



Settlement wild river declaration 2007 explanatory notes



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Introduction

These explanatory notes provide a ‘plain English’ description of the *Settlement Wild River Declaration 2007*. They aim to assist the reader’s interpretation of the declaration. These notes do not replace or override the declaration, which is a statutory instrument under the *Wild Rivers Act 2005* (the Wild Rivers Act).

For ease of use, the numbering of these notes corresponds to that used in the declaration.

Note: The declaration does not cover all development and resource issues that are regulated under the wild rivers framework. Some issues are dealt with directly by an Act, without reference to the declaration, for example, fish stocking. Appendix 1 of these notes describes these additional requirements in detail.

Also the declaration does not mention matters that are prohibited by an Act, for example, that aquaculture cannot occur within the high preservation area. The declaration is focused on activities that can occur and outlines any wild river constraints on those activities. These notes explain prohibitions as well as wild river constraints.

The purpose of the declaration is to manage future development activity and resource use in the wild river area in order to preserve the wild river’s natural values. Broadly, these natural values are:

- hydrological processes (unimpeded runoff, stream flow, floodplain flow, aquifer recharge and spring discharge);
- geomorphic processes (unimpaired movement of sediments along the river system resulting in stable bed and banks and sediment delivery to estuaries, floodplains and downstream reaches);
- water quality (of sufficient physical, chemical and biological quality to meet human and ecological needs);
- riparian function (intact riparian trees, shrubs and sedges to protect stream banks and to provide food and habitat for native animals); and
- wildlife corridor function (continuous areas of natural habitat within and along the river system to allow native fauna to migrate within their natural ranges).

Part 1 – Preliminary

1 Short title

This section states the name of the declaration.

2 Commencement

The declaration commenced on 28 February 2007.

3 Definitions

The dictionary in schedule 4 of the declaration defines particular words used in the declaration.

Part 2 – Areas to which the declaration applies

4 *Wild river features*

The main features of the Settlement Wild River Area (the ‘wild river area’) are the wild rivers themselves, their major tributaries and certain special features. These are shown on the map in schedule 1 of the declaration.

Wild rivers

The wild rivers are the Settlement Creek, Moonlight Creek, Syrell Creek, Passmore Creek, Cliffdale Creek, Eight Mile Creek and Lagoon Creek. These rivers provide the important hydrologic, geomorphic and wildlife movement linkages between the major tributaries and the Gulf of Carpentaria.

Major tributaries

One major tributary has been identified in the wild river area – Arthurs Creek. This creek flows into Passmore Creek and contributes substantial flow and aquatic habitat to the river system.

Special features

Special features are off-stream areas that have strong hydrologic connections to the river system and play a significant role in maintaining the natural values. The special features of the wild river area are the:

- Lagoon Creek Floodplain Complex;
- Cliffdale Creek Floodplain Complex;
- Moonlight Creek Wetland Aggregation;
- Southern Gulf Wetland Aggregation;
- Wentworth Wetland Aggregation; and
- Coastal Wetland Complex.

These wetlands are connected to the wild rivers during flood events. This connectivity is important for the exchange of sediments, nutrients and seeds between the watercourses and adjacent wetlands. The extensive wildlife corridors provided by these special features also provide important breeding and feeding habitat for a number of different species of native fish, fauna and birds.

5 *Areas*

The geographic extent of the wild river area follows the Settlement basin boundary.

Different areas are identified in the wild river area for management purposes. These management areas are:

- high preservation area;
- preservation area;
- floodplain management area; and

There is no subartesian management area or designated urban area for the wild river area.

The preservation area also contains a number of nominated waterways.

The map in schedule 2 of the declaration shows the wild river area, its management areas and nominated waterways. The exact location of the boundary of the areas and nominated waterways is held in digital electronic form by the department and may be inspected at the department's offices, or downloaded from the Information Queensland website <www.information.qld.gov.au>.

High preservation area

The high preservation area (HPA) is generally based on a one kilometre wide buffer each side of, and including, the wild rivers and their major tributaries. The HPA also covers the special features. As future developments within the HPA would have the most immediate and significant impact on natural values, the most stringent wild river constraints apply to new development activities in this area.

Preservation area

The preservation area (PA) makes up the remainder of the wild river area outside of the HPA. As future developments in the PA would have indirect impacts on natural values, some wild river constraints apply in the PA.

