

# **Wild Rivers and Other Legislation Amendment Bill 2007**

## **Explanatory Notes for Amendments to be Moved During Consideration in Detail by the Honourable Craig Wallace MP**

### **Title of the Bill**

Wild Rivers and Other Legislation Amendment Bill 2007.

### **Objectives of the Amendments**

The proposed amendments:

- enable wild river declarations to be amended to be consistent with an approved property development plan, thereby enabling certain types of development to occur that would otherwise not be permitted under a wild river declaration, provided such development does not adversely affect the wild river natural values;
- clarify the definition of ‘customer’ of a service provider, other than a local government, for restriction of water supply by the Queensland Water Commission (‘the Commission’) under chapter 2A, part 6 of the *Water Act 2000*.

### **Achievement of the Objectives**

#### ***Wild Rivers Act 2005***

The amendments insert a process into the Act for approving a property development plan as a precursor to any proposed amendment of a wild river declaration. The declaration amendment would be undertaken under existing processes, including public consultation and formal submissions, outlined in the Act.

A draft property development plan will be required to outline:

- the nature and extent of all proposed developments to be undertaken on the property over the next 10 years;
- why the proposed developments could not reasonably occur under the existing declaration, either at the proposed sites or alternative sites within the property;
- the expected impacts on the wild river natural values of the developments and any associated take of natural resources on the property and how those impacts would be mitigated;
- any proposed enhancement actions on the property that would enhance the natural values of the wild river; and
- details of any resource allocations or other approvals necessary for the developments to proceed.

The Minister may approve the plan if satisfied that the proposed developments cannot be reasonably undertaken within the property under the wild river declaration and that the cumulative impact of the developments and any enhancement actions will provide a net environmental benefit to the natural values of the wild river. Examples of enhancement actions may include weed and pest control, removal of disused stream crossings, adopting higher flow thresholds for water extraction, re-vegetating riparian areas, and mitigating the water quality impacts of an existing development. It is intended that the Minister will seek input from an independent science panel as needed to assess the net environmental benefit. The natural values of the wild river can be assessed at the wild river, any major tributary, any special feature or any nominated waterway.

### ***Water Act 2000***

The amendment clarifies the meaning of customer of a service provider, other than a local government, in relation to the Commission's powers to restrict water supply.

### **Alternative Ways of Achieving Policy Objectives**

There are no other means by which the policy objectives of these amendments can be achieved.

The proposed amendments are considered necessary for the effective operation of the Water Act.

### **Estimated Cost for Government Implementation**

The passage of these amendments will not have any financial impacts. The implementation of the legislation will be undertaken by the Department of Natural Resources and Water and the Queensland Water Commission from within existing agency resources.

### **Consistency with Fundamental Legislative Principles**

The provision is consistent with standards required under the *Legislative Standards Act 1992*.

### **Consultation**

#### **Community**

##### ***Wild Rivers Act 2005***

The Wilderness Society has been consulted and supports the proposed amendments.

##### ***Water Act 2000***

There has been no community consultation.

#### **Government**

##### ***Wild Rivers Act 2005***

The Department of the Premier and Cabinet has been consulted and supports the proposed amendments.

##### ***Water Act 2000***

The Queensland Water Commission, the Department of Infrastructure and the Department of Premier and Cabinet have been consulted and support the proposed amendment.

## **Notes on Provisions**

### **Clause 13 - Amendment of s 26 (Content of wild river amendment declaration)**

Clause 1 omits the current clause 13 of the Bill and replaced it with a new clause 13.

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

The replacement of section 26 of the Act adds to those matters that must be included in a wild river declaration amendment reference to any property development plan applying to land within the wild river area. This amendment is consequential to the insertion of new sections 43A and 43B of the Act being inserted by clause 2 of these amendments. The listing of a property development plan in the wild river declaration will alert an assessment manager under the *Integrated Planning Act 1997* or the chief executive under the *Water Act 2000* to its existence. The assessment manager or chief executive cannot accept an application for development that is inconsistent with the property development plan.

