



Wild Rivers Act 2005

Current as at 23 May 2013

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Queensland

Wild Rivers Act 2005

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Wild Rivers Act 2005

[as amended by all amendments that commenced on or before 23 May 2013]

An Act to provide for the preservation of the natural values of wild rivers, and for related purposes

Part 1 Preliminary

Division 1 Introduction and purpose of Act

1 Short title

This Act may be cited as the *Wild Rivers Act 2005*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purpose of Act

- (1) The purpose of this Act is to—
 - (a) preserve the natural values of rivers that have all, or almost all, of their natural values intact; and
 - (b) provide for the preservation of the natural values of rivers in the Lake Eyre Basin.
- (2) The purpose is to be achieved mainly by establishing a framework that includes the declaration of wild river areas that will or may include the following—
 - (a) high preservation areas;

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- (b) preservation areas;
 - (c) floodplain management areas;
 - (d) special floodplain management areas;
 - (e) subartesian management areas.
- (3) Through the framework mentioned in subsection (2), this Act and other Acts achieve the purpose mentioned in subsection (1) by—
- (a) providing for the regulation of particular activities and taking of natural resources in a wild river and its catchment to preserve the wild river's natural values; and
 - (b) having a precautionary approach to minimise adverse effects on known natural values and reduce the possibility of adversely affecting poorly understood ecological functions; and
 - (c) treating a wild river and its catchment as a single entity, linking the condition of the river to the health of the catchment; and
 - (d) considering the effect of individual activities and taking of natural resources on a wild river's natural values; and
 - (e) considering the cumulative effect of activities and taking of natural resources affecting a wild river area when further activities or taking are proposed; and
 - (f) if a wild river crosses a State border—working with the other State to encourage preservation of the wild river's natural values in the other State.

4 Act binds all persons

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

Division 2 Interpretation

5 Definitions

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

6 Meaning of *nominated waterway*

- (1) A *nominated waterway*, for a wild river declaration, is the part of a drainage channel in the preservation area that—
- (a) is between the upstream and downstream limits, described in the wild river declaration, of the drainage channel; and
 - (b) extends laterally to the outer banks of the drainage channel.

- (2) In this section—

depositional feature means a deposit of clay, sand or silt that is carried in suspension during high flows and deposited in areas where there is a slow flow of water.

Examples—

- mud deposited in cracks in rocks
- sand deposits behind rocks

drainage channel means a passageway or depression that can contain flowing water, whether flowing continuously or periodically.

floodplain means an area of relatively flat land—

- (a) next to a drainage channel; and
- (b) covered by water when water overflows from the drainage channel.

outer bank, of a drainage channel, means—

- (a) if there is a floodplain next to the drainage channel—the place where the top of the bank of the drainage channel meets the floodplain; or

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- (b) if there is not a floodplain next to the drainage channel—the place on the bank of the drainage channel marked by a scour mark or depositional feature.

scour mark means—

- (a) a mark made on a bank of a drainage channel by the sweeping action of suspended sediments in water during high flows; or
- (b) a mark that can be identified by weathering stains, or the absence of lichens, on erosion-resistant surfaces of a bank of a drainage channel.

Example of an erosion-resistant surface—

rock

Part 1A Codes

Division 1 Wild rivers code

6A What is the *wild rivers code*

- (1) The *wild rivers code* is the ‘Wild Rivers Code’ made by the Minister on 30 January 2007, or that code as amended from time to time under this division.
- (2) The wild rivers code is a statutory instrument under the *Statutory Instruments Act 1992*.

6B Code amendments

- (1) The Minister may amend the wild rivers code.
- (2) Subject to section 6C, an amendment of the wild rivers code takes effect when—
- (a) it is approved by the Governor in Council; and
- (b) the approval is gazetted.

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- (3) The Minister must table a copy of the amendment in the Legislative Assembly within 14 sitting days after the Governor in Council's approval of the amendment is gazetted.
 - (4) In this section—
amend includes replace.

6C Code amendments not requiring gazettal or tabling

- (1) This section applies if the Minister amends the wild rivers code and the amendment is a minor amendment or permitted amendment of the code.
- (2) The amendment takes effect when it has been approved by the Governor in Council.
- (3) The requirements of section 6B do not otherwise apply for the amendment.
- (4) In this section—

minor amendment, of the wild rivers code, means an amendment that is only to correct a minor error in the code or to make another change that is not a change of substance.

permitted amendment, of the wild rivers code, means an amendment of—

- (a) a provision of the code about a suggested way of achieving a required outcome under the code; or
- (b) a definition in a dictionary in the code; or
- (c) a provision of the code to make it consistent with a regional vegetation management code under the *Vegetation Management Act 1999*.

6D Publication of wild rivers code

The chief executive must keep a copy of the wild rivers code available for inspection by the public—

- (a) at the department's head office and regional offices during office hours on business days; and

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- (b) on the department's web site.

Division 2 Codes generally

6E Code for IDAS

If a wild river declaration includes a reference to the wild rivers code or another code, then, in relation to IDAS, the code is a code for IDAS.

Part 2 Wild river areas

Division 1 Declaring wild river areas

7 Minister may declare wild river areas

The Minister may declare a part of the State to be a wild river area.

Note—

See section 16 for when a declaration has effect.

8 Public notice of intention to declare wild river area

- (1) If the Minister intends to declare a part of the State to be a wild river area, the Minister must publish a notice of the Minister's intention (a *notice of intent*).
- (2) The notice of intent must state—
 - (a) the reasons for the proposed declaration; and
 - (b) the name of the proposed wild river; and
 - (c) the area proposed to be declared a wild river area; and

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- (d) the areas proposed to be declared the high preservation area and the preservation area; and
 - (e) where the following information may be obtained—
 - (i) further information about the proposed declaration;
 - (ii) a document describing the moratorium that will have effect under section 10 during the moratorium period.
- (3) The notice of intent may propose to declare more than 1 river in the proposed wild river area to be a wild river.

9 Moratorium period

- (1) For the notice of intent and the moratorium, the moratorium period is the following period—
- (a) from the later of the following—
 - (i) the day stated in the notice as the start of the moratorium;
 - (ii) the day the notice is published;
 - (b) until the earliest of the following—
 - (i) the day the wild river declaration for the proposed wild river area has effect;
 - (ii) the day the Minister decides under section 15 not to make a declaration;
 - (iii) the day that is 12 months after the later of the days mentioned in paragraph (a) (the **12 month period**) or, if the Minister has extended the 12 month period, the day to which the period has been extended.
- (2) The Minister may, before the 12 month period expires, extend the period by not more than 12 months by publishing a notice (a **moratorium extension notice**).

10 Application of moratorium

- (1) During the moratorium period, a moratorium has effect in the way stated in subsections (2) to (4) in the proposed wild river area.
- (2) For the *Water Act 2000*, the notice of intent and the document describing the moratorium for the notice is taken to be a moratorium notice and, to the extent stated in the notice and document—
 - (a) an application for the grant of a water entitlement for taking water in a watercourse, lake or spring or interfering with the flow of water, or taking overland flow water or subartesian water, in the proposed wild river area, will not be accepted or, if received before the moratorium period and not decided, will not be decided if granting the application would have 1 or more of the effects mentioned in that Act, section 26(2)(a) to (f); and
 - (b) new works must not be started and completed works must not be raised, enlarged, deepened or changed if the works would have an effect mentioned in that Act, section 26(5)(a) to (d).
- (4) For the *Mineral Resources Act 1989*, chapter 12, part 3, other than section 334ZA—
 - (a) the proposed wild river area is taken to be a wild river area; and
 - (b) the proposed high preservation area is taken to be a high preservation area; and
 - (c) the proposed preservation area is taken to be a preservation area; and
 - (d) the proposed special floodplain management area is taken to be a special floodplain management area.

11 Public notice about declaration proposal

- (1) As soon as practicable after publishing the notice of intent, the Minister must—

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- (a) prepare a proposal (a *declaration proposal*) for the proposed wild river area; and
 - (b) publish a notice about the declaration proposal (a *declaration proposal notice*).
- (2) The declaration proposal notice must state—
- (a) the proposed wild river area to which the declaration proposal notice relates; and
 - (b) where copies of the declaration proposal are available for inspection and purchase; and
 - (c) that written submissions may be made by any entity about the declaration proposal; and
 - (d) the day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(d) must not be earlier than 20 business days after the day the declaration proposal notice is published.
- (4) If the Minister has prepared the declaration proposal before publishing the notice of intent for the proposed wild river area, the matters mentioned in subsection (2) may be included in the notice of intent.

