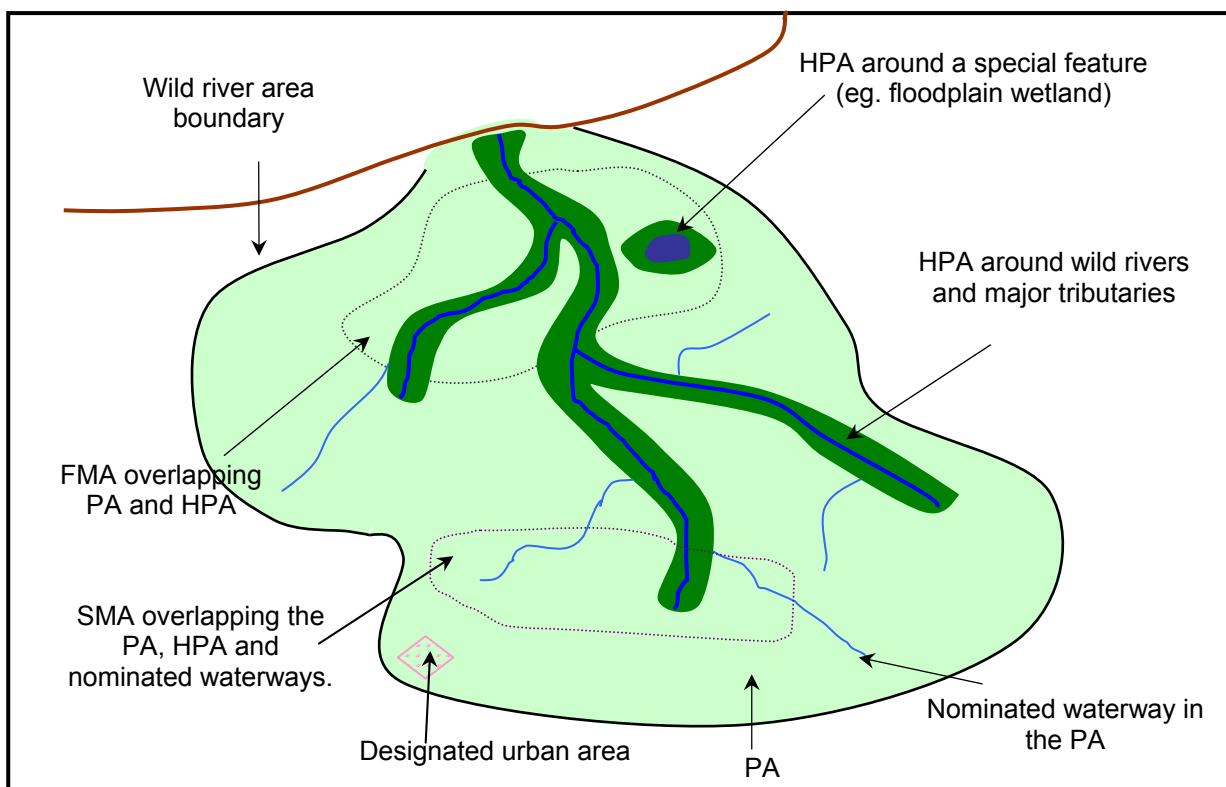
Under the Wild Rivers Act, the Minister for NRW can declare a wild river area and establish protocols to determine where and how certain types of future development can be undertaken in order to preserve the wild river's natural values.

The Wild Rivers Act does not include any development approval processes. All future developments will continue to be approved through existing legislation, such as the *Integrated Planning Act 1997* (IPA). Most wild river requirements will be included in the approval process via the Wild Rivers Code.

## Wild rivers and economic development

The Queensland Government recognises that the wellbeing of a community is linked to both a healthy environment and a strong economy. This is why the Wild Rivers Act recognises all licences, permits, and undertakings existing at the time of declaration. Furthermore, new activities linked to essential services, such as building roads and pipelines, are not prohibited in a wild river area.