Floodplain management area

The floodplain management area (FMA) is strongly connected to the river system through over-bank and flood channel flows during floods. As future developments in the FMA would have significant impact on floodplain processes that are important to natural values, some wild river constraints on taking or interfering with overland flow water apply in the area.

Nominated waterways

The nominated waterways are small streams and secondary tributaries in the PA that were generally selected based on having at least 25 km² of drainage area. These waterways have tidal and non-tidal reaches and provide important corridor and nursery habitat for aquatic and terrestrial wildlife. Certain wild river constraints apply to future developments within these waterways (between the outer banks) and adjacent to them.

Part 3 – Taking of natural resources

6 *Taking of natural resources*

Sections 7-9 of the declaration outline requirements that will apply to people wanting to take water, quarry material and forest products in the wild river area. These constraints do not apply to licences, allocations, notices and permits (to take these types of resources) that existed at the time of declaration.

These wild river requirements will complement any constraints applied under the *Nature Conservation Act 1992* for taking resources in protected areas listed under the *Nature Conservation (Protected Areas) Regulation 1994*. Also any management plan for protected areas must be consistent with the declaration or provide a greater level of protection than the declaration.

7 *Water entitlements*

Water extraction can have a direct impact on the hydrology natural value and an indirect impact on the water quality and geomorphic natural values. Water entitlement matters are dealt with under the *Water Act 2000* (the Water Act) via water resource plans covering the

wild river area. Waters in, or connected to, artesian aquifers of the Great Artesian Basin are managed under the *Water Resource (Great Artesian Basin) Plan 2006*. Surface waters and subartesian groundwater (not connected to the Great Artesian Basin) will be managed under the *Water Resource (Gulf) Plan 2006* (the Gulf WRP), a draft of which was released for public comment on 26 October 2006. Until a decision on that plan is made, those waters are managed under a moratorium notice dated 6 June 2003.

While the declaration does not deal with water entitlements, the natural values are dependant on sufficient water being retained in the river system. Low and medium sized flows are important for transporting sediments, allowing the migration of aquatic wildlife, maintaining the health of riparian vegetation, and maintaining water quality.

To preserve these natural values, any water resource plan covering all or part of the wild river area, such as the proposed Gulf WRP, and any related resource operations plan, must be consistent with the declaration¹. To achieve this outcome, the declaration requires a number of flow-related issues to be included in the proposed Gulf WRP and considered in water licence decisions until such a plan is made. These issues seek to maintain the natural flow variability, water quality and aquatic habitats that support the natural values of the river system.

It is important that a vast majority of the area's runoff is available to the river system to retain the high degree of naturalness that characterises a wild river area. Therefore it is desirable that the total amount of water available for allocation in a wild rivers area will be limited to less than 1 per cent of the area's mean annual flow unless varied by a water resource plan made under the Water Act. The proposed Gulf WRP is the preferred instrument for setting this amount, taking into consideration the list of criteria in the declaration as well as future water demands. In the event that such a plan is not made, the declaration will be amended to set the amount.

8 Quarry material allocations

Quarry material extraction can have a direct impact on the geomorphic, water quality and wildlife corridor natural values and an indirect impact on the riparian and hydrology natural values. In the non-tidal reaches of watercourses throughout the wild river area the allocation of new riverine quarry material is prohibited under the Water Act unless for specified works (e.g. for a road or railway) or residential complexes (e.g. outstations, homesteads, resorts).

A new allocation for these purposes will not be granted if suitable non-riverine sources are available within a 10km haulage distance of where the material is to be used. Hence there is a preference to access non-riverine sources in order to minimise the need to disturb riverine environments.

In estuary and tidal reaches of watercourses in the wild river area, no new quarry material allocations will be granted under the *Coastal Protection and Management Act 1995*². These areas are particularly sensitive to quarry material operations.

The renewal of a quarry material allocation, existing at the time of declaration, will not be affected by the wild river requirements.

¹ See sections 46, 47, 55, 57, 98, 99, 106 and 205 of the Water Act and section 37 of the Wild Rivers Act

² See section 73(3) of the Coastal Protection and Management Act 1995.

Note that an allocation notice does not authorise the holder to physically remove quarry material. A development permit must also be held. See sections 10, 17 and 31.

9 Forest products

The taking of forest products can have a direct impact on the riparian, water quality and wildlife corridor natural values and an indirect impact on the geomorphic and hydrology natural values. The declaration requires that an authority for getting forest products on State lands under the *Forestry Act 1959* be subject to Part 11 of the *Wild Rivers Code* (the Code). The Code specifies requirements for the following:

- native forest production (for example harvesting log timber and sandalwood); and
- plantation forest production (for example establishment of new plantations).