12 Content of declaration proposal

- (1) The declaration proposal may include, but is not limited to, the following information—
- (a) a description of the proposed wild river and wild river area;
 - (b) the natural values of the proposed wild river that the proposed wild river declaration is intended to preserve (the *relevant natural values*);
 - (c) details of any special features of the proposed wild river area;

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- (d) the location of the proposed high preservation area and preservation area;
- (e) the location of any proposed floodplain management area;
- (ea) the location of any proposed special floodplain management area;
- (f) the location of any proposed subartesian management area;
- (g) details of the major tributaries of the proposed wild river;
- (h) the location of any proposed nominated waterway in the wild river area;
- (i) the location of any designated urban area;
- (j) the way in which the moratorium has effect for the proposed wild river area;
- (k) any carrying out of activities or taking of natural resources proposed to be prohibited or regulated in the proposed wild river area;
- (l) the matters that must be considered in deciding whether to allow the carrying out of an activity or the taking of a natural resource in the proposed wild river area;
- (m) the types of works for taking overland flow water in the proposed wild river area that are intended to be assessable or self-assessable development under the Planning Act;
- (n) the types of works for interfering with overland flow water in any floodplain management area or special floodplain management area in the proposed wild river area that are intended to be assessable or self-assessable development under the Planning Act;
- (o) the types of works for taking subartesian water in any subartesian management area in the proposed wild river area that are intended to be assessable or self-assessable development under the Planning Act;

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- (p) the proposed threshold limits and a reference to any codes, including codes for IDAS, for carrying out activities and taking natural resources in the proposed wild river area;
 - (q) a process for granting, reserving or otherwise dealing with unallocated water in the proposed wild river area;
 - (r) any plant species that has a high risk of having an adverse impact on the relevant natural values;
 - (s) any plant species that has a moderate risk of having an adverse impact on the relevant natural values;
 - (t) details of the community consultation that will take place on the declaration proposal;
 - (u) where a detailed map of the proposed wild river area, showing the proposed wild river and the information mentioned in paragraphs (c) to (g), may be obtained;
 - (v) where further information about the proposed declaration may be obtained.
- (2) The declaration proposal may propose to declare more than 1 river in the proposed wild river area to be a wild river.

13 Matters Minister must consider

- (1) In preparing a wild river declaration, the matters the Minister must consider include—
- (a) the results of community consultation on the declaration proposal; and
 - (b) all properly made submissions about the declaration proposal; and
 - (c) any water resource plan or resource operations plan that applies to all or part of the proposed wild river area; and
 - (d) if the Minister has established an Indigenous reference group for the proposed wild river area—advice from the group about the declaration proposal.

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- (2) To the extent a water resource plan or a resource operations plan applies to all or part of the proposed wild river area, the wild river declaration must not be inconsistent with the water resource plan or the resource operations plan other than in relation to the matters mentioned in section 14(1)(k) to (p) and (3).
- (3) Subsection (1) does not limit the matters the Minister may consider.

14 Content of wild river declaration

- (1) A wild river declaration must include, but is not limited to, the following information—
 - (a) a description of the wild river and wild river area;
 - (b) the natural values of the wild river that the declaration is intended to preserve (the *relevant natural values*);
 - (c) details of any special features of the area;
 - (d) the location of the high preservation area and preservation area;
 - (e) the location of any floodplain management area;
 - (ea) the location of any special floodplain management area;
 - (f) the location of any subartesian management area;
 - (g) the location of any designated urban area;
 - (h) the major tributaries of the wild river;
 - (i) the location of any nominated waterway;
 - (j) any carrying out of activities or taking of natural resources that are prohibited or regulated in the wild river area under the declaration;
 - (k) the matters that must be considered in deciding whether to allow the carrying out of an activity or the taking of a natural resource in the wild river area;

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- (l) the types of works for taking overland flow water in the wild river area that are assessable or self-assessable development under the Planning Act;
 - (m) if there is a floodplain management area or special floodplain management area in the wild river area—the types of works for interfering with overland flow water in the floodplain management area or special floodplain management area that are assessable or self-assessable development under the Planning Act;
 - (n) if there is a subartesian management area in the wild river area—the types of works for taking subartesian water in the subartesian management area that are assessable or self-assessable development under the Planning Act;
 - (o) information about water available for future consumptive purposes and the priorities for use or reservation of the water;
 - (p) any threshold limits for carrying out activities or taking natural resources in the wild river area;
 - (q) any plant species that has a high risk of having an adverse impact on the relevant natural values;
 - (r) any plant species that has a moderate risk of having an adverse impact on the relevant natural values;
 - (s) where a detailed map of the wild river area, showing the wild river and the areas mentioned in paragraphs (c) to (i), may be obtained.
- (2) A wild river declaration may state that all or part of a code for IDAS is an applicable code for development stated in the wild river declaration.

Note—

See section 6E (Code for IDAS) and the Planning Act, schedule 3, definition *code*.

- (3) A wild river declaration may include a process for granting, reserving or otherwise dealing with unallocated water in the wild river area.

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- (4) A wild river declaration may include more than 1 wild river in the wild river area.

15 Deciding whether to make declaration

- (1) After considering the matters mentioned in section 13 and any other matters the Minister considers appropriate, the Minister may—
- (a) declare the area to be a wild river area; or
 - (b) decide not to proceed with declaration of the wild river area.
- (2) If the Minister decides not to proceed with the declaration, the Minister must publish a notice advising the decision and the reasons for the decision.

16 Approval of wild river declaration

- (1) The Governor in Council may, by gazette notice, approve the declaration of a wild river area.
- (2) The declaration has effect when—
- (a) the declaration is approved by the Governor in Council; and
 - (b) the approval is notified in the gazette.
- (3) The Minister must table a copy of the declaration in the Legislative Assembly within 14 sitting days after the declaration is approved.

17 Effect of declaration on activities and taking natural resources

- (1) This section applies if, immediately before a wild river declaration for a wild river area takes effect, a person is—
- (a) carrying out an activity or taking a natural resource in the area under another Act or law (an *authorisation*); or

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- (b) authorised by either of the following (also an *authorisation*) to carry out an activity or take a natural resource in the area—
 - (i) a licence, permit or other approval document held by the person under another Act or law;
 - (ii) a special agreement Act; or
 - (c) carrying out an agricultural activity or animal husbandry activity in the area.
- (2) Subsection (3) applies despite—
- (a) any other provision of this Act; or
 - (b) any provision of another Act to the extent it regulates or prohibits the carrying out of an activity or the taking of a natural resource because of a declaration or a moratorium under this Act.
- (3) The person may do the following as if the declaration had not been made—
- (a) for subsection (1)(a) and (b)—continue, or start and continue, to carry out the activity or take the natural resource under the authorisation;
 - (b) for subsection (1)(c)—continue to carry out the activity.

18 Applications received but not decided

- (1) This section applies to an application under any Act, in relation to the carrying out of an activity or the taking of a natural resource in a wild river area, received but not decided before a wild river declaration for the area takes effect, other than an application to which a moratorium under section 10(2) or (4) applies or has applied.
- (2) Subsection (3) applies despite—
 - (a) any other provision of this Act; or
 - (b) any provision of another Act to the extent it regulates or prohibits the carrying out of an activity or the taking of a

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natural resource because of a declaration or a moratorium under this Act.

- (3) The application must be decided as if the declaration had not been made.
- (4) To remove any doubt, it is declared that, for subsection (1), an application to which a moratorium under section 10(2) or (4) applies or has applied includes an application received but not decided before the moratorium had effect.

Division 2 Amending wild river declarations

19 Amending a wild river declaration

- (1) The Minister may amend a wild river declaration.
- (2) Without limiting subsection (1), the Minister must amend the declaration if the Minister is satisfied preservation of the natural values of rivers is not being met in the wild river area to which the declaration relates.

Note—

See section 28 for when an amendment of a declaration has effect.

20 Public notice of intention to amend wild river declaration

- (1) If the Minister intends to amend a wild river declaration, the Minister must publish a notice of the Minister's intention (a *notice of intent*).
- (2) The notice of intent must state—
 - (a) the title of the wild river declaration to which the notice relates; and
 - (b) the reasons for, and details of, the proposed amendment; and
 - (c) where the following information may be obtained—
 - (i) further information about the proposed amendment;

- (ii) a document describing any moratorium that will have effect under section 22 during the moratorium period.

