



Queensland

Wild Rivers and Other Legislation Amendment Act 2007

Act No. 8 of 2007



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**An Act to amend the *Wild Rivers Act 2005*, and for other
purposes**

[Assented to 28 February 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Wild Rivers and Other Legislation Amendment Act 2007*.

Part 2 Amendment of Wild Rivers Act 2005

2 Act amended in pt 2

This part amends the *Wild Rivers Act 2005*.

3 Insertion of new pt 1A

After section 6—

insert—

‘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.
- ‘(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
- (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.’.

4 Amendment of s 12 (Content of declaration proposal)

- (1) Section 12(1)(b)—

omit, insert—

‘(b) the natural values of the proposed wild river that the proposed wild river declaration is intended to preserve (the *relevant natural values*);’.

- (2) Section 12(1)(r) to (t)—

renumber as section 12(1)(t) to (v).

- (3) Section 12(1)—

insert—

- ‘(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;’.

5 Amendment of s 13 (Matters Minister must consider)

Section 13(2), ‘section 14(1)(j) to (o) and (2)’—

omit, insert—

‘section 14(1)(k) to (p) and (3)’.

6 **Amendment of s 14 (Content of wild river declaration)**

- (1) Section 14(1), paragraphs (b) to (o) and (p)—
renumber as paragraphs (c) to (p) and (s), respectively.
- (2) Section 14(1), after paragraph (a)—
insert—
‘(b) the natural values of the wild river that the declaration is intended to preserve (the **relevant natural values**);’.
- (3) Section 14(1)(j), as renumbered, after ‘area’—
insert—
‘under the declaration’.
- (4) Section 14(1)(p), as renumbered, from ‘the threshold’ to ‘IDAS,’—
omit, insert—
‘any threshold limits’.
- (5) Section 14(1)—
insert—
‘(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;’.
- (6) Section 14(1)(s), as renumbered, ‘paragraphs (b) to (h)’—
omit, insert—
‘paragraphs (c) to (i)’.
- (7) Section 14(2) and (3)—
renumber as section 14(3) and (4).
- (8) Section 14—
insert—

- (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 *Integrated Planning Act 1997*, schedule 10, definition *code*.’.

7 Omission of s 17A (Code for IDAS)

Section 17A—

omit.

8 Amendment of s 20 (Public notice of intention to amend wild river declaration)

- (1) Section 20(2)(a), before ‘the wild river declaration’—

insert—

‘the title of’.

- (2) Section 20(2)(c), ‘of the—

omit, insert—

‘of any’.

9 Amendment of s 21 (Moratorium period)

Section 21(1), from ‘For’ to ‘following period’—

omit, insert—

‘If a moratorium will have effect under a notice of intent, the moratorium period for the notice of intent is the following period’.

10 Amendment of s 23 (Public notice about amendment proposal)

- (1) Section 23(1)(a), after ‘the’—

insert—

‘amendment of the’.

- (2) Section 23(2)(a), before ‘the wild river declaration’—
insert—
‘the title of’.

11 Amendment of s 24 (Content of amendment proposal)

- (1) Section 24, heading, ‘Content’—
omit, insert—
‘**Discretionary content**’.
- (2) Section 24(a), before ‘the wild river declaration’—
insert—
‘all or part of the provisions of’.

12 Amendment of s 25 (Matters Minister must consider)

- Section 25(2), ‘section 14(1)(j) to (o) and (2)’—
omit, insert—
‘section 14(1)(k) to (p) and (3)’.

13 Replacement of s 26 (Content of wild river amendment declaration)

- Section 26—
omit, insert—

‘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.’.

13A Amendment of s 31 (Minor amendments of wild river declaration)

Section 31(3), definition ‘*owner*’—
omit.

13B Insertion of new pt 2, div 2A

After section 31—
insert—

‘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 proposes to carry out activities on, or take natural resources from, land owned by the person within a wild river area; 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 *Integrated Planning Act 1997*, or another approval under another Act, for carrying out an activity or taking a natural resource. See also sections 43A and 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;

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 *Integrated Planning Act 1997*, 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.