The declaration requires that any management plan for a State forest, timber reserve, or forest entitlement area within the wild river area must have regard to the requirements of the Code. There are no wild river requirements for private forestry on freehold land.

The Code outlines wild river constraints on getting forest products on State lands, including setback distances, some of which are listed in schedule 3 of the declaration.

Part 4 – Regulating activities

10 Carrying out of activities

Sections 11 to 32 of the declaration outline the wild river requirements that will apply to certain types of new development activity in the wild river area. These will not apply:

- to any development activity (undertaken or planned) that is authorised by a valid permit or licence that existed at the time of declaration;
- to any agriculture or animal husbandry development that existed at the time of declaration and did not require a permit or licence when established;
- to activities that do not require a development permit, licence or authorisation, for example, mustering, camping, etc.

Depending on the type of development activity and the proposed location for the activity, the activity may:

- have no wild river requirements at all;
- need to comply with wild river requirements, as outlined in the declaration; or
- not be permitted at all, as outlined in an Act or the declaration.

Those types of development that pose minimal threat to the natural values (e.g. pasture improvement with non-invasive fodder species) will generally have no wild river requirements.

Most new development³ activities that will be subject to wild river requirements in the declaration are new activities and are assessable under the *Integrated Planning Act 1997* (IPA). Under the IPA, these development activities fall into one of two categories depending on the type of development; self-assessable or code-assessable. Activities that are not assessable through the IPA, (such as in-stream activities requiring a riverine protection permit under the Water Act), are regulated through other applicable Acts. All development is required to meet wild river requirements before the development can be approved.

Those types of new development activities that would have a significantly adverse impact on the wild river natural values are prohibited in the. The mechanism for prohibiting such activities is to deem the application as to not being properly made and the assessment manager must refuse to receive it.

Most activities in the PA are not prohibited, with some being subject to wild river requirements. Development activities listed as code or self-assessable development in the declaration must comply with the requirements of the Code or any other specified codes before the development can proceed. The requirement to comply with the Code does not negate the need to comply with other codes for specific development activities. The assessment manager is legally bound to consider the applicable codes mentioned in the declaration when assessing a new development activity.

The triggers for assessment of development from a wild rivers perspective are specified in the declaration. The specific requirement for each relevant activity is explained in the following sections.

Approvals to carry out activities in the wild river area are still subject to existing legislative requirements. It is the responsibility of the person carrying out an activity to ensure they comply with all existing local, state, and federal legislative processes. For example, a large industrial development that is subject to wild river requirements may also need to consider the requirements of the *Aboriginal Cultural Heritage Act 2003* and obtain necessary approvals under the *Environmental Protection Act 1994*.

The carrying out of activities in protected areas is also subject to the requirements of the *Nature Conservation Act 1992*. The management plan for a national park may be inconsistent with the declaration only to the extent that the management plan provides for a greater level of protection for the area than is provided for in the declaration.

Division 1 – Carrying out water works

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

Water extraction is directly linked to the hydrology natural value and indirectly to the water quality and geomorphic natural values.

³ Development is broadly defined under the *Integrated Planning Act 1997* as one or more of the following activities:

- carrying out building work – e.g. building a house or demolishing an office block;
- carrying out plumbing or drainage work – e.g. installing domestic plumbing and house drainage;
- carrying out operational work – including clearing vegetation, fill excavating, or otherwise undertaking work in, on, over, or under premises (e.g. engineering works required for the construction of a new road or a water reticulation system);
- reconfiguring a lot – e.g. subdivision of lot boundaries or creating an access easement; or
- making a material change of use – including starting a new use, increasing the intensity of use, and re-establishing a new use (e.g. changing use of land from agricultural purposes to a commercial development).

Operational work to take water from a non-tidal watercourse, lake, or spring, for purposes other than for riparian water access for stock or domestic use, is assessable development and requires a development permit. There are no wild river requirements for such works.

Approval can not be granted under the Water Act to build a dam or weir in a non-tidal watercourse or lake within the HPA for any purpose.

Approval can not be granted under the Water Act for operational work to divert (or re-align) the flow in a non-tidal watercourse or lake in the HPA or in a nominated waterway. Such works include moving the channel, redirecting water through the new channel, excavating the banks to cause the redirection of water, and canal developments.