Diagram 1- Wild river management areas



New economic activities, such as agriculture, animal husbandry, aquaculture and mining, can still occur outside the most sensitive parts of a wild river area.

It is worth noting that a wild river declaration can support and encourage economic development for industries that depend on “clean and green” production, such as export meat. It would also support ecotourism, which is the fastest growing form of tourism worldwide. The preservation of natural values underpins the long term sustainability of the river system, which can offer competitive advantages to some forms of economic development in a wild river area.

### **Role of local governments in a wild river area**

Local governments have an important role and an opportunity to ensure that local communities, businesses and the environment benefit from a wild river declaration.

As assessment manager for residential, commercial and industrial activities, local governments will need to apply the Wild River Code when assessing applications for material change of use and for operational works associated with reconfiguring a lot in a wild river area.

This would also apply for any types of development activity assessment that have been devolved or delegated to local governments.

As a major provider of essential services to local communities, local government also have the opportunity to lead by adopting the sensitive practices outlined in the Wild Rivers Code.

### **How it works – approval processes for new development activities**

Virtually all types of development activity are subject to some kind of assessment, irrespective of wild river requirements. Existing approval processes under legislation or local government planning schemes continue to apply for new development activities in a wild river area. In general, assessment against wild river requirements is a new part of the current development application process where the assessing agency must also assess applications against the Wild Rivers Code.

The only new assessment process in a wild river area is for agricultural and animal husbandry activities.

### **Assessment coordination**

The relevant local government is the assessment manager if its planning scheme identifies the type of development as assessable. Generally, these schemes capture residential, commercial and industrial developments. As an assessing agency, the local government will need to also apply the Wild Rivers Code when assessing certain applications.

Relevant state agencies continue in their role as assessing agencies under existing processes (see diagram 2). For example, the Department of Primary Industries and Fisheries will remain the assessing agency for aquaculture (when not captured as an environmentally relevant activity, under the *Environmental Protection Act 1994*) and will be required to also use the Wild Rivers Code when assessing applications for a material change of use. In cases where the local government is not an assessing agency, a state agency will be the assessment manager.

### **Wild river declaration**

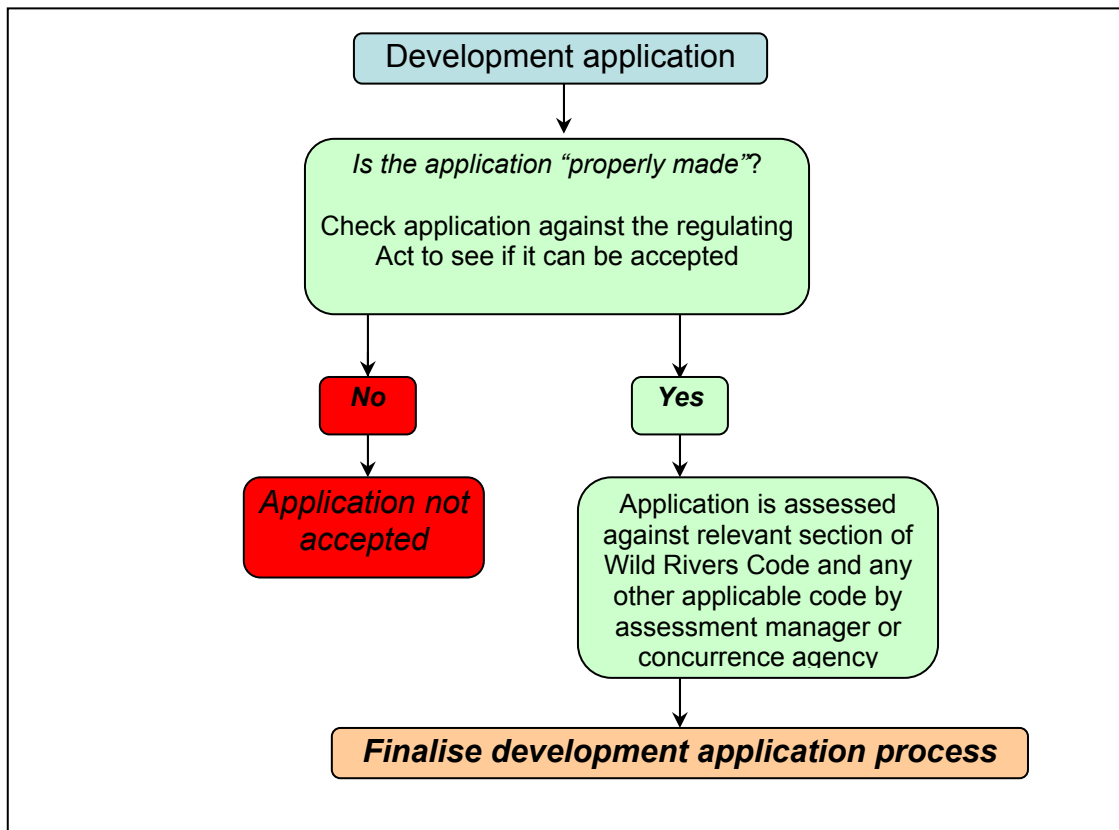
A wild river declaration is a statutory instrument, like a local government planning scheme. The declaration guides what is assessable development in the wild river area and directs assessment managers and development applicants to relevant parts of the Wild Rivers Code for certain types of new activity. Declarations can be accessed and downloaded via the NRW website.