21 Moratorium period

- (1) If a moratorium will have effect under a notice of intent and the document describing the moratorium, the moratorium period for the notice of intent and document is the following period—
 - (a) from the later of the following—
 - (i) the day stated in the notice as the start of the moratorium;
 - (ii) the day the notice is published;
 - (b) until the earliest of the following—
 - (i) the day the wild river amendment declaration has effect;
 - (ii) the day the Minister decides under section 27 not to make an amendment declaration;
 - (iii) the day that is 12 months after the later of the days mentioned in paragraph (a) (the **12 month period**) or, if the Minister has extended the 12 month period, the day to which the period has been extended.
- (2) The Minister may, before the 12 month period expires, extend the period by not more than 12 months by publishing a notice (a ***moratorium extension notice***).

22 Application of moratorium

During the moratorium period, a moratorium has effect in the wild river area, and any area proposed to be included in the wild river area, in the way stated in section 10(2) to (4) but only to the extent stated in the notice of intent and the document describing the moratorium.

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23 Public notice about amendment proposal

- (1) As soon as practicable after publishing the notice of intent, the Minister must—
 - (a) prepare a proposal (an *amendment proposal*) for the amendment of the wild river declaration; and
 - (b) publish a notice about the amendment proposal (an *amendment proposal notice*).
- (2) The amendment proposal notice must state—
 - (a) the title of the wild river declaration to which the amendment proposal notice relates; and
 - (b) where copies of the amendment proposal are available for inspection and purchase; and
 - (c) that written submissions may be made by any entity about the amendment proposal; and
 - (d) the day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(d) must not be earlier than 20 business days after the day the amendment proposal notice is published.
- (4) If the Minister has prepared the amendment proposal before publishing the notice of intent for the proposed amendment, the matters mentioned in subsection (2) may be included in the notice of intent.

24 Discretionary content of amendment proposal

The amendment proposal may include, but is not limited to, the following information—

- (a) all or part of the provisions of the wild river declaration to which the amendment proposal relates;
- (b) the reasons for the proposed amendment;
- (c) details of the proposed amendment including—

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- (i) any changes to the existing boundaries of the parts of the wild river area; or
 - (ii) any addition of an area to, or removal of an area from, the wild river area; or
 - (iii) any amalgamation of the wild river area with another wild river area or part of an area;
 - (d) any carrying out of activities or taking of natural resources that will be affected by the proposed amendment and how they will be affected;
 - (e) if a moratorium has effect in the wild river area—the way in which it has effect;
 - (f) details of the community consultation that will take place on the amendment proposal;
 - (g) where further information about the proposed amendment may be obtained.

25 Matters Minister must consider

- (1) In preparing a wild river amendment declaration, the matters the Minister must consider include—
 - (a) the results of community consultation on the amendment proposal; and
 - (b) all properly made submissions about the amendment proposal; and
 - (c) any water resource plan or resource operations plan that applies to all or part of the wild river area; and
 - (d) if the Minister has established an Indigenous reference group for the wild river area—advice from the group about the amendment proposal.
- (2) To the extent a water resource plan or a resource operations plan applies to all or part of the wild river area, the amendment declaration must not be inconsistent with the water resource plan or the resource operations plan other than in relation to the matters mentioned in section 14(1)(k) to (p) and (3).

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- (3) Subsection (1) does not limit the matters the Minister may consider.

26 Content of wild river amendment declaration

- (1) A wild river amendment declaration must include, but is not limited to, the following information—
- (a) the title of the wild river declaration to which the amendment relates;
 - (b) details of the amendment to the declaration including—
 - (i) any changes to the existing boundaries of the parts of the wild river area; or
 - (ii) any addition of an area to, or removal of an area from, the wild river area; or
 - (iii) any amalgamation of the wild river area with all or part of another wild river area; or
 - (iv) any activities or taking of natural resources to which a property development plan relating to the amendment applies.
- (2) For subsection (1)(b)(iv), it is sufficient if the property development plan is identified, whether or not the activities or taking are specifically stated in the amendment.

27 Deciding whether to make amendment declaration

- (1) After considering the matters mentioned in section 25 and any other matters the Minister considers appropriate, the Minister may—
- (a) declare an amendment to the wild river declaration; or
 - (b) decide not to proceed with declaration of the amendment.
- (2) If the Minister decides not to proceed with the declaration, the Minister must publish a notice advising the decision and the reasons for the decision.

28 Approval of wild river amendment declaration

- (1) The Governor in Council may, by gazette notice, approve the amendment of a wild river declaration.
- (2) The amendment has effect when—
 - (a) the amendment is approved by the Governor in Council; and
 - (b) the approval is notified in the gazette.
- (3) The Minister must table a copy of the amendment declaration in the Legislative Assembly within 14 sitting days after the declaration is approved.

29 Effect of amendment declaration on activities and taking natural resources

- (1) This section applies if, immediately before an amendment of a wild river declaration for a wild river area takes effect, a person is—
 - (a) carrying out an activity or taking a natural resource in the area under another Act or law (an *authorisation*); or
 - (b) authorised by either of the following (also an *authorisation*) to carry out an activity or take a natural resource in the area—
 - (i) a licence, permit or other approval document held by the person under another Act or law;
 - (ii) a special agreement Act.
- (2) Subsection (3) applies despite—
 - (a) any other provision of this Act; or
 - (b) any provision of another Act to the extent it regulates or prohibits the carrying out of an activity or the taking of a natural resource because of a declaration or a moratorium under this Act.
- (3) The person may continue, or start and continue, to carry out the activity or take the natural resource under the

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authorisation as if the amendment of the declaration had not been made.

30 Applications received but not decided

- (1) This section applies to an application under any Act, in relation to the carrying out of an activity or the taking of a natural resource in a wild river area, received but not decided before an amendment of the wild river declaration for the area takes effect, other than an application to which a moratorium under section 22 in relation to the *Water Act 2000* or the *Mineral Resources Act 1989*, applies.
- (2) Subsection (3) applies despite—
 - (a) any other provision of this Act; or
 - (b) any provision of another Act to the extent it regulates or prohibits the carrying out of an activity or the taking of a natural resource because of a declaration or a moratorium under this Act.
- (3) The application must be decided as if the amendment of the declaration had not been made.

31 Minor and other particular amendments of wild river declaration

- (1) The Governor in Council may approve an amending wild river declaration without sections 20 to 26 applying if the amendment is only to—
 - (a) correct a minor error in the wild river declaration; or
 - (b) make another change in the declaration that is not a change of substance, including, for example, changing a reference to a renumbered provision of an Act and making a change merely to update a term to make it consistent with an Act; or
 - (c) make a minor change to the existing boundary of any of the following areas in the wild river area—
 - (i) the high preservation area;

- (ii) the preservation area;
- (iii) a floodplain management area;
- (iv) a special floodplain management area;
- (v) a subartesian management area; or

Example of a minor change—

the boundary of the high preservation area after the amendment of the declaration is within 100m of the boundary of the area before the amendment

- (d) make a minor change to the extent of a nominated waterway in the wild river area; or
 - (e) change a reference in the declaration to a code for carrying out activities or taking natural resources in the wild river area; or
 - (f) make—
 - (i) a minor change to the existing boundary of a designated urban area in the wild river area; or
 - (ii) another change to the existing boundary of a designated urban area in the wild river area, if the change is made merely to ensure the designated urban area is consistent with a town boundary shown on a planning scheme under the Planning Act relating to the wild river area.
- (2) However, for subsection (1)(c) and (d), the Minister must, before declaring an amendment of the wild river declaration or deciding not to proceed with declaration of the amendment, consult with each owner of land, and each holder of an exploration permit or mining claim, in the wild river area whose land or interests may be affected by the proposed amendment.
- (3) In this section—

exploration permit see the *Mineral Resources Act 1989*, schedule 2.

mining claim see the *Mineral Resources Act 1989*, schedule 2.

Division 2A Property development plans

Subdivision 1 Applying for and obtaining approval of proposed property development plan

31A Application of sdiv 1

This subdivision applies if—

- (a) a person who is the owner of land within a wild river area proposes to carry out activities on, or take natural resources from, the land; and
- (b) all or some of the activities or the taking of resources is prohibited under a wild river declaration.

31B Application for approval of proposed property development plan

The person may apply to the Minister for approval of a proposed property development plan (the *proposed plan*) that, on approval, will for the purposes of subdivision 2, apply—

- (a) for a period of 10 years from the approval; and
- (b) to stated activities that may be carried out, or natural resources that may be taken from, the land that is within the wild river area.

Note—

An approval of a proposed plan is not in itself a development approval under the Planning Act, or another approval under another Act, for carrying out an activity or taking a natural resource. See also section 43B.