In addition to the requirements under the Water Act, a watercourse cannot be diverted for road works, railways and busway transport infrastructure under the *Transport Infrastructure Act 1994*⁴.

Note that operational work to take water from a non-tidal watercourse, lake or spring for riparian water access for stock or domestic purposes is self-assessable development and there are no wild river requirements. No development permit is required, but the work must comply with the *Self-assessable Code for the Development of Riparian Water Access Works on a Watercourse, Lake or Spring*.

12 Taking of overland flow water

This section applies to new operational work that allows the taking of overland flow water in the HPA or the FMA. There are no wild river requirements for works in the PA that are outside of the FMA.

Overland flow water includes rainfall runoff that travels over land before it reaches the watercourse as well as the overbank flows that have broken outside of a watercourse.

Taking overland flow water can have a direct impact on the hydrology natural value and an indirect impact on the water quality and geomorphic natural values.

Works constructed for the purpose of capturing or extracting overland flow water for any use include:

- (i) storages (gully dams and ring tanks where overland flow is pumped from a sump);
- (ii) sumps, drains, pumps and channels for taking water or transferring overland flow;
- (iii) any storage connected to another storage that takes overland flow; or
- (iv) levees and diversion banks used to direct water into a storage or increase the amount of water that infiltrates the soil (for example, levees designed to increase beneficial flooding).

In the HPA such work is either:

- self-assessable development
- code-assessable development
- exempt from wild river requirements
- prohibited

In the FMA, such work is either:

⁴ See sections 39, 167 and 306 of the *Transport Infrastructure Act 1994*.

- self-assessable development;
- code-assessable development; or
- exempt from wild river requirements.

Such work is self-assessable development if:

- the water is for stock or domestic purposes; and
- the work complies with the requirements under Part 6(A) of the Code.

Such work that is code-assessable development if:

- the water is for stock or domestic purposes but the works do not comply with Part 6(A) of the Code; or
- the water is for other purposes in the HPA and FMA, and the works are not more than 250ML in capacity in the HPA.

Such work that is exempt from wild river requirements if:

- the works were existing or lawfully started at the time of declaration; or
- the repair and maintenance of existing or approved works does not alter the design of the works.

Such work is prohibited in the HPA if it is not self-assessable, code-assessable or exempt from wild river requirements, as outlined above. There are no prohibited works in the FMA.

13 Interfering with overland flow water

This section applies only to the FMA.

Interfering with overland flow water is the diverting or draining of water away from or to an area, but does not result in water use. Works may include levees, diversions, drains and bunds. Interfering can also occur if a structure is placed in the flow path, for example a ring tank (that is not used to take or store overland flow water) on a floodplain.

Such interference can have a direct impact on the hydrology natural value and an indirect impact on the water quality and geomorphic natural values.

In the FMA such work is either:

- code-assessable development;
- self-assessable development;
- exempt from wild river requirements; or
- prohibited.

Such work is self-assessable development if it complies with Part 7(A) of the Code and is:

- a borrow pit that is no deeper than 500 mm; or
- for a commercial and industrial development (for example levees around a service station or aquaculture facility) or another non-domestic agricultural building (for example a farm or packing shed).

Such work that is code-assessable development if it is:

- for specified work (for example a road);
- an enclosed, off-stream storage for storing water taken from a watercourse, lake, spring or aquifer (e.g. a ring tank);

- work for a commercial and industrial development (for example. levees around a service station or aquaculture facility) or another non-domestic agricultural building (for example. a farm or packing shed).

Such work is exempt from wild river requirements if:

- it existed or had lawfully started at the time of declaration;
- the repair and maintenance of existing or approved works does not alter the design of the works;
- it is an open drain or trench that is on average less than 300 mm deep below original ground level;
- it is in a designated urban area; or
- it is for a residential development other than for specified work or an off-stream storage.

Such work is prohibited if it is not self-assessable, code-assessable or exempt from wild river requirements, as outlined above.

Division 2 – In-stream works and activities

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

Disturbing riverine environments can have a direct impact on the geomorphic, water quality, riparian and wildlife corridor natural values and an indirect impact on the hydrology natural value.

Under the Water Act, a riverine protection permit is needed to destroy vegetation, excavate or place fill in a non-tidal watercourse, lake or spring. In the wild river area, an application for a riverine protection permit in the HPA or nominated waterway can only be made if it relates to:

- specified works;
- the control of non-native plants or declared pests;
- an unavoidable part of installing or maintaining authorised works; or
- infrastructure that is needed to support other developments for which a development permit is not required, is held, or has been applied for before the declaration commenced.