### **Wild Rivers Code**

The Wild Rivers Code is similar to the building code. It provides the “outcomes” which have to be met when certain types of activity are undertaken. The requirements of the Wild Rivers Code are in addition to those of other codes or policies that regulate development activities. All of the requirements are aimed at reducing the potential impacts on the wild river natural values. The Wild Rivers Code can be accessed and downloaded via the NRW website.

The Wild Rivers Code outlines the wild river requirements for those types of development that are either assessable or self-assessable. It is a tool used to assess development applications and

**Diagram 2 – Assessment process for applications made in a wild river area.**



its requirements must be met before the application can be approved.

The purpose of the Wild Rivers Code is to ensure that such development activities are consistent with the intent of the Wild Rivers Act. The Wild Rivers Code is used by:

- the state agency or local government responsible for assessing a code-assessable development application, or a particular part of the application (called assessing agencies);
- the applicant as a guide when writing a assessable development application; and
- a landholder wishing to undertake a self-assessable development.

**Assessable development**

A declaration will list those types of development activity in the wild river area that are assessable against the wild river code. These types of development activity could include:

- Agriculture and animal husbandry activities;
- Aquaculture;
- Environmentally relevant activities;

- Works in tidal areas, coastal management districts and fish habitat areas;
- Residential, commercial and industrial development;
- Works for taking overland flow;
- Works interfering with overland flow;
- Waterway barrier works;
- In-stream activities in non-tidal reaches;
- Riverine quarry material extraction;
- Forest production on state lands; and
- Native vegetation clearing.

A developer wishing to undertake an assessable development activity must submit an application outlining the proposed development. The application will be assessed against the Wild Rivers Code by the responsible assessing agency. An application for an assessable development permit for those types of development must comply with the Wild Rivers Code before the application can be approved.

Most development applications will be assessed by the relevant state agency that is responsible for the regulation of that type of activity. Local governments only have an assessment role with development applications that have been called

up as assessable development in their local government planning scheme, or where local government has been made the assessment manager under schedule 8A of the Integrated Planning Act.

Generally, the declaration of a wild river area imposes no restrictions on activities inside urban areas. The only exceptions are some developments listed under the *Environmental Protection Regulation 1998* as 'environmentally relevant activities' that could have a substantial impact on a wild river's natural values.

### **Self-assessable development**

The types of development activities that may be listed in a wild river declaration as self-assessable include:

- gully dams for taking overland flow water for stock or domestic purposes; and
- levees or bunds up to a certain size for interfering with overland flow water in a floodplain management area.

These types of activities do not require a development permit but the landholder must ensure the development complies with the Wild Rivers Code. There are a number of mandatory requirements that the developer must meet before beginning the development. Developments that do not meet these requirements must be treated as assessable development.

