

Lockhart Basin

wild river declaration 2009

Prepared by

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Foreword

The State Government is planning for Queensland's future by protecting our world-class natural environment.

Part of this commitment is preserving Queensland's wild rivers for current and future generations through the Wild Rivers Act 2005.

To ensure widespread consultation on the Act and proposed Wild River basins in the Cape York region, the Department of Environment and Resource Management has worked with Indigenous organisations to ensure traditional owners are fully aware of the proposed declarations and what they mean for their country.

Declaring the Lockhart Basin as a wild river area is an important step in preserving the natural values of the State's unique wild rivers, which have largely been untouched by development, and are a vital part of our natural heritage.

The Lockhart Basin wild river declaration provides a framework for preserving these natural values in a way that balances the needs of a wide range of stakeholders. Although the intent of the declaration is to preserve the natural values of wild rivers in the Lockhart Basin, economic development can still occur in the wild river area.

Existing developments and activities are not impacted by the wild river declaration, and most new economic development activities can occur as long as they are undertaken in a way that does not adversely impact on the natural values the declaration is aiming to preserve.

Activities such as mining, grazing, fishing, ecotourism, outstation development and indigenous cultural activities can all still occur and this declaration explains how and where such work can occur.

Native title and traditional activities such as camping, hunting, fishing, use of fish traps, collecting bush foods and medicines, conducting ceremonial activities, manufacture of traditional artefacts and traditional fire management are also not impacted by the wild river declaration.

Development opportunities for Indigenous communities on Cape York Peninsula are enhanced by the Wild Rivers Act 2005 and Cape York Peninsula Heritage Act 2007.

The Heritage Act specifies that a relevant wild river declaration must ensure a reserve of water is available to help Indigenous people in the wild river area achieve their economic and social aspirations.

Through the State Government commitment to protecting our world-class natural environment, the wild rivers in the Lockhart Basin will be preserved for all to enjoy, now and in the future.

Stephen Robertson
Minister for Natural Resources, Mines and Energy and Minister for Trade

Note: This Foreword does not form part of the Declaration as approved by the Governor-in-Council and notified in the Gazette

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Chapter 1 Preliminary

1. Short title

This wild river declaration may be cited as the *Lockhart Basin Wild River Declaration 2009*.

2. Purpose of this declaration

The purpose of this declaration is to preserve the relevant natural values of the wild rivers in the Lockhart Basin Wild River Area.

3. Relevant natural values

The relevant natural values of the wild rivers in the wild river area, which this declaration intends to preserve, include, but are not limited to—

- (1) hydrologic processes including the natural flow of water in the wild rivers' catchments and river systems. These processes include hydrological connectivity between the river system, aquifers, offstream water bodies, adjacent floodplains, and estuaries; and
- (2) geomorphic processes including the natural erosion, transport and deposition of sediments by water throughout the catchments of the wild rivers and along the river systems to their respective estuaries. Natural geomorphic processes contribute to the physical integrity of the river system, including bed and bank stability as well as channel alignment; and
- (3) riparian function including a range of processes that occur in, or as a result of, the vegetation growing adjacent to the streams, estuaries, lakes, floodplains and wetlands. This function maintains the physical integrity of bed and banks, provides aquatic habitat, pollution control, food sources for native aquatic and terrestrial fauna and maintains links between in-stream and land-based ecosystems; and
- (4) wildlife corridor function including areas of natural habitat within and along the river systems to allow native aquatic and terrestrial fauna to safely migrate within their natural ranges; and
- (5) water quality including the physical, chemical and biological attributes of water in the wild rivers that supports and maintains natural aquatic and terrestrial ecosystems.

4. Setback and slope thresholds for the *Wild Rivers Code*

Setback and slope thresholds relevant to the *Wild Rivers Code* are—

- (1) for all parts of the *Wild Rivers Code* except part 12 as per schedule 3 Part 1; and
- (2) for part 12 of the *Wild Rivers Code* as per schedule 3 Part 2.

Chapter 2 Areas to which the declaration applies

5. Wild river area

The Lockhart Basin Wild River Area (the wild river area) applies to the area that is the extent of the catchments of the Claudie River, the Lockhart River, the Nesbit River, the Chester River and the Rocky River.