Any riverine protection permit granted for the above purposes will be subject to Part 9 of the Code. There are no wild river requirements for riverine protection permits on watercourses outside of nominated waterways or the HPA.

15 Waterway barriers

Waterway barriers can have a direct impact on the wildlife corridor and geomorphic natural values and an indirect impact on the water quality, riparian and hydrology natural values.

New operational work for constructing or raising a waterway barrier (such as a weir) in the wild river area is assessable development. Such work is prohibited⁵ in the HPA under the *Fisheries Act 1994* (the Fisheries Act) and code-assessable in the PA. An application for a development permit must comply with Part 8 of the Code before approval can be given..

⁵ See section 76DA of the *Fisheries Act 1994*.

16 Works in declared fish habitat areas

Works that disturb fish habitat areas can have a direct impact on the riparian wildlife corridor and geomorphic natural values and an indirect impact on the water quality and hydrology values.

There are wild river constraints on operational work in declared fish habitat areas unless the works are self-assessable.

Self-assessable works are those for:

- the purpose of maintaining existing structures;
- educational purposes; or
- research purposes.

In the HPA, such work for other purposes is prohibited⁶ unless it is for specified works (which will require a development permit). An application for a development permit must comply with Part 4 of the Code before approval can be given.

In the PA, such work is code-assessable (requiring a development permit). An application for a permit must comply with the requirements under Part 4 of the Code before development approval can be given.

17 Riverine quarry material extraction

Quarry material extraction can have a direct impact on the geomorphic, water quality and wildlife corridor natural values and an indirect impact on the riparian and hydrology natural values.

This section applies to new development for riverine quarry material extraction in a wild river area that is not an environmentally relevant activity (which is covered in section 31).

Such development can only occur if an allocation notice under the Water Act is held (see section 8). All aspects of the extraction operation are assessable development. An application must comply with Part 10 of the Code before a development permit can be granted.

A development permit existing at the time of declaration is not affected. However, operators wishing to move an existing operation to a new site within the watercourse will be required to comply with the Code for the new site.

In addition to the above requirements, quarry material cannot be extracted under the *Transport Infrastructure Act 1994*⁷.

⁶ See section 76DC of the *Fisheries Act 1994*.

⁷ See sections 35, 39, 167 and 306 of the *Transport Infrastructure Act 1994*.

Division 3 – Activities in tidal areas

18 Remove, damage or destroy marine plants

The loss of marine plants can have a direct impact on the geomorphic, riparian and wildlife corridor natural values and an indirect impact on the hydrology and water quality natural values.

New operational works that remove, destroy or damage marine plants (defined under the Fisheries Act) are prohibited⁸ in the wild river area unless the activity is either:

- code-assessable development; or
- self-assessable development.

Such activity is code assessable development if it is:

- for specified works; or
- necessary to install authorised works or infrastructure where a development permit is not required (or if a permit is required is held or had been applied for at the time of declaration).

An application for a development permit must comply with Part 4 of the Code before approval can be given.

Such activity is self-assessable development if it is:

- associated with the maintenance of existing structures;
- for educational purposes;
- for research purposes; or
- required for monitoring the impact of development on marine plants.

There are no wild river requirements for self-assessable development.

19 Works in a coastal management district

Works in tidal areas can have a direct impact on the geomorphic, hydrology, riparian and wildlife corridor natural values and an indirect impact on the water quality natural value.

Part of the Burke Shire Coastal Management District⁹ is within the wild river area. Tidal work for specified works in this district is assessable development under the *Coastal Protection and Management Act 1995*. An application for a development permit must comply with the requirements under Part 4 of the Code before approval can be given.

Tidal operational works for any other purpose is prohibited¹⁰ in the wild river area.

Division 4 – Mining and petroleum activities

Subdivision 4A Mining tenements

⁸ See section 76DB of the *Fisheries Act 1994*.

⁹ Coastal management districts are declared under the *Coastal Management and Protection Act 1995*. Pending the preparation of a Regional Coastal Management Plan for the Gulf of Carpentaria, areas previously delineated as erosion prone areas under the *Beach Protection Act 1968* are taken to be the Coastal Management District for this region.

¹⁰ See section 104A of the *Coastal Protection and Management Act 1995*.

20 Conditions on mining tenements

Mining activities within and near rivers can have a direct impact on the geomorphic, hydrology, water quality and wildlife corridor natural values and an indirect impact on the riparian natural value.