### **Mandatory requirements, required outcomes and probable solutions**

The wild river requirements in the Wild Rivers Code are linked to the object of the Wild Rivers Act, that is, to preserve the wild river's natural values. If a development meets these requirements, the natural values will be preserved.

For each type of self-assessable development activity subject to the Wild Rivers Code there are a number of mandatory requirements that the developer must comply with. Developments that do not meet these requirements are considered as assessable development.

For each type of assessable development activity subject to the Wild Rivers Code<sup>1</sup>, there are a number of mandatory requirements and/or required outcomes, which the assessing agency must ensure will be met before the development application can be approved. The application must demonstrate how the proposed development activity will achieve the mandatory requirements and the outcomes. These outcomes can be achieved by either:

- complying fully with the probable solution provided in the Wild Rivers Code; or
- demonstrating to the satisfaction of the assessing agency that another solution detailed in the application meets the required outcome (see text box on the next page for an example).

### **Locating boundaries and features**

The affect, if any, of a declaration on a proposed development depends largely on whether the development would be in a high preservation area, floodplain management area, or in (or near) a nominated waterway. The spatial data layers showing the wild river management areas and nominated waterways are available via the Information Queensland (IQ) gateway Info Link (<http://www.govnet.qld.gov.au/index.htm>). This access point allows local governments to download the layer in either ESRI or MapInfo format.

Also a wild rivers officer can provide detailed maps or global positioning system (GPS) coordinates for area boundaries and nominated waterways. Alternatively a wild rivers officer can check the location of planned activity if given the GPS coordinates of the work site.

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<sup>1</sup> The vegetation clearing component of the Code, has performance requirements rather than required outcomes, and acceptable solutions rather than probable solutions. This difference reflects the different terminology used by the Regional Vegetation Management Codes.

Example: **New aquaculture development in the PA.**

Natural Value: water quality

Required Outcome	Probable Solution
The activity will not result in the increased delivery of sediment to adjacent waterways.	The slope of the land on which the activity occurs is less than the value detailed in schedule 3 (typically 1 to 10% dependant on soil stability) of the relevant wild river declaration.

If the proposed development complies with the probable solution, that is, the aquaculture facility will be constructed on a land slope of less than the value stipulated in schedule 3 of the relevant wild river declaration, then the application has met the required outcome.

If not, then the applicant would have to provide detail of an alternative solution, such as –

**Example proposal:** the facility is proposed to be built on land with an average slope of 15% (incline of 15 metres over 100 metres). The development includes a number of retaining walls around the facility to stabilise slopes and the final site planted with native grass species known for their ability to slow runoff and absorb nutrients. Also a series of sediment traps will be installed and maintained during the construction phase to minimise the escape of sediment from the site.

**Example assessment:** The retaining walls and grassed areas will provide long-term land stability for the site. The sediment traps will be effective in catching excess sediment during construction. A condition is to be added to the development permit ensuring that the sediment traps are suitably maintained until the grass areas are established.

## Key terms

The following terms are important to understand how wild river laws will work:

**Designated urban areas:** A wild river declaration may include a designated urban area to encompass any town or village in the wild river area. A declaration would have no affect on the following types of developments in a designated urban area:

- levees and other works interfering with overland flow water even if the urban area is located in a floodplain management area;
- all residential, commercial and industrial developments that are not environmentally relevant activities;
- motor vehicle workshops and crematoriums; or
- all low impact (Level 2) environmentally relevant activities, except aquaculture, cattle feedlots, pig and poultry farming, sand/gravel extraction, and asphalt manufacturing.

**Development activities:** Include infrastructure (such as dams, roads or buildings), activities (such as tree clearing or quarrying) or administrative decisions (such as land subdivision or rezoning) that may have an impact on a wild river.

**Floodplain management area:** The key parts of floodplains that are strongly connected to the wild river's natural hydrology. A floodplain management area may overlap a high preservation area or the preservation area (see diagram 1).