31C Requirements for application

- (1) The application must—
 - (a) be in the approved form; and

- (b) attach a copy of the proposed plan; and
 - (c) be accompanied by the fee prescribed under a regulation.
- (2) The proposed plan must comply with section 31D.

31D Required information for proposed plan

- (1) For section 31C(2), the proposed plan must state each of the following—
- (a) the title of the wild river area;
 - (b) the activities, or taking of natural resources, to which the plan applies;
 - (c) the nature, extent and location of the activities or the taking;
 - (d) the time frame for completion of the activities or the taking;
 - (e) the land (*relevant land*) owned by the person within the wild river area;
 - (f) any other land owned by the person that is contiguous with the relevant land;
 - (g) the infrastructure on, use of and types of vegetation on, the relevant land;
 - (h) whether or not the person may reasonably carry out the activities, or the taking, without an amendment of the wild river declaration;
 - (i) the nature and extent of any adverse impact that is likely to result from the activities, or the taking, on the natural values of the relevant wild river, and how the adverse impact may be minimised;
 - (j) the nature and extent of any other thing proposed to be done in addition to the activities, or the taking, that would result in a beneficial impact on the natural values of the relevant wild river;

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Note—

The inclusion of the other thing is only for the purpose of satisfying the requirement under section 31E(b) for approval of the proposed plan. The inclusion is not in itself a development approval under the Planning Act, or another approval under another Act, for doing the thing.

- (k) any other restrictions applying to, or approvals needed for, the carrying out of the activities or the taking.
- (2) In this section—
 - relevant wild river***, in a wild river area, includes—
 - (a) the wild river and the major tributaries of the wild river; and
 - (b) any nominated waterways and special features of the wild river area.

31E Approval of proposed plan

The Minister may approve the proposed plan, with or without conditions, for the purpose of subdivision (2) only if the Minister is satisfied—

- (a) the carrying out of the activities or the taking under the plan—
 - (i) may not reasonably be carried out without amending the wild river declaration; and
 - (ii) is likely to be completed within 10 years of the grant of the approval; and
- (b) the carrying out of the activities or taking, and anything mentioned in section 31D(1)(j), will not have an overall adverse impact on the natural values of the wild river to which the plan applies; and
- (c) the environmental benefits of the plan justify the approval of the plan.

Subdivision 2 Operation of property development plan

31F Amendment of wild river declaration

- (1) The Minister may, under division 2, amend the declaration for the wild river area mentioned in a property development plan to accommodate the carrying out of the activities, or taking of the natural resources, to which the plan applies.
- (2) This section does not limit section 19.

31FA Nature and effect of particular amendment about property development plan

- (1) Without limiting section 31F(1), an amended declaration for a wild river area may state that the carrying out of an activity, or taking of a natural resource, to which a property development plan applies is an activity or a taking that may happen in the high preservation area under the declaration.
- (2) Subsection (3) applies if, under an amended declaration, the carrying out of an activity, or taking of a natural resource, is stated to be an activity or a taking (the *permitted action*) that may happen in the high preservation area under the declaration.
- (3) To the extent another Act, or section 42 of this Act, regulates or prohibits the carrying out of activities or taking of natural resources in a high preservation area, the permitted action is taken to be an activity or taking that happens in the preservation area under the declaration.

31G Application of property development plan

For the purposes of section 43B and the Planning Act, schedule 1, item 2(b), a property development plan is taken to apply to the land, within the wild river area mentioned in the plan, that was owned by the person who applied for approval of the plan when the application was made.

Note—

See section 43B (Effect of property development plan on particular applications under the Water Act 2000) and the Planning Act, schedule 1 (Prohibited development).

Division 3 Revoking wild river declarations

32 Revoking a wild river declaration

- (1) If the Minister proposes to revoke a wild river declaration, the Minister must publish a notice about the proposed revocation (a *revocation proposal notice*).
- (2) The revocation proposal notice must state—
 - (a) the wild river and wild river area to which the notice relates; and
 - (b) the reasons for the proposed revocation; and
 - (c) any carrying out of activities or taking of natural resources that will be affected by the proposed revocation and how they will be affected; and
 - (d) that written submissions may be made by any entity about the proposed revocation; and
 - (e) the day by which submissions must be made, and the person to whom, and the place where, the submissions must be made; and
 - (f) where further information about the proposed revocation may be obtained.
- (3) The day stated in subsection (2)(e) must not be earlier than 20 business days after the day the notice is published.
- (4) The Minister must consider all properly made submissions about the proposed revocation.

33 Deciding whether to revoke declaration

- (1) After considering all properly made submissions about a

proposed revocation and any other matters the Minister considers appropriate, the Minister may—

- (a) revoke the wild river declaration; or
 - (b) decide not to proceed with revocation of the wild river declaration.
- (2) If the Minister decides not to proceed with the revocation, the Minister must publish a notice advising the decision and the reasons for the decision.

34 Approval of revocation of wild river declaration

- (1) The Governor in Council may, by gazette notice, approve the revocation of a wild river declaration.
- (2) The Governor in Council may approve the revocation only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to approve the revocation.
- (3) The revocation has effect when—
 - (a) the revocation is approved by the Governor in Council; and
 - (b) the approval is notified in the gazette.
- (4) The Minister must table a copy of the revocation in the Legislative Assembly within 14 sitting days after the revocation is approved.

35 Effect of revocation on activities and taking natural resources

- (1) This section applies if, immediately before the revocation of a wild river declaration for a wild river area takes effect, a person is—
 - (a) carrying out an activity or taking a natural resource in the area under another Act or law (an *authorisation*); or
 - (b) authorised by a licence, permit or other approval document held by the person under another Act or law

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to carry out an activity or take a natural resource in the area (also an *authorisation*).

- (2) On the revocation of the wild river declaration, the authorisation is no longer subject to any conditions or requirements that applied to it because of the declaration.

36 Effect of revocation on applications received but not decided

- (1) This section applies to an application under any Act, in relation to the carrying out of an activity or the taking of a natural resource in a wild river area, received but not decided before the revocation of the wild river declaration for the area takes effect.
- (2) On the revocation of the declaration, the application—
 - (a) to the extent it relates to the carrying out of an activity or the taking of a natural resource that is no longer subject to any conditions or requirements that applied to it because of the declaration, lapses; and
 - (b) to the extent it relates to other matters, continues.

Division 4 Miscellaneous

37 Relationship with water resource plans

- (1) To the extent the matters mentioned in section 14(1)(k) to (p) and (3) in a wild river declaration are inconsistent with an existing water resource plan or a resource operations plan for all or part of the wild river area, the wild river declaration prevails.
- (2) Otherwise, to the extent a wild river declaration is inconsistent in any other way, the water resource plan or resource operations plan prevails.

38 Minister must prepare report on consultation process

- (1) Within 30 business days after a wild river declaration is approved, amended or revoked, the Minister must prepare a report about the consultation process for the approval, amendment or revocation (a *consultation report*).
- (2) The consultation report must include a summary of issues raised during the consultation process and how the issues have been dealt with.

39 Copies of documents to be available for public inspection

- (1) This section applies to each of the following (a *wild river document*)—
 - (a) a notice of intent, including any document describing the moratorium having effect for the notice;
 - (b) a declaration proposal;
 - (c) a declaration proposal notice;
 - (d) a moratorium extension notice;
 - (e) a wild river declaration;
 - (f) a consultation report;
 - (g) a notice of a decision not to declare a wild river area;
 - (h) an amendment proposal;
 - (i) an amendment proposal notice;
 - (j) a wild river amendment declaration approved under section 28;
 - (k) a notice of a decision not to amend a wild river declaration;
 - (l) a revocation proposal notice;
 - (m) a revocation of a wild river declaration approved under section 34;
 - (n) a notice of a decision not to revoke a wild river declaration;

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- (o) a wild river report.
- (2) As soon as practicable after a wild river document is prepared—
 - (a) the Minister must send a copy of the wild river document to each local government whose local government area includes all or part of a proposed wild river area, a wild river area or the area to which a revocation relates; and
 - (b) a local government receiving a copy of a wild river document must make the copy available for inspection by the public.
- (3) The Minister may send a copy of a wild river document to any other entity the Minister considers appropriate.
- (4) The chief executive—
 - (a) must keep a copy of each wild river document available for inspection by the public during office hours on business days—
 - (i) at the department’s head office; and
 - (ii) at the department’s regional office for the wild river area or proposed wild river area to which the document relates; and
 - (b) may also keep a copy of a wild river document available for inspection by the public at other places the chief executive considers appropriate.