6. Wild rivers, major tributaries and special feature

- (1) The wild rivers in the wild river area are—
 - (a) Claudie River;
 - (b) Lockhart River;
 - (c) Nesbit River;
 - (d) Chester River; and
 - (e) Rocky River.
- (2) The major tributaries in the wild river area are—
 - (a) Eden Creek;
 - (b) Leo Creek; and
 - (c) Scrubby Creek.
- (3) The special feature in the wild river area is—
 - (a) Lloyd Bay Estuarine Complex.
- (4) The special feature mentioned in subsection (3) is an estuarine wetland complex connected to the Lockhart River and the Claudie River and the major tributary, Eden Creek.
- (5) The location of the boundaries of the wild river area mentioned in section (5), the wild rivers mentioned in subsection (1), the major tributaries mentioned in subsection (2) and the location of the special feature mentioned in subsection (3) are—
 - (a) shown on the map in schedule 1, which is indicative only; and
 - (b) detailed by data in digital electronic form by the department's Spatial Information Resource which may be inspected at the department's offices, including at—
 - (i) Mareeba: 28 Peters Street;
 - (ii) Cairns: Level 3 William McCormack Place, 5B Sheridan Street; and
 - (iii) Brisbane: Level 2 Corner of Main and Vulture streets (Landcentre) Woolloongabba.

7. High preservation area, preservation area, floodplain management area, subartesian management area, and nominated waterways

- (1) The wild river area contains the following areas—
 - (a) high preservation areas;
 - (b) the preservation area;
 - (c) floodplain management areas; and
 - (d) subartesian management areas;
- (2) The wild river area contains nominated waterways in the preservation area.
- (3) The location of the areas mentioned in subsection (1), and the location of the nominated waterways mentioned in subsection (2) are—
 - (a) shown on the map in schedule 2, which is indicative only; and
 - (b) detailed by data in digital electronic form by the department's Spatial Information Resource which may be inspected at the department's offices, including at—
 - (i) Mareeba: 28 Peters Street;
 - (ii) Cairns: Level 3 William McCormack Place, 5B Sheridan Street; and
 - (iii) Brisbane: Level 2 Corner of Main and Vulture streets (Landcentre) Woolloongabba.

Chapter 3 Taking of natural resources

Part 1 Taking of water

8. Application and scope of part 1

- (1) This part sets out the process for making available and dealing with, unallocated water mentioned in division 3.
- (2) This part applies to the following water in the wild river area—
 - (a) water in a watercourse or lake or water in a spring; and
 - (b) subartesian water in the subartesian management area.
- (3) This part does not apply to the following water in the wild river area—
 - (a) water in springs connected to—
 - (i) artesian water; and
 - (ii) subartesian water connected to artesian water; or
 - (b) artesian water; or
 - (c) subartesian water connected to artesian water.
- (4) For this part, chief executive means the chief executive of the government entity in which the *Water Act 2000* is administered.

Division 1 Taking of water in the wild river area

9. Taking water

Water may only be taken in the wild river area under an authorisation in accordance with the *Water Act 2000*.

Division 2 Water available for allocation in the wild river area

10. Decisions not to increase amount of water taken

- (1) The chief executive must not make a decision that would increase the total annual volume of water available to be taken in the wild river area.
- (2) Subsection (1) does not apply to—
 - (a) a decision about unallocated water made under division 4; or
 - (b) a decision about a water permit.
- (3) A decision mentioned in subsection (1) includes a decision about an application, in relation to taking water under an authorisation, made but not dealt with before the commencement of this declaration.

Division 3 Unallocated water reserves

11. Unallocated water reserves

- (1) Unallocated water is reserved in the following reserves—
 - (a) Indigenous reserve;
 - (b) strategic reserve; and
 - (c) general reserve.
- (2) The total annual volumetric limit of each reserve at the time of declaration commencement is—
 - (a) Indigenous reserve—5000 ML;
 - (b) strategic reserve—2000 ML; and
 - (c) general reserve—500 ML.

Division 4 Process for granting water from reserves

12. Process for granting unallocated water

- (1) Unallocated water may be granted from the general, strategic or Indigenous reserve.
- (2) The process for granting unallocated water will be in accordance with the requirements prescribed in Schedule 4.

13. Unallocated water product specification

Where the chief executive decides to grant unallocated water it will be as a water licence granted under section 212 of the *Water Act 2000*.

Division 5 Terms and conditions for water licences

14. Purpose

- (1) Unallocated water held as general reserve may be made available for any purpose.
- (2) Unallocated water held as strategic reserve may be made available for—
 - (a) a project of State significance;
 - (b) a project of regional significance;
 - (c) town water supply; and
 - (d) ecotourism in the wild river area.
- (3) Unallocated water held as Indigenous reserve may be made available only for the purpose of helping Indigenous communities in the wild river area achieve their economic and social aspirations.

15. Criteria for deciding application for water licence

- (1) In assessing any application for water licences in the wild river area, the chief executive must consider the impact that the proposed taking of water may have on the relevant natural values as described in Section 3.
- (2) Subsection (1) does not limit the matters the chief executive may consider.