**High preservation area:** The area within and up to one kilometre each side of the wild river, its major tributaries and any special off-stream features, such as floodplain wetlands.

**Nominated waterways:** certain secondary tributaries or streams in the preservation area. The streams are mapped in the declaration.

**Preservation area:** The wild river area outside a high preservation area.

**Setbacks and land slopes:** The Wild Rivers Code protects the natural values of a river system by specifying required outcomes for particular development activities. These required outcomes can be achieved through the setting of minimum setbacks and maximum land slopes for most types of development.

A *setback* is the minimum distance that the development needs to be located away from the outer banks of a watercourse in a high preservation area or a nominated waterway. This helps to preserve the riparian and wildlife corridor along the stream and reduces the risk of water pollution reaching the stream. Smaller

setbacks may be approved where the applicant can demonstrate that a wild river will be protected, perhaps through offsets or mitigation measures (such as bunds to contain runoff).

As development on steeply sloping land can lead to soil erosion and increased turbidity of adjacent waterways, wild river laws restrict development on sloping sites. Under the requirements, the *maximum land slope* at a development site would typically be between 1 and 10%, depending on soil type. Development may occur on steeper slopes where the applicant can demonstrate how erosion risks can be mitigated, perhaps through site stabilisation measures (such as contour banks and other soil conservation measures).

While some wild river requirements are mandatory, alternative solutions for most activities will be considered where the applicant can demonstrate that the alternative will achieve the code's required outcomes.

**Specified works:** certain works can be undertaken in a high preservation area and a floodplain management area, subject to assessment against the Wild Rivers Code:

- public and private linear transport infrastructure such as roads, tracks, railways, conveyors and pipelines, including associated bridges and stream crossings
- jetties, boat ramps and piers available for public use;
- public and private linear transmission infrastructure such as powerlines and telecommunication lines, including associated stream crossings;
- Removal of snags in a marked navigation channel that threaten boating safety; and
- Works to rehabilitate land, such as the removal of contaminated soil and seal abandoned mine shafts.

**Subartesian management area:** The aquifer areas that have a strong hydrologic connection to the river system. A subartesian management area may overlap a high preservation area and/or a preservation area.

**Wild river:** A river system that is virtually undisturbed and in near natural condition.

**Wild river area:** The area, usually the river catchment or drainage basin, as mapped in the declaration (see diagram 1). Generally, these areas are relatively undisturbed, have little development or have been managed sustainably.

**Wild river declaration:** A declaration under the Wild Rivers Act that sets out:

- the extent of the wild river area, including its management areas and any nominated waterways
- any rules or limits that must be observed for assessing development activities (such as building, agriculture or mining) in the wild river area.

## Summary of wild river requirements for certain activities

### Clearing

Under the *Vegetation Management Act 1999*, broadscale clearing in Queensland was ceased. This means that clearing of assessable vegetation for purposes other than relevant purposes (see s21 of the *Vegetation Management Act*) can not occur.

Wild river provisions only apply in high preservation areas. They do not impose any additional requirements on clearing native vegetation in a preservation area.

Within high preservation areas clearing that is necessary to maintain existing infrastructure including airstrips, buildings, fences, helipads, roads, stock yards and watering facilities, does not require a permit.

In a high preservation area, native vegetation clearing applications can only be accepted for the following purposes:

- necessary to control non-native plants or declared pests;
- public safety;
- establishing a necessary fence, firebreak, road or vehicular track, or for constructing necessary built infrastructure, if there is no suitable alternative site for the fence, firebreak, road, track or infrastructure;
- clearing for encroachment;
- clearing regrowth on freehold land, indigenous land and leases issued for

agricultural and grazing purposes within agricultural areas (eg cultivation) that existed at the time of the declaration and are registered.

Wild rivers provisions for native vegetation clearing applications depend on the purpose of the clearing and can include:

- providing setbacks from watercourses and wetlands;
- limiting mechanical clearing to stable slopes;
- ensuring areas of remnant vegetation remain connected;
- ensuring clearing does not contribute to increased salinisation or disturb acid sulfate soils;
- maintaining endangered or of concern regional ecosystems;
- maintaining critical habitat areas; and
- protecting mature trees.