40 Report by Minister on wild river declarations

- (1) The Minister must prepare regular reports on each wild river declaration (each a *wild river report*).
- (2) The first report for a wild river declaration must be prepared within 5 years after the declaration is approved.
- (3) Each subsequent report must be for a period of not more than 5 years and, for the period—
 - (a) must include—

- (i) particulars of any changes made to the declaration; and
 - (ii) a summary of the findings of research and monitoring, undertaken in the department, that relates to the preservation of the natural values of rivers in the wild river area to which the declaration relates; and
- (b) may include a summary of the findings of research and monitoring, undertaken in another department, that relates to the preservation of the natural values of rivers in the wild river area to which the declaration relates.
- (4) A report under this section may relate to more than 1 wild river declaration.

Part 3 **Activities and taking natural resources in wild river areas**

41 **Classification of wild river area not in Lake Eyre Basin into high preservation area and preservation area**

- (1) The following parts of a wild river area that is not in the Lake Eyre Basin are included in the high preservation area—
 - (a) the wild river;
 - (b) the major tributaries of the wild river;
 - (c) any special features in the wild river area;
 - (d) the area, stated in the wild river declaration for the wild river area, of up to 1km either side of the wild river, its major tributaries and any special features.
- (2) The remainder of the wild river area is the preservation area.
- (3) A floodplain management area, a subartesian management area or a designated urban area may be over all or part of the high preservation area or the preservation area.

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41A Classification of wild river area in Lake Eyre Basin into high preservation area, preservation area and special floodplain management area

- (1) The following parts of a wild river area in the Lake Eyre Basin are included in the high preservation area or special floodplain management area—
 - (a) the wild river;
 - (b) the major tributaries of the wild river;
 - (c) any special features in the wild river area.
- (2) Also, the high preservation area includes the area, of up to 1km either side of the wild river, its major tributaries and any special features, stated in the wild river declaration for the wild river area.
- (3) The part of the wild river area that is not the high preservation area or special floodplain management area is the preservation area.
- (4) A floodplain management area, a subartesian management area or a designated urban area may be over all or part of the high preservation area or the preservation area.
- (5) A subartesian management area or a designated urban area may be over all or part of a special floodplain management area.
- (6) A floodplain management area can not be over a special floodplain management area.

42 Effect of classification on particular development applications

- (1) This section applies to a development application—
 - (a) for development that is assessable development prescribed under the Planning Act, section 232(1) that is—
 - (i) a material change of use of premises to the extent the premises is in a wild river area and the

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- proposed use is for agricultural or animal husbandry activities; or
 - (ii) operational work for agricultural or animal husbandry activities in a wild river area; and
 - (b) that is not for prohibited development; and
 - (c) to the extent the application relates to development in a wild river area; and
 - (d) despite the Planning Act, chapter 6, part 3, division 4 and sections 313, 314 and 326.
- (2) For the application, the assessment manager's and any concurrence agency's decision under the Planning Act must comply with the applicable code mentioned in the wild river declaration for the area.
- (3) In this section—
prohibited development see the Planning Act, schedule 3.

43 Effect of declaration on particular development applications

- (1) Subsection (2) applies—
- (a) to a development application for a material change of use of premises, reconfiguring a lot or operational work; and
 - (b) to the extent—
 - (i) the application relates to a wild river area; and
 - (ii) the application is in relation to residential, commercial or industrial development; and
 - (iii) the proposed development is—
 - (A) made assessable under a planning scheme; or
 - (B) reconfiguring a lot under the *Land Title Act 1994* that is assessable development prescribed under the Planning Act, section 232(1); or

[s 43B]

- (C) operational work for reconfiguring a lot that is assessable development prescribed under the Planning Act, section 232(1); and
- (c) despite the Planning Act, sections 313, 314 and 326.
- (2) For the application, the assessment manager's decision must comply with the applicable code mentioned in the wild river declaration for the area.
- (3) This section does not apply to residential, commercial or industrial development in a designated urban area.
- (4) In this section—
planning scheme see the Planning Act, section 79.

43B Effect of property development plan on particular applications under the Water Act 2000

- (1) This section applies to an application under the *Water Act 2000*, section 266 or 280, that relates to land to which a property development plan applies.
- (2) Despite the *Water Act 2000*, unless the application is consistent with the property development plan, the chief executive of the department in which that Act is administered must refuse to receive the application.

44 Relationship with other Acts

- (1) Other than as mentioned in sections 42 and 43, the prohibition and regulation in a wild river area of carrying out activities and taking natural resources are dealt with in the Acts that prohibit or regulate the activities or taking.
- (2) However, a wild rivers declaration or a wild rivers code, in applying for the purposes of any of those other Acts, can not have the direct or indirect effect under the other Act of limiting a person's right to the exercise or enjoyment of native title.
- (3) This section does not limit the *Acts Interpretation Act 1954*, section 13A in relation to any Act.

Part 4 Exemption of particular projects from application of Act

45 Exemption of projects from application of this Act

- (1) This Act does not apply to the following projects—
 - (a) an Aurukun project;
 - (b) the PNG pipeline project.
- (2) Also, to the extent another Act regulates or prohibits the carrying out of an activity or the taking of a natural resource because of a declaration or a moratorium under this Act, the other Act does not apply to a project mentioned in subsection (1).

46 Meaning of *Aurukun project*

- (1) An *Aurukun project* is a project for the extraction, transportation and processing of bauxite on—
 - (a) land that is more or less the land described as ‘restricted area 315’ (RA315) under the *Mineral Resources Act 1989*; or
 - (b) a part of the land mentioned in paragraph (a).
- (2) The project includes the construction and operation of works, for example mining equipment, electricity generation plants and related distribution infrastructure, pipelines, telecommunications infrastructure, water storage and distribution infrastructure, buildings, conveyors, roads or railways on land near Aurukun and Weipa.

47 Meaning of *PNG pipeline project*

- (1) The *PNG pipeline project* means the proposed project that involves the construction and operation of 1 or more pipelines—

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- (a) to transport gas from the Southern Highlands of Papua New Guinea, across Torres Strait and Cape York Peninsula to parts of the State including Weipa, Townsville, Mount Isa, Gladstone and Brisbane; and
 - (b) to link to pipelines servicing other States.
- (2) The project includes ancillary works, for example access roads, constructions camps and compressor and other stations, to enable the construction and the ongoing operation of the pipeline or pipelines.

Part 5 Miscellaneous

Division 1 Indigenous reference groups

47A Establishment of Indigenous reference groups

- (1) The Minister may establish an advisory group (an *Indigenous reference group*) to advise the Minister about matters relating to a wild river area or a proposal to declare a wild river area.

Example of matters for subsection (1)—

- the boundaries of the areas mentioned in section 3(2) in the wild river area or proposed wild river area
 - proposals for development in the wild river area or proposed wild river area
- (2) An Indigenous reference group—
- (a) consists of the members appointed by the Minister; and
 - (b) must include members the Minister is satisfied represent the interests of Indigenous people of the wild river area or proposed wild river area.

47B Notice about decisions to be given to Indigenous reference groups

- (1) This section applies if—
 - (a) the Minister declares an area to be a wild river area under section 15 or declares an amendment to a wild river declaration under section 27; and
 - (b) an Indigenous reference group has given the Minister advice about the declaration or amendment declaration; and
 - (c) the making of the declaration is inconsistent with the advice.
- (2) The Minister must, as soon as practicable after making the declaration, give the Indigenous reference group written notice of the declaration.
- (3) The notice must include—
 - (a) a statement about how the Indigenous reference group's advice was dealt with by the Minister; and
 - (b) details about the ways in which the declaration is inconsistent with the advice; and
 - (c) the reasons for the decision to make the declaration.

Division 2 Wild river rangers program

47C Application of div 2

This division applies to the community-based Indigenous program for wild river areas (the *wild river rangers program*) maintained by the department.

47D Purposes of wild river rangers program and achievement of purposes

- (1) The purposes of the wild river rangers program include, but are not limited to, contributing to—

[s 47E]

- (a) the preservation of the natural values of rivers in wild river areas; and
 - (b) the development of a resource management economy in wild river areas.
- (2) The purposes mentioned in subsection (1) are to be achieved for a wild river area mainly by the carrying out of activities (particularly activities relating to the preservation of the natural values of rivers in the area) by individuals (each a *wild river ranger*) based in communities within the wild river area.