When mining tenements¹¹ are granted or renewed under the *Mineral Resources Act 1989* (the Mineral Resources Act) in the wild river area they must include the conditions outlined in the declaration. The conditions specify setback distances from watercourses and lakes in the HPA and from nominated waterways in the PA for different mining tenements (i.e. the greater the potential impact of the mining activity, the greater the setback).

Other wild river constraints applying to mining activities in the wild river area are:

- only limited hand sampling techniques¹² are permitted in a watercourse or lake in a HPA or a nominated waterway under an exploration permit;
- only low impact exploration activities (as defined under the Mineral Resources Act) under an exploration permit are permitted in the HPA outside of a watercourse or lake;
- mining beneath the HPA or a nominated waterway under a mining lease can only occur at a sufficient depth that will not cause it to impact on the wild river natural values;
- surface mining can not occur in the HPA; and
- mining in a nominated waterway under a mining lease can only occur if an environmental impact statement (EIS) demonstrated that:
 - the wild river natural values will be preserved;
 - the resource could not be accessed via underground mining; and
 - the resource is of sufficient value to warrant the grant of a mining lease in such a sensitive location.

Subdivision 4B Environmental authority (mining activity)

Mining activities, except those relating to prospecting permits, mining claims and exploration permits in the PA (outside of a nominated waterway), are to be assessed under the *Environmental Protection Act 1994* (the Environmental Protection Act) as Level 1 mining projects. Activities under an exploration permit in the PA (outside of a nominated waterway) will continue to be assessed as a Level 1 or Level 2 mining project, depending on the level of environmental impact.

21 Decision on environmental impact statement requirement

When an application for an environmental authority (mining lease) includes all, or part of, the HPA or a nominated waterway, there is an automatic EIS requirement for the application.

¹¹ A mining tenement means a prospecting permit, mining claim, exploration permit, mineral development licence or a mining lease.

¹² Limited hand sampling techniques generally means –

- samples up to 20 kg;
- only using non-mechanical means; and
- digging less than 1m deep, removing less than 1 cubic metre and at sites at least 250 m apart.

22 Terms of reference for an environmental impact statement

This section requires that the draft terms of reference for an EIS includes the key questions an applicant for an environmental authority (mining lease) must answer in the EIS.

23 Decision about environmental management plan requirement

There is an automatic requirement for an applicant to develop an environmental management plan if the applicant is applying for a non-code compliant environmental authority for:

- prospecting;
- mining claim; or
- exploration.

24 Conditions to be imposed

An environmental authority for certain types of mining activity may be subject to conditions set in the declaration which relate to the natural values of the wild river area. An applicant preparing a management plan for a Level 1 mining project is also required to consider the natural values and state how the project will minimise its effects on these values. The conditions are:

- contaminated wastewater must not enter receiving waters of a watercourse or lake in the HPA or a nominated waterway; and
- the minimum depth (as identified in an EIS) below the surface where activities can occur as a part of a mining lease.

An environmental authority for a mining activity is not subject to the wild river requirements for ERAs under Part 3 of the Code.

Subdivision 4C Petroleum activities

25 Environmental authority (petroleum activity)

Petroleum activities within and near rivers can have a direct impact on the hydrology, water quality and wildlife corridor natural values and an indirect impact on the geomorphic and riparian natural values.

The natural values of the wild river must be considered when an environmental authority for a petroleum activity under the Environmental Protection Act is granted or renewed. Conditions that must be imposed relate to setbacks from watercourses and lakes in the HPA and nominated waterways. These setbacks are important to preserve natural values, in particular wildlife corridors, riparian function and water quality.

Division 5—Other activities

26 Commercial fishing

The natural values of the wild river area must be considered when a new commercial fishing authority is granted under the Fisheries Act for all or part of the wild river area. This requirement does not apply to the renewal, trading or leasing of commercial licences existing at the time of declaration, or to the collection of brood stock for hatcheries.

27 Aquaculture

Establishing an aquaculture facility can have a direct impact on the water quality natural value and an indirect impact on the wildlife corridor and riparian natural values.

A material change of use to establish an aquaculture facility under the Fisheries Act in the wild river area is assessable development. Those facilities assessed as ERAs are dealt with under section 31. A new aquaculture development is prohibited¹³ in the HPA and assessable in the PA. An application for a development permit must comply with Part 2 of the Code before approval can be given. Setback distances for the code are listed in schedule 3 of the declaration.