#### **Before clause 14**

Clause 2:

- amends clause 13A of the Bill by omitting the definition of ‘owner’ from section; and
- inserts a new clause 13B into the Bill which adds a new Division 2A to the Act relating to property development plans.

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

The amendment of section 31(3) of the Act (minor amendments of wild river declaration) is necessary because the term ‘owner’ which was previously only used in section 31 of the Act is now used, with an expanded definition, in relation to property development plans.

## **13B - Insertion of new pt 2, div 2A**

### **New Division 2A – Property development plans**

The new subdivision 2A details the process for applying and obtaining approval of a proposed property development plan and operation of the approved plan.

### **New Subdivision 1 – Applying for and obtaining approval of proposed property development plan**

#### **New section 31A – Application of sdiv 1**

New section 31A provides that this subdivision applies:

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

#### **New section 31B - Application for approval of proposed property development plan**

New section 31B enables a person to apply for approval of a proposed property development plan. The plan must cover all intended development on that part of the property within the wild river area that will be completed over the next ten years.

#### **New section 31C – Requirements for application**

New section 31C provides that the application for approval of a proposed property development plan must be in the approved form, include a copy of the proposed property development plan and be accompanied by the prescribed fee, which will be set by regulation.

#### **New section 31D – Required information for proposed plan**

New section 31D sets out the information that must be included in a proposed property development plan.

### **New section 31E – Approval of proposed plan**

New section 31E provides that the Minister may approve a property development plan, with or without conditions, only if the Minister is satisfied that:

- the implementation of the plan is likely to result in an overall beneficial impact on the natural values of the relevant wild river;
- the carrying out of the developments under the plan may not reasonably be carried out without amending the relevant wild river declaration; and
- the activities under the plan will be completed within 10 years from approval of the application.

### **New Subdivision 2 – Operation of property development plan**

#### **New section 31F – Amendment of wild river declaration**

New section 31F provides that if the Minister approves the property development plan the Minister may amend the relevant wild river declaration to accommodate the carrying out of the development set out in the plan.

#### **New section 31G – Application of property development plan**

New section 31G provides that a person's property development plan applies to all land owned by the person within the wild river area.

#### **After clause 15**

Clause 3 inserts a new clause 15A into the Bill that adds a new section 43A to the Act.

#### **New section 43A – Effect of property development plan on particular development applications**

New section 43A sets out the effect of a property development plan on particular development applications under the *Integrated Planning Act 1997*. An assessment manager cannot accept an application for development that is inconsistent with the approved property development plan. This ensures that the person cannot seek to undertake other types of development that would otherwise have been prohibited if the declaration

was not amended. For example, if the person sought, through the property development plan, to have the high preservation area amended to allow the establishment of an orchard at a site but then chose, after the declaration was amended, to build a cattle feedlot on the site instead.

### **New section 43B - Effect of property development plan on particular applications under the Water Act 2000**

New section 43B sets out the effect of a property development plan on particular applications under the *Water Act 2000* (Applying for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring and applying for an allocation of quarry material). The chief executive cannot accept an application for development that is inconsistent with the approved property development plan.

### **Clause 17 (Amendment of schedule (Dictionary))**

Clause 4 amends clause 17 of the Bill to insert a definition of ‘owner’ into the Dictionary of the Act. The new definition is consequential to the insertion of provisions relating to property development plans by these amendments.

### **After clause 22**

Clause 5 inserts new clauses 22A and 22B into the Bill.

### **Amendment of section 360ZD (Restricting water supply)**

Clause 22A amends section 360ZD to clarify the definition of ‘customer’ of a service provider, other than a local government, relating to the restriction of water supply by the Commission. The amendment gives effect to the intention the Commission has the power to impose a restriction on a service provider in respect of its customers generally, that is persons that enjoy registered services supplied by the service provider. The definition of customer of a service provider that is a local government remains unchanged.

**Amendment of section 360ZE (Notice of commission water restriction must be given)**

Clause 22B amends section 360ZE as a consequence of the amendment of section 360ZD. Having defined customer in section 360ZD, the deletion of non-residential customer removes any doubt as to the definition of customer relating to restriction of water supply by the Commission. The amendment does not affect the extent or operation of the offence in this section.