Under the *Water Act 2000* a permit is required to destroy native vegetation within non-tidal watercourses. In a high preservation area, or within nominated waterways in a preservation area, a permit can only be issued for the following purposes:

- that necessary to control weeds or declared pests;
- for specified works (eg roads, pipelines, powerlines); or
- that necessary to install or maintain authorised works (eg a boat ramp).

Wild river provisions for permits issued under the *Water Act* to destroy instream native vegetation (other than for weed and pest management) are that:

- clearing is limited to the area required for final works plus 5m each side; and
- cleared areas that are not required for final works are to be treated to facilitate natural revegetation by native species.

See *Crossings* if ramps have to be cut into stream banks for access.

For control of non-native weeds and pests – see *Weed and Pest Management*.

## Crossings

A permit is needed to construct a new vehicle or stock crossing in a watercourse, if the work involves earthworks or native vegetation clearing within the outer banks.

If the crossing is in a high preservation area or in a nominated waterway, wildlife corridors, riparian areas, stream banks and bed are to be protected by ensuring:

- the crossing is located on a relatively straight reach of the stream;
- the crossing is at streambed level or, if raised, includes culverts at bed level to allow the stream to flow during low flows;
- the crossing is orientated to within 10° of perpendicular to the stream channel;
- the crossing does not disturb any natural streambed controls (such as bars and riffles);
- the crossing has scour protection on the downstream edge;
- the entry and exit ramps face downstream; and
- the clearing of vegetation in the stream and riparian zone is limited to the width of the works plus 5m each side.

## Levees

In a floodplain management area, a permit is needed to construct a new levee if it interferes with floodplain flows. Levees include bunds, ring tank walls and raised roadways. No permit is required if the levee is:

- not located in a flood channel;
- set back at least 200m from the high banks of a watercourse in a high preservation area or a nominated waterway;
- not longer than 500m across the floodway; and
- no closer than 200m from any adjacent levee.

A permit is required if the levee does not meet the above requirements.

Wild rivers laws do not affect the repair and maintenance of a levee, provided it does not alter the design of the works.

There are no wild river requirements for levee works outside a floodplain management area.

If clearing of any native vegetation clearing is required – see *Clearing*.

### **Quarry material – in-stream**

A quarry material allocation notice and development permit must be obtained before any material can be removed from tidal or non-tidal reaches.

An application for a non-tidal in-stream quarry material allocation will have to demonstrate that the material is to be used for specified works or a residential complex, and that other suitable materials are not available within a reasonable distance (for example, within a 10 km radius). Note that new allocation notices for quarry material in tidal reaches cannot be granted.

A development permit is required to access in-stream quarry material from a new site under an existing or new quarry material allocation notice.

Access points for vehicles and machinery must preserve the stream bed and bank stability during operations and any damage will have to be rectified after operations have ceased.

There are no wild river constraints to accessing water for works associated with quarry material extraction, but a water entitlement is required under the *Water Act 2000*.

If clearing of any native vegetation clearing is required – see *Clearing*.

### **Quarry material – off-stream**

Extraction of quarry material from off-stream sources is an environmentally relevant activity under the *Environmental Protection Act 1994* and requires a development permit, but not a quarry material allocation notice.

In a HPA extraction of quarry material can only occur if it is a low impact activity (a borrow pit no bigger than 10 000m<sup>3</sup>) and for specified works or a residential complex. The screening, washing, crushing, grinding, separating, etc of materials must be undertaken outside of the watercourse and can only occur within a high preservation area if the materials are for specified works or a residential complex.

In a floodplain management area extraction of quarry material can only occur if it is a low

impact activity and for specified works or a residential complex.

Borrow pits in a floodplain management area are self assessable development if they are not deeper than 500mm and comply with the self assessable code. Otherwise they are assessable development.

If clearing of any native vegetation clearing is required – see *Clearing*.