28 Agricultural activities

Establishing an agricultural area can have a direct impact on the geomorphic and water quality natural values and an indirect impact on the wildlife corridor and riparian natural values.

Agricultural activities relate to the establishment of new plant production areas, other than forestry, for commercial purposes, including the expansion of existing areas. This includes developments such as cropped areas, market gardens and orchards.

The following are not agricultural activities for the purpose of wild rivers:

- producing agricultural products for the domestic needs of the occupants of the land;
- baling and/or cutting pasture;
- broadcasting seed to establish improved pasture and pasture improvement using low impact techniques (e.g. direct drilling and crocodile seeders); or
- fodder production in the PA where a development permit is not required.

A new agricultural activity is prohibited in the HPA¹⁴ and assessable in the PA. To establish new agricultural activities in the PA it is necessary to first apply to make a material change of use of the land. An application for a development permit must comply with Part 1 of the Code before approval can be given. Setback distances and land slopes for the Code are listed in schedule 3 of the declaration.

Fodder production in the PA is not subject to wild river requirements if it includes pasture or grain species that are cultivated, harvested, lightly processed and used solely for animal feed.

Where crop rotation practices are used, all areas included in the rotation scheme would be considered as part of that agricultural development.

29 Animal husbandry activities

Establishing an animal husbandry facility can have a direct impact on the geomorphic and water quality natural values and an indirect impact on the wildlife corridor and riparian values.

Animal husbandry activities are the establishment of animal production facilities for commercial purposes (other than aquaculture and ERAs), such as crocodile farms, lamb

¹³ See section 76DA of the *Fisheries Act 1994*.

¹⁴ See section 42 of the *Wild Rivers Act 2005*.

feedlots and emu farms. It does not include the establishment of open paddocks for the grazing of livestock.

Establishing pens and yards for domestic and working animals, temporarily holding stock and supplementing the nutritional needs of livestock is not animal husbandry for wild river purposes.

To establish a new animal husbandry facility in the wild river area, it is necessary to apply to make a material change of use of the land. New animal husbandry development is prohibited in the HPA¹⁵ and assessable in the PA. An application for a development permit must comply with Part 1 of the Code before approval can be given. Setback distances and land slopes for the Code are listed in schedule 3 of the declaration.

The declaration does not specify any wild river requirements for operational works related to animal husbandry development, e.g. earthworks.

30 Native vegetation clearing

This section applies to native vegetation clearing in the HPA. There are no wild river requirements for native vegetation clearing in the PA.

The loss of native vegetation in the high preservation area can have a direct impact on the geomorphic, riparian and wildlife corridor natural values and an indirect impact on the hydrology and water quality natural values.

Native vegetation under the *Vegetation Management Act 1999* (the Vegetation Management Act) does not include marine plants (see section 18). Clearing includes removing (pushing, pulling, cutting, etc) and destroying (ring-barking, burning, etc.) vegetation.

Operational work for clearing native vegetation in the HPA is assessable and requires a development permit. The HPA is taken to be an area of high nature conservation value and clearing is only permitted under section 22A (2A) of the Vegetation Management Act for the following relevant purposes:

- to control non-native plants or declared pests (e.g. clearing for control of lantana);
- to ensure public safety (e.g. removal of trees that are likely to fall into public spaces such as parks and roads, endangering human life);
- to establish a necessary fence, firebreak, road or other built infrastructure;
- as a natural and ordinary consequence of other approved development or proposed development for which an application was made before 16 May 2003;
- for clearing encroachment (e.g. for clearing an invading woody species from a natural grassland); or
- for clearing re-growth in an area of registered agriculture.

An application must comply with Part 12 of the Code before approval can be given. Setback distances and land slopes for the Code are listed in schedule 3 of the declaration

There are no wild river requirements in relation to mechanisms for the control of declared weeds and pests in the wild river area, provided native vegetation is not cleared. Under the *Land Protection (Pest and Stock Route Management) Act 2002* a pest control notice may also

¹⁵ See section 42 of the *Wild Rivers Act 2005*.

be issued for a Class 3 pest; notices may be issued for Class 1 or 2 pests under existing processes.

31 Environmentally relevant activities

This section does not apply to ERAs that are mining or petroleum activities.

An ERA can have a direct impact on the water quality, geomorphic, riparian and wildlife corridor natural values and an indirect impact on the hydrology natural value.

Making a material change of use of premises for new ERAs in the wild river area is assessable development.