47E Entering into agreements for employment

- (1) The chief executive must, for the wild river rangers program and on behalf of the State, enter into and give effect to agreements as mentioned in subsection (2) to provide for the employment of wild river rangers in the numbers and locations prescribed under a regulation.
- (2) For subsection (1), the agreements are—
- (a) an interchange arrangement under the *Public Service Act 2008*, section 184 that provides for wild river rangers employed in a department to perform duties under the wild river rangers program in another entity; or
 - (b) a grant agreement between the State and an entity that provides for wild river rangers to perform duties under the wild river rangers program for the entity.

Division 3 Other matters

48 Meaning of *specified works*

- (1) The object of this provision is to provide a definition of *specified works* for a provision of any other Act that refers to specified works in relation to regulating or prohibiting the carrying out of an activity or the taking of a natural resource because of a declaration or a moratorium under this Act.

- (2) *Specified works* means—
- (a) infrastructure and works prescribed under a regulation to be necessary for disaster management; or
 - (b) desnagging that is the minimum necessary to allow safe navigation of a marked navigable channel; or
 - (c) the following infrastructure and works—
 - (i) roads;
 - (ii) railways;
 - (iii) jetties and boat ramps for use by the public;
 - (iv) works for the rehabilitation of land, including, for example, rehabilitation of abandoned mines;
 - (v) infrastructure for the transmission or distribution of electricity;
 - (vi) pipelines;
 - (vii) conveyor belts;
 - (viii) cables;
 - (ix) other infrastructure, prescribed under a regulation, that relates to the transportation, movement, transmission or flow of anything through a wild river area including, for example, goods, materials, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.

49 Delegation by Minister

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

50 Delegation by chief executive

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer or employee.

51 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may fix fees and charges payable under this Act including, for example, for the purchase of a copy of a wild river document.

Part 6 Declaration and validation of particular matters for Wild Rivers and Other Legislation Amendment Act 2007

52 Definition for pt 6

In this part—

prepared declaration means any of the following documents, made by the Minister on 30 January 2007—

- (a) 'Fraser Wild River Declaration 2007';
- (b) 'Gregory Wild River Declaration 2007';
- (c) 'Hinchinbrook Wild River Declaration 2007';
- (d) 'Morning Inlet Wild River Declaration 2007';
- (e) 'Settlement Wild River Declaration 2007';
- (f) 'Staaten Wild River Declaration 2007'.

53 Validation of particular matters

- (1) A published notice is taken to be, and to have always been, a valid notice of intent under section 8 and a valid declaration proposal notice under section 11 for the proposed wild river area to which the published notice relates, published on the same day as the published notice was published.
- (2) The ‘Amendment to Notice of Intent to Declare for the Fraser Wild River Area’ dated 18 July 2006 (the *amending notice*) is taken to be, and to have always been, a valid amendment of the notice of intent included in ‘Notice of Intent to Declare and Declaration Proposal Notice for the Fraser Wild River Area’ dated 9 December 2005, published on the same day as the amending notice was published.
- (3) A notice published, or purportedly published, by the Minister extending a moratorium period that relates to a published notice is taken to be, and to have always been, a valid moratorium extension notice under section 9.
- (4) A proposal prepared, or purportedly prepared, by the Minister for a proposed wild river area under a published notice and mentioned in the published notice is taken to be, and to have always been, a valid declaration proposal for the proposed wild river area under section 11.

- (5) In this section—

published notice means any of the following notices published, or purportedly published, under sections 8 and 11—

- (a) ‘Notice of Intent to Declare and Declaration Proposal Notice for the Hinchinbrook Wild River Area’ dated 8 December 2005;
- (b) ‘Notice of Intent to Declare and Declaration Proposal Notice for the Settlement, Gregory, Morning Inlet and Staaten Wild River Areas’ dated 9 December 2005, but only to the extent the notice refers to the proposed Settlement, Gregory and Morning Inlet Wild River Areas;

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- (c) 'Notice of Intent to Declare and Declaration Proposal Notice for the Fraser Wild River Area' dated 9 December 2005;
- (d) 'Notice of Intent to Declare and Declaration Proposal Notice for the Staaten Wild River Area' dated 8 December 2006.

54 Particular documents taken to be wild river declarations

- (1) Each prepared declaration is taken to be a wild river declaration for this Act.
- (2) Despite section 16(2), the declaration has effect on the commencement of this section.
- (3) Sections 16(3) and 38 do not apply to the declaration.
- (4) The Minister must as soon as practicable after this section commences publish a copy of each prepared declaration on the department's website.

Part 7 Transitional provisions for Sustainable Planning Act 2009

55 Continuation of codes for IDAS

For the purpose of the Planning Act, a code that is a code for IDAS under a wild river declaration made before the commencement of this section continues as a code for IDAS.

56 Application of particular provisions

- (1) This section applies to a development application to which section 42, 43 or 43A as in force before the commencement applied if the application was made but not decided before the commencement.

- (2) Sections 42, 43 and 43A as in force before the commencement continue to apply to the application as if the *Sustainable Planning Act 2009* had not commenced.
- (3) In this section—
commencement means the day this section commences.

Schedule Dictionary

section 5

activity, in relation to carrying out an activity in a wild river area, includes the construction of works.

agricultural activities—

- 1 *Agricultural activities* means—
 - (a) cultivating soil; or
 - (b) planting, irrigating, gathering or harvesting a crop, including a food or fibre crop; or
 - (c) disturbing the soil to establish non-indigenous grasses, legumes or forage cultivars; or
 - (d) using the land for horticulture or viticulture.
- 2 The term does not include—
 - (a) producing agricultural products for the domestic needs of the occupants of the land if the maximum area of the land on which the products are produced is the following—
 - (i) for fewer than 10 occupants of the land—0.25ha;
 - (ii) for 10 or more but fewer than 50 occupants of the land—2ha;
 - (iii) for 50 or more but fewer than 100 occupants of the land—4ha;
 - (iv) for 100 or more occupants of the land—6ha; or
 - (ab) producing agricultural products in a market garden, if the maximum area of land on which the products are produced is not more than 4ha; or
 - (b) baling or cutting pasture; or

-
- (c) broadcasting seed to establish an improved pasture; or
 - (d) planting, gathering or harvesting a crop of pasture or grain species in a preservation area if the pasture or grain species is—
 - (i) only for animal feed; and
 - (ii) neither a high risk species nor a moderate risk species for the wild river area of which the preservation area is a part; or
 - (e) improving pasture using low impact soil disturbance if the pasture species is neither a high risk species nor a moderate risk species for the wild river area; or
 - (f) forestry activities; or
 - (g) activities carried out for land rehabilitation or remediation; or

Examples—

deep ripping, shallow ponding

- (h) blade ploughing in an area that, under the *Vegetation Management Act 1999*, is a category X area or category C area on a PMAV.

amendment proposal see section 23.

amendment proposal notice see section 23.

animal husbandry activities—

1 *Animal husbandry activities* means—

- (a) breeding, keeping, raising or caring for animals, for commercial purposes, that—
 - (i) rely on prepared, packaged or manufactured feed or irrigated or ponded pastures; and
 - (ii) are kept in a pen, yard, enclosure, pond, cage, shed, stables or other confined area or structure; or
- (b) establishing a feedlot, piggery or dairy.

- 2 The term does not include—
- (a) grazing; or
 - (b) raising livestock for the domestic needs of the occupants of the land; or
 - (c) keeping livestock, for example horses, necessary for working the land; or
 - (d) giving livestock supplementary feed, including, for example, by using roller drums, blocks, licks or protein meals—
 - (i) to maintain the livestock’s survival; or
 - (ii) to improve the livestock’s fertility; or
 - (iii) for an activity associated with an activity mentioned in item 1; or

Example—

weaning

 - (iv) if the livestock is predominantly reliant on native or improved pasture for feed—to prepare the livestock for sale; or
 - (e) aquaculture; or
 - (f) environmentally relevant activities.

applicable code see the Planning Act, schedule 3.

appropriately qualified, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person’s classification level in the public service

assessment manager see the Planning Act, section 246(1).

Aurukun project see section 46.

catchment includes a sub-catchment.

consultation report see section 38.

declaration proposal see section 11.

declaration proposal notice see section 11.

designated urban area means an area described in a wild river declaration as a designated urban area.

development application see the Planning Act, schedule 3.

disaster management see the *Disaster Management Act 2003*, section 14.

environmentally relevant activity see the *Environmental Protection Act 1994*, section 18.

floodplain management area means an area described in a wild river declaration as a floodplain management area.

forestry activities means the growing, managing or harvesting of timber for commercial purposes.

high preservation area means the part of a wild river area described as the high preservation area in the wild river declaration for the area.

high risk species, for a wild river area, means a plant species listed in the wild river declaration for the area as a plant species that has a high risk of having an adverse impact on the natural values of the wild river area that the declaration is intended to preserve.