### **Residential Complexes**

A residential complex includes buildings, infrastructure and the land that is used to accommodate up to 50 permanent residents or up to 200 temporary residents. The term includes homesteads, out-stations, and resort complexes. Residential complexes are outside of designated urban areas.

Certain wild river constraints on development activity are relaxed for residential complexes. For example large volumes of fuel can be stored in a high preservation area and material can be quarried – see *Quarry material – instream* and *Quarry material – off stream*.

### **Residential, commercial and industrial activities**

Wild river requirements apply to new residential (including rural residential and urban residential), commercial (e.g. a shop or a motel) and industrial development (e.g. a small factory) outside a designated urban area.

If a change of use of premises is assessable development under a local government planning scheme, the assessment manager must assess the application against the Wild Rivers Code.

Reconfiguring a lot and operational works associated with reconfiguring a lot in a wild river area are both assessable against the Wild Rivers Code.

Wild river requirements do not apply to building, plumbing or drainage works for residential, commercial or industrial developments in the wild river area.

### **Road and track works**

Roads and tracks are specified works for wild river purposes. A permit is needed to construct or maintain a road or track in a floodplain

management area if the work will significantly interfere with floodplain flows – see *Levees*. In this case, culverts will be required to allow floodplain flows to pass through.

If clearing of any native vegetation clearing is required – see *Clearing*.

A permit will be required if the work involves crossing a stream in a high preservation area or a nominated waterway – see *Crossings*.

Wild river requirements will apply if quarry material is required – see *Quarry material – in-stream* and *Quarry material – off stream*.

There are no wild river constraints to accessing water for the works, though a permit is required under the *Water Act 2000*.

### **Sewerage and water treatment plants**

As environmentally relevant activities, new sewage and water treatment plants will require a development permit, and, if outside a designated urban area, be subject to the Wild Rivers Code. Setbacks and maximum land slopes will apply. If the development is to be located in a high preservation area it has to be shown that there are no viable alternative locations outside of the high preservation area.

### **Town water supply**

A declaration does not affect water permits and entitlements existing at the time of declaration.

A declaration can set the rules for granting new water entitlements and may limit the total volume of water that can be taken from a wild river area. This will occur where there is no water resource plan applying to the wild river area. A declaration may reserve a specific volume of water for future urban needs.

All new in-stream dams or weirs in the preservation area need a licence to interfere with the flow and a permit for construction of the works. Wild river requirements under the *Fisheries Act* include the control of erosion and sediment, as well as maintenance of fish passage.

In-stream dams and weirs are not permitted in a high preservation area. If an entitlement to take water from the watercourse in a high preservation area was granted, the water would need to be pumped directly from the stream to, for example, an off-stream storage.

There are no wild river requirements for the construction of a bore in a wild river area. However, the amount of water available from a subartesian management area will be capped.

### **Weed and pest management**

Wild rivers declarations do not prevent you from removing or destroying non-native weeds and pests. However, as is the case outside of a wild river area, if native vegetation is cleared in the process of treating non native weeds and pests, you will need a permit - see *Clearing*.

Wild river provisions for native vegetation clearing applications under the Vegetation Management Act for **weed and pest management** in a high preservation area include:

- limiting clearing to the extent necessary to provide access to, and to control, non-native plants or declared pests;
- ensuring clearing is done in a way that protects wetlands and watercourses;
- ensuring clearing is done in a way that that protects regional ecosystems;
- ensuring clearing is done in a way that minimises soil erosion; and
- ensuring clearing is done in a way that minimises the risks associated with disturbing acid sulfate soils.

For permits issued under the *Water Act* (i.e. clearing within a watercourse), the wild river requirements include:

- clearing is limited to the extent of the weed or pest infestation, plus 5m each side;
- mechanical clearing is limited to 200m sections of bank, spaced at least 200m apart;
- chemicals are registered for use in a watercourse environment; and
- cleared areas are prepared to facilitate the natural regeneration of native vegetation.

A permit is required if tracks have to be cleared in a high preservation area for access to the infestation – see *Tracks*.

See *Crossings* if ramps have to be cut into stream banks for access.