New ERAs are prohibited in the HPA¹⁶ except:

- ERA 15 (sewage treatment) and 16 (municipal water treatment plant);
- ERA 19 (dredging);
- ERA 20 (extracting rock and other material) in a watercourse or lake if an allocation notice is held under the *Coastal Protection and Management Act 1995* or the *Water Act*;
- ERA 20 (extraction) if small scale, off-stream and for specified works; and
- ERA 22 (screening) if undertaken off-stream.

ERAs that are not prohibited in the HPA are assessable development.

In the PA, new ERAs are assessable development except ERA 20 which is prohibited in-stream unless an allocation notice is held.

For ERAs that are assessable in the HPA and the PA, applicants must obtain a development permit. An application for a development permit must comply with Part 3 of the Code before approval can be given. However if the development is an ERA 19, 20 or 22 for the purposes of riverine quarry material extraction, Part 10 of the Code applies. Setback distances and land slopes for the Code are listed in schedule 3 of the declaration.

32 Residential, commercial or industrial development

Residential, commercial and industrial developments can have a direct impact on the water quality, geomorphic and hydrology natural values and an indirect impact on the riparian and wildlife corridor natural values.

There are no wild river requirements for reconfiguring a lot in the wild river area. Reconfiguring a lot includes the subdivision or amalgamation of lots, or the realignment of boundaries or creation of an easement. However, wild river requirements apply to development applications relating to operational work associated with the reconfiguring a lot in the wild river area. Such work refers to the physical activities required to reconfigure the lot, for example construction of an access track or road.

There are no wild river requirements for a material change of use of land in the wild river area, unless the change of use is assessable development under a local government planning

¹⁶ See section 73AA of the *Environmental Protection Act 1994*.

scheme. Material change of use of land could apply to new residential, commercial or industrial development.

There are no wild river requirements for operational work in relation to new residential, commercial or industrial development in the wild river area, unless the operational works is made assessable development under a local government planning scheme.

Where work is assessable, an application for a development permit must comply with Part 5 of the Code before approval can be given. Setback distances and land slopes for the Code are listed in schedule 3 of the declaration.

There are no wild river requirements for building, plumbing, or drainage works in the wild river area.

Schedule 1 – Wild river features

This schedule shows the wild rivers, major tributaries and special features of the wild river area in map form.

Schedule 2 – Areas

This schedule shows the management areas, including the HPA, PA, FMA and nominated waterways in map form. The exact location of management area boundaries and the location of the nominated waterways is available from the department as global positioning system (GPS) coordinates.

Schedule 3 – Setbacks and slopes

This schedule details the setback distances and land slopes requirements outlined in the Code that relate to the wild river area.

Required outcomes are listed in the Code as requirements that must be met for a particular type of development activity. They are broadly linked to the preservation of one or more of the wild river natural values. The Code also lists preferred ways of achieving each required outcome. These are referred to as probable solutions.

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, made under the *Vegetation Management Act 1999*. Despite the difference in terminology, the different Parts of the Code operate in the same way.

Schedule 4 – Dictionary

This schedule presents a glossary of terms used in the declaration.

Appendix 1 – Other wild river requirements

This appendix outlines certain activities which are constrained by wild river requirements but not mentioned in the declaration. The declaration only addresses those activities that are subject to specific limits or Code requirements. Those dealt with in this appendix are either directly prohibited or subject to a requirement under an Act, irrespective of the declaration. The purpose of this appendix is to make readers aware of these other wild river requirements.

Fish stocking

Under the Fisheries Act, a person is not permitted to release non-indigenous fish (i.e. those species not occurring naturally in the Settlement Creek system) into waterways and lakes in the wild river area. This includes the use of live bait for recreational fishing. For example, if a recreational fisherman wants to fish using freshwater prawns as bait, those prawns would have to occur naturally in the wild river area, whether personally caught in the area or bought commercially.

The declaration does not affect recreational fishing or existing laws relating to recreational fishing catch limits or equipment, except the type of live bait used. Also, there are no wild river requirements for fishing from the banks of a watercourse, from a boat within the river or camping along rivers, including the storage of fuels and refuelling boats.

Fossicking

Under section 3 of the *Fossicking Act 1994*, the HPA and the nominated waterways are defined as protected areas, therefore fossicking licences can not be granted for sites within these areas. There are no wild river requirements for fossicking in the PA outside of a nominated waterway.

Projects of state significance

Development applications for projects of state significance under the *State Development and Public Works Organisation Act 1971* must be assessed against the applicable codes identified in the declaration.