IDAS see the Planning Act, section 230.

Indigenous reference group see section 47A(1).

Lake Eyre Basin means the area consisting of the catchment areas of the following—

- (a) Cooper Creek and its tributaries;
- (b) Georgina River and its tributaries;
- (c) Diamantina River and its tributaries.

low impact soil disturbance, for a pasture, means a method that does not disturb—

- (a) soil in the pasture to a depth greater than 5cm; and
- (b) more than 40% of the area of the pasture being improved.

major tributary, of a wild river, means a major tributary mentioned in the wild river declaration for the wild river area that includes the wild river.

mining tenement means a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease under the *Mineral Resources Act 1989*.

moderate risk species, for a wild river area, means a plant species listed in the wild river declaration for the area as a plant species that has a moderate risk of having an adverse impact on the natural values of the wild river area that the declaration is intended to preserve.

moratorium extension notice—

- (a) about a proposed wild river declaration—see section 9; or
- (b) about a proposed amendment of a wild river declaration—see section 21.

moratorium period—

- (a) for the declaration of a wild river area—see section 9; and
- (b) for the amendment of a wild river declaration—see section 21.

natural resource includes water, minerals, quarry material and native vegetation.

nominated waterway see section 6.

notice of intent—

- (a) for the declaration of a wild river area—see section 8; and
- (b) for the amendment of a wild river declaration—see section 20.

owner, of land—

- (a) for part 2, division 2A, means any of the following—
 - (i) the registered proprietor of the land;

- (ii) the lessee or licensee under the *Land Act 1994* of the land;
 - (iii) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise; and
- (b) otherwise, means any of the following—
- (i) the registered proprietor of the land;
 - (ii) the lessee or licensee under the *Land Act 1994* of the land;
 - (iii) the holder of a mineral development licence, mining lease or exploration permit under the *Mineral Resources Act 1989*;
 - (iv) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;
 - (v) the person who is entitled to receive the rents and profits of the land;
 - (vi) any other person, if the person is in lawful occupation of the land.

Planning Act means the *Sustainable Planning Act 2009*.

PNG pipeline project see section 47.

prepared declaration see section 52.

preservation area means the part of a wild river area described as the preservation area in the wild river declaration for the area.

properly made submission means a submission that—

- (a) is in writing and is signed by each entity who made the submission; and
- (b) is received on or before the last day for the making of the submission; and
- (c) states the name and address of each entity who made the submission; and

- (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (e) is received by the person stated in the notice inviting the submission.

property development plan means a plan approved under section 31E.

proposed plan, for part 2, division 2A, subdivision 1, see section 31B.

proposed wild river area means a part of the State mentioned in a notice of intent as a proposed wild river area.

publish, for a notice, means publish the notice—

- (a) in a newspaper circulating, or by announcement over a radio broadcasting, generally throughout—
 - (i) for a notice about a proposed wild river declaration—the proposed wild river area to which the declaration relates; or
 - (ii) for a notice about a proposed amendment or revocation of a wild river declaration—the wild river area to which the declaration relates; and
- (b) on the department’s website; and
- (c) if the Minister considers it appropriate in the circumstances—in a newspaper circulating generally throughout the State.

quarry material see the *Water Act 2000*, schedule 4.

resource operations plan see the *Water Act 2000*, schedule 4.

special agreement Act see the *Environmental Protection Act 1994*, section 584.

special feature, of a wild river area, means a special feature mentioned in the wild river declaration for the area.

special floodplain management area means an area described in a wild river declaration for a part of the Lake Eyre Basin as a special floodplain management area.

specified works see section 48.

subartesian management area means an area described in a wild river declaration as a subartesian management area.

threshold limit, in relation to an activity or a natural resource, means the extent to which the activity may be carried out or the natural resource taken, for example—

- (a) the extent to which a structure may be increased; or
- (b) the amount of water that may be taken.

water resource plan see the *Water Act 2000*, schedule 4.

wild river means a river described as a wild river in a wild river declaration.

wild river area means—

- (a) an area declared under part 2 as a wild river area; or
- (b) an area shown as a wild river area in a prepared declaration.

wild river declaration means—

- (a) a declaration approved under part 2; or
- (b) a declaration that under section 54 is taken to be a wild river declaration.

wild river document see section 39.

wild river ranger see section 47D(2).

wild river rangers program see section 47C.

wild river report see section 40.

wild rivers code see section 6A.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the *Reprints Act 1992*, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 May 2013. Future amendments of the *Wild Rivers Act 2005* may be made in accordance with this reprint under the *Reprints Act 1992*, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
1 rv	none	2 December 2005	Revision notice issued for R1
1A rv	2006 Act No. 31	1 June 2006	
1B rv	2006 Act No. 59	7 December 2006	
1C rv	2007 Act No. 8	28 February 2007	

Endnotes

Reprint No.	Amendments included	Effective	Notes
1D	2007 Act No. 48	2 November 2007	R1D withdrawn, see R2
2	—	2 November 2007	
2A	2008 Act No. 52	1 January 2009	
2B	2009 Act No. 36	18 December 2009	
2C	2010 Act No. 53	1 December 2010	
2D	2011 Act No. 40	24 November 2011	
2E	2010 Act No. 31	2 March 2012	

Current as at	Amendments included	Notes
22 March 2013	2013 Act No. 10	
31 March 2013	2012 Act No. 20	
23 May 2013	2013 Act No. 24	

5 List of legislation

Wild Rivers Act 2005 No. 42

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 2005 (2005 SL No. 287)

amending legislation—

Mineral Resources and Other Legislation Amendment Act 2006 No. 31 s 1, pt 7

date of assent 1 June 2006

commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1–2, s 85 sch

date of assent 7 December 2006

commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2007 No. 8 pts 1–2

date of assent 28 February 2007

commenced on date of assent

Cape York Peninsula Heritage Act 2007 No. 48 ss 1–2, pt 7 div 5

date of assent 25 October 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2007 (2007 SL No. 270)

Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No. 52 ss 1–2, 98 sch 2

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2009 (2008 SL No. 388)

Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2

date of assent 22 September 2009

ss 1–2 commenced on date of assent
 remaining provisions commenced 18 December 2009 (2009 SL No. 281)

Geothermal Energy Act 2010 No. 31 ss 1–2(1), s 585 sch 2 pt 2

date of assent 1 September 2010
 ss 1–2 commenced on date of assent
 remaining provisions commenced 2 March 2012 (automatic commencement under
 AIA s 15DA(2) (2011 SL No. 156 s 2))

Water and Other Legislation Amendment Act 2010 No. 53 s 1, pt 16

date of assent 1 December 2010
 commenced on date of assent

Water and Other Legislation Amendment Act 2011 No. 40 pts 1, 5

date of assent 24 November 2011
 commenced on date of assent

Mines Legislation (Streamlining) Amendment Act 2012 No. 20 ss 1–2, 323 sch 3

date of assent 29 August 2012
 ss 1–2 commenced on date of assent
 remaining provisions commenced 31 March 2013 immediately before the
 commencement of the provisions of the Environmental Protection (Greentape
 Reduction) and Other Legislation Amendment Act 2012 No. 16 commencing on
 that day (see 2013 SL No. 35 and 2013 SL No. 24)

Mining and Other Legislation Amendment Act 2013 No. 10 s 1, pt 11

date of assent 25 March 2013
 commenced on date of assent

Vegetation Management Framework Amendment Act 2013 No. 24 s 1–2(a), pt 5

date of assent 23 May 2013
 ss 1–2 commenced on date of assent
 s 76 not yet proclaimed into force (see s 2(a))
 remaining provisions commenced on date of assent

6 List of annotations

PART 1—PRELIMINARY

Division 1—Introduction and purpose of Act

div hdg ins 2006 No. 59 s 3

Purpose of Act

s 3 (prev s 5) renum 2006 No. 59 s 6
 amd 2006 No. 59 s 85 sch; 2010 No. 53 s 239

Act binds all persons

s 4 prev s 4 om 2006 No. 59 s 5
 pres s 4 (prev s 6) renum 2006 No. 59 s 6

Division 2—Interpretation

div hdg ins 2006 No. 59 s 7

Definitions

s 5 (prev s 6A (prev s 3)) renum 2006 No. 59 ss 4, 6
amd 2006 No. 59 s 85 sch

Meaning of *nominated waterway*

s 6 ins 2006 No. 59 s 8

PART 1A—CODES

pt 1A (ss 6A–6E) ins 2007 No. 8 s 3

Public notice of intention to declare wild river area

s 8 amd 2010 No. 53 s 240

Moratorium period

s 9 amd 2010 No. 53 s 241

Application of moratorium

s 10 amd 2006 No. 59 ss 9, 85 sch; 2010 No. 53 s 242; 2012 No. 20 s 323 sch 3;
2013 No. 24 s 75