Part 2 Taking of other natural resources

16. Application and scope of part 2

This part sets out requirements for the taking of natural resources in the wild river area other than those mentioned in Part 1.

17. Quarry material allocations

- (1) This section applies to applications for the allocation of quarry material in the wild river area under the *Water Act 2000* and the *Coastal Protection and Management Act 1995*.
- (2) For an application under the *Water Act 2000*, section 280, if any part of the application relates to the wild river area, the application is taken not to have been made unless the quarry material for the proposed allocation is to be used for specified works or residential complexes in the wild river area.
- (3) Under the *Water Act 2000*, section 282, as part of the criteria for deciding whether to grant or refuse an application or what should be the conditions of the allocation, the chief executive must consider this declaration.
- (4) Under the *Coastal Protection and Management Act 1995*, section 73, if any part of the application for allocation of quarry material relates to the wild river area, the application is of no effect.

- (5) For this section chief executive means—
 - (a) for subsection (2) and (3), the chief executive means the chief executive of the government entity in which the *Water Act 2000* is administered; and
 - (b) for subsection (4) the chief executive means the chief executive of the government entity in which the *Coastal Protection and Management Act 1995* is administered.

18. Forest products

- (1) This section applies to—
 - (a) the management of State forests, timber reserves and forest entitlements areas in the wild river area; and
 - (b) getting forest products in the wild river area, under the *Forestry Act 1959*.
- (2) Under the *Forestry Act 1959*, section 33A, the chief executive must prepare a management plan for the management of State forests, timber reserves and forest entitlements areas in the wild river area.
- (3) For subsection (2), in preparing the plan, the chief executive must—
 - (a) have regard to any relevant code of practice approved under section 44A; and
 - (b) ensure the plan is not inconsistent with this declaration.
- (4) Under the *Forestry Act 1959*, section 44B, the chief executive must ensure that any lease, licence or permit granted, or any agreement or contract entered, for getting forest products in the wild river area requires the getting of the forest products to be in accordance with—
 - (a) the code approved by the chief executive under section 44A that applies for the area and any other requirement stated to apply in this declaration; or
 - (b) if a code of practice has not been approved—Part 11 of the *Wild Rivers Code*.
- (5) For subsection (4)(a) there are no other requirements to apply to the wild river area.
- (6) Under the *Forestry Act 1959*, subsection 44B, if the code approved by the chief executive under section 44A, for the wild river area is inconsistent with Part 11 of the *Wild Rivers Code*, the code that gives a greater level of protection for the area prevails to the extent of the inconsistency.
- (7) For this section, chief executive means the chief executive of the government entity in which the *Forestry Act 1959* is administered.

Chapter 4 Regulating activities

19. Application and scope of this chapter

- (1) This Chapter identifies those activities which are regulated within the wild river area.
- (2) Regulated activities may be identified as—
 - (a) assessable development for the *Integrated Planning Act 1997*; or
 - (b) self assessable development for the *Integrated Planning Act 1997*; and/or
 - (c) having to meet the requirements outlined in this declaration.

- (3) For subsection (2)(a) and (b), where a regulated activity is not identified as self assessable then the activity is assessable unless—
 - (a) an application for the activity is taken not to have been made and/or will be refused; or
 - (b) the activity is exempted by, or from the effect of, this declaration.
- (4) Regulation of the activities in this chapter does not affect the application of any legal requirements under other legislation.

Part 1 Carrying out water works

Division 1 Taking or interfering with water in a watercourse, lake or spring

20. Taking or interfering with water in a watercourse, lake or spring (prohibited activities)

- (1) This section applies to a development application for operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(a).
- (2) Under the *Water Act 2000*, section 966A, for—
 - (a) operational work in the wild river high preservation area that interferes with the flow of water in a watercourse, lake or spring; or
 - (b) operational work in the wild river preservation area that interferes with the flow of water in a nominated waterway and is not a dam or weir, subsection (3) applies.
- (3) Under the *Water Act 2000*, section 966A, despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application despite the *Integrated Planning Act 1997* section 3.2.1.

Division 2 Taking or interfering with overland flow water

Subdivision 1 Taking overland flow water

21. Application of subdivision 1

- (1) This subdivision applies to the following works for taking overland flow water in the high preservation area and floodplain management area—
 - (a) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(i); and
 - (b) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(b)(ii).
- (2) This subdivision does not apply to—
 - (a) existing overland flow works; or
 - (b) the repair or maintenance of the following works provided the repair or maintenance does not alter the design or capacity of the works—
 - (i) existing overland flow works; or
 - (ii) works constructed under a development permit.