‘31G Application of property development plan

‘For the purposes of sections 43A and 43B, 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 also sections 43A (Effect of property development plan on particular development applications) and 43B (Effect of property development plan on particular applications under the Water Act 2000).

14 Amendment of s 37 (Relationship with water resource plans)

Section 37(1), ‘section 14(1)(j) to (o) and (2)’—

omit, insert—

‘section 14(1)(k) to (p) and (3)’.

15 Amendment of s 39 (Copies of documents to be available for public inspection)

Section 39(1)(e), ‘approved under section 16’—

omit.

15A Insertion of new ss 43A and 43B

After section 43—

insert—

‘43A Effect of property development plan on particular development applications

‘(1) This section applies to a development application that—

- (a) relates to land to which a property development plan applies; and
- (b) is for assessable development under any of the following provisions of the *Integrated Planning Act 1997*, schedule 8, part 1—
 - table 1, item 2
 - table 2, items 1, 8 and 11
 - table 4, items 1A to 1G, 3, 5, 6 to 8 and 10
 - table 5, items 1 and 4.

- ‘(2) Despite the *Integrated Planning Act 1997*, section 3.2.1, unless the application is consistent with the property development plan—
- (a) the application is taken not to be a properly made application for that Act; and
 - (b) the assessment manager must refuse to receive the application.

‘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.’.

16 Insertion of new pt 6

After section 51—

insert—

‘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;
- (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.’.

17 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *high risk species*, *moderate risk species*, *wild river area* and *wild river declaration*—
omit.
- (2) Schedule—
insert—
‘*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.

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.

owner, of land, means any of the following, and includes the occupier of the land—

- (a) the registered proprietor of the land;
- (b) the lessee or licensee under the *Land Act 1994* of the land;
- (c) the holder of a mineral development licence or mining lease under the *Mineral Resources Act 1989*;
- (d) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;
- (e) the person who is entitled to receive the rents and profits of the land.

prepared declaration see section 52.

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

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

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 rivers code see section 6A.

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.’.
- (3) Schedule, definition *agricultural activities*, paragraph 2, paragraph (d), after ‘crop of pasture or grain species’—

insert—

‘19D Application of ss19A–19C to wild rivers code

‘Sections 19A to 19C do not apply to the wild rivers code under the *Wild Rivers Act 2005*, or a part of that code, that is a declared area code.’.

Part 5 Amendment of Water Act 2000

22 Act amended in pt 5

This part amends the *Water Act 2000*.

22A Amendment of s 360ZD (Restricting water supply)

Section 360ZD—

insert—

‘(7) In this section—

customer, of a service provider, means—

- (a) if the service provider is a local government—a ratepayer of the local government who enjoys registered services supplied by the local government; and
- (b) if the service provider is other than a local government—a person who enjoys registered services supplied by the service provider.’.

22B Amendment of s 360ZE (Notice of commission water restriction must be given)

(1) Section 360ZE(4)(a), ‘for a non-residential customer’—

omit, insert—

‘if the contravention relates to non-residential premises’.

(2) Section 360ZE(4)(b), ‘for any other person’—

omit, insert—

‘otherwise’.

23 Amendment of s 966A (Applications in relation to operational work in wild river areas)

(1) Section 966A(2)—

omit, insert—

‘(2) Subsection (3) applies if any part of the application relates to—

(a) operational work in a wild river high preservation area that interferes with the flow of water in a watercourse, lake or spring in the wild river high preservation area; or

(b) operational work in a wild river preservation area that interferes with the flow of water in a nominated waterway and is not a dam or weir; or

(c) operational work in a high preservation area that takes overland flow water, other than works stated in a wild river declaration for the area to be assessable development under the *Integrated Planning Act 1997* for which a development application under that Act may be made.’.

(2) Section 966A(4)(b)—

omit.

(3) Section 966A(4)(c)—

renumber as section 966A(4)(b).