Content of declaration proposal

s 12 amd 2006 No. 59 s 10; 2007 No. 8 s 4; 2009 No. 36 s 872 sch 2; 2010 No. 53
s 243

Matters Minister must consider

s 13 amd 2006 No. 59 s 85 sch; 2007 No. 8 s 5; 2011 No. 40 s 96

Content of wild river declaration

s 14 amd 2006 No. 59 s 11; 2007 No. 8 s 6; 2009 No. 36 s 872 sch 2; 2010 No. 53
s 244

Effect of declaration on activities and taking natural resources

s 17 amd 2006 No. 59 s 12; 2010 No. 53 s 245

Code for IDAS

s 17A ins 2006 No. 59 s 13
om 2007 No. 8 s 7

Applications received but not decided

s 18 amd 2010 No. 53 s 246

Amending a wild river declaration

s 19 amd 2010 No. 53 s 247

Public notice of intention to amend wild river declaration

s 20 amd 2007 No. 8 s 8; 2010 No. 53 s 248

Moratorium period

s 21 amd 2007 No. 8 s 9; 2010 No. 53 s 249

Application of moratorium

s 22 amd 2006 No. 59 s 85 sch; 2010 No. 53 s 250

Public notice about amendment proposal

s 23 amd 2007 No. 8 s 10

Discretionary content of amendment proposal**prov hdg** amd 2007 No. 8 s 11(1)**s 24** amd 2007 No. 8 s 11(2)**Matters Minister must consider****s 25** amd 2006 No. 59 s 85 sch; 2007 No. 8 s 12; 2011 No. 40 s 97**Content of wild river amendment declaration****s 26** sub 2007 No. 8 s 13**Minor and other particular amendments of wild river declaration****prov hdg** amd 2010 No. 53 s 251(1)**s 31** amd 2006 No. 59 s 14; 2007 No. 8 s 13A; 2010 No. 53 s 251(2)–(4); 2010 No. 31 s 585 sch 2 pt 2; 2012 No. 20 s 323 sch 3**Division 2A—Property development plans****div hdg** ins 2007 No. 8 s 13B**Subdivision 1—Applying for and obtaining approval of proposed property development plan****sdiv hdg** ins 2007 No. 8 s 13B**Application of sdiv 1****s 31A** ins 2007 No. 8 s 13B

amd 2007 No. 48 s 62A

Application for approval of proposed property development plan**s 31B** ins 2007 No. 8 s 13B

amd 2009 No. 36 s 872 sch 2

Requirements for application**s 31C** ins 2007 No. 8 s 13B**Required information for proposed plan****s 31D** ins 2007 No. 8 s 13B

amd 2009 No. 36 s 872 sch 2

Approval of proposed plan**s 31E** ins 2007 No. 8 s 13B**Subdivision 2—Operation of property development plan****sdiv hdg** ins 2007 No. 8 s 13B**Amendment of wild river declaration****s 31F** ins 2007 No. 8 s 13B**Nature and effect of particular amendment about property development plan****s 31FA** ins 2007 No. 48 s 62B**Application of property development plan****s 31G** ins 2007 No. 8 s 13B

amd 2009 No. 36 s 872 sch 2

Relationship with water resource plans**s 37** amd 2006 No. 59 s 85 sch; 2007 No. 8 s 14

Copies of documents to be available for public inspection

s 39 amd 2007 No. 8 s 15; 2010 No. 53 s 252

Report by Minister on wild river declarations

s 40 amd 2010 No. 53 s 253

Classification of wild river area not in Lake Eyre Basin into high preservation area and preservation area

prov hdg amd 2010 No. 53 s 254(1)

s 41 amd 2006 No. 59 s 15; 2010 No. 53 s 254(2)

Classification of wild river area in Lake Eyre Basin into high preservation area, preservation area and special floodplain management area

s 41A ins 2010 No. 53 s 255

Effect of classification on particular development applications

s 42 amd 2006 No. 59 s 16

 sub 2009 No. 36 s 872 sch 2

 amd 2010 No. 53 s 256

Effect of declaration on particular development applications

s 43 amd 2006 No. 59 s 17; 2009 No. 36 s 872 sch 2

Effect of property development plan on particular development applications

s 43A ins 2007 No. 8 s 15A

 om 2009 No. 36 s 872 sch 2

Effect of property development plan on particular applications under the Water Act 2000

s 43B ins 2007 No. 8 s 15A

Relationship with other Acts

s 44 amd 2007 No. 48 s 63

Exemption of projects from application of this Act

s 45 amd 2013 No. 10 s 191

Meaning of *Aurukun project*

s 46 amd 2006 No. 31 s 23; 2007 No. 48 s 64; 2013 No. 10 s 192

PART 5—TRANSITIONAL PROVISIONS FOR SUSTAINABLE PLANNING ACT 2009

Division 1—Indigenous reference groups

div 1 (ss 47A–47B) ins 2011 No. 40 s 98

Division 2—Wild river rangers program

div 2 (ss 47C–47E) ins 2011 No. 40 s 98

Division 3—Other matters

div hdg ins 2011 No. 40 s 98

Meaning of *specified works*

s 48 amd 2006 No. 59 s 18

PART 6—DECLARATION AND VALIDATION OF PARTICULAR MATTERS FOR WILD RIVERS AND OTHER LEGISLATION AMENDMENT ACT 2007

pt hdg prev pt 6 hdg om R1 (see RA s 7(1)(k))
pres pt 6 hdg ins 2007 No. 8 s 16

Definition for pt 6

s 52 prev s 52 om R1 (see RA s 40)
pres s 52 ins 2007 No. 8 s 16

Validation of particular matters

s 53 ins 2007 No. 8 s 16

Particular documents taken to be wild river declarations

s 54 ins 2007 No. 8 s 16

PART 7—TRANSITIONAL PROVISIONS FOR SUSTAINABLE PLANNING ACT 2009

pt 7 (ss 55–56) ins 2009 No. 36 s 872 sch 2

SCHEDULE—DICTIONARY

(prev sch 2) renum 2006 No. 59 s 19(5)

amd 2006 No. 59 s 85 sch

def *agricultural activities* amd 2006 No. 59 s 19(2)–(3); 2007 No. 8 s 17(3)–(4); 2010 No. 53 s 257(3)–(5)

def *animal husbandry activities* amd 2006 No. 59 s 19(4)

def *applicable code* amd 2009 No. 36 s 872 sch 2

def *assessment manager* amd 2009 No. 36 s 872 sch 2

def *designated urban area* ins 2006 No. 59 s 19(1)

def *development application* amd 2009 No. 36 s 872 sch 2

def *high risk species* ins 2006 No. 59 s 19(1)

sub 2007 No. 8 s 17(1)–(2)

def *IDAS* amd 2009 No. 36 s 872 sch 2

def *Indigenous reference group* ins 2011 No. 40 s 99

def *Lake Eyre Basin* ins 2010 No. 53 s 257(2)

def *low impact soil disturbance* ins 2006 No. 59 s 19(1)

def *moderate risk species* ins 2006 No. 59 s 19(1)

sub 2007 No. 8 s 17(1)–(2)

def *nominated waterway* ins 2006 No. 59 s 19(1)

def *owner* ins 2007 No. 8 s 17(2)

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def *Planning Act* ins 2009 No. 36 s 872 sch 2

def *prepared declaration* ins 2007 No. 8 s 17(2)

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def *proposed plan* ins 2007 No. 8 s 17(2)

def *publish* sub 2010 No. 53 s 257(1)–(2)

def *special agreement Act* amd 2008 No. 52 s 98 sch 2

def *special floodplain management area* ins 2010 No. 53 s 257(2)

def *wild river area* sub 2007 No. 8 s 17(1)–(2)

def *wild river declaration* sub 2007 No. 8 s 17(1)–(2)

def *wild river ranger* ins 2011 No. 40 s 99
def *wild river rangers program* ins 2011 No. 40 s 99
def *wild rivers code* ins 2007 No. 8 s 17(2)

SCHEDULE 1—CONSEQUENTIAL AND MINOR AMENDMENTS OF OTHER ACTS

om R1 (see RA s 40)

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

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