22. Works for taking overland flow water in the high preservation area and floodplain management area (regulated activities)

- (1) Works that allow the taking of overland flow are assessable development for the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(i).

- (2) For subsection (1) and under the *Water Act 2000*, section 966A, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 6B of the *Wild Rivers Code*.
- (3) Subsection (1) does not apply to works mentioned in subsection (4).
- (4) Where they comply with Part 6A of the *Wild Rivers Code*, operational work for taking overland flow water for stock or domestic purposes are self-assessable development for the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(b)(ii).

23. Applications taken not to be properly made (prohibited activities)

- (1) Under the *Water Act 2000*, section 966A, a development application for operational work in the high preservation area for taking overland flow water for any purpose, other than operational work that is for stock or domestic purposes and assessable or self-assessable under section 22 of this declaration, despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.

Subdivision 2 Interfering with overland flow water

24. Application of subdivision 2

- (1) This subdivision applies to the following works for interfering with overland flow water in the floodplain management area—
 - (a) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(d); and
 - (b) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(c).
- (2) This subdivision does not apply to—
 - (a) existing overland flow works;
 - (b) the repair or maintenance of any of the following works if the repair or maintenance does not alter the design or capacity of the works—
 - (i) existing overland flow works; or
 - (ii) works constructed under a development permit.
 - (c) a stock yard or fence;
 - (d) an open drain or trench that is on average at a depth of less than 300 mm below ground; or
 - (e) works for a residential complex that is not any of the following—
 - (i) specified works; or
 - (ii) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer.

25. Works for interfering with overland flow water in the floodplain management area (regulated activities)

- (1) The following works for interfering with overland flow water in the floodplain management area are assessable development for the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(d)—
 - (a) specified works;
 - (b) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer; and
 - (c) a levee or other solid earth work for a commercial or industrial development or a non-domestic agricultural building.

- (2) For subsection (1) and under the *Water Act 2000*, section 966B, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 7B of the *Wild Rivers Code*.
- (3) Subsection (1) does not apply to works mentioned in subsection (4).
- (4) Where they comply with Part 7A of the *Wild Rivers Code*, the following works for interfering with overland flow water are self-assessable development for the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(c)—
 - (a) a borrow pit that is equal to, or less than, 500 mm deep; and
 - (b) a levee or other solid earth work for a commercial or industrial development or a non-domestic agricultural building other than—
 - (i) specified works; or
 - (ii) an off-stream storage for storing water taken from a watercourse, lake, spring or aquifer.

26. Applications taken not to be properly made (prohibited activities)

- (1) Under the *Water Act 2000*, section 966B, for a development application for operational work in the floodplain management area for interfering with overland flow water, other than operational work that is assessable or self-assessable under section 25, despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.

Subdivision 3 Works for taking subartesian water

27. Works for taking subartesian water (regulated activities)

This declaration does not regulate any works for taking subartesian water in the wild river area.

Part 2 In-stream works and activities

Division 1 Carrying out in-stream works and activities

28. Destroying vegetation, excavating or placing fill in a watercourse, lake or spring (regulated and prohibited activities)

- (1) This section applies to applications to the chief executive for a permit under the *Water Act 2000*, section 266, to do any of the following activities—
 - (a) destroy vegetation in a watercourse, lake or spring;
 - (b) excavate in a watercourse, lake or spring;
 - (c) place fill in a watercourse, lake or spring.
- (2) Under the *Water Act 2000*, section 266, the application is taken not to have been made if any part of the application—
 - (a) relates to the high preservation area or a nominated waterway in the preservation area; and
 - (b) relates to an activity other than—
 - (i) an activity necessary to control non-native plants or declared pests in the area; or
 - (ii) an activity necessary for specified works in the area; or
 - (iii) an activity that is a necessary and unavoidable part of installing or maintaining works or infrastructure required to support other development for which a development permit is not required, or

if a development permit is required, the permit is held or has been applied for.

- (3) For all other applications, under the *Water Act 2000*, section 268, when deciding whether to grant or refuse the application or what should be the conditions of the permit, the chief executive must consider—
 - (a) this declaration; and
 - (b) Part 9 of the *Wild Rivers Code*.
- (4) For this section, the chief executive means the chief executive of the government entity in which the *Water Act 2000* is administered.

29. Riverine quarry material extraction (regulated activities)

- (1) This section applies to a development application for operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 1.
- (2) For an application under the *Water Act 2000*, section 966C, the assessment manager's and any concurrence agency's decision must comply with Part 10 of the *Wild Rivers Code*.

Division 2 Carrying out in-stream works and activities

30. Waterway barrier works (regulated and prohibited activities)

- (1) This section applies to a development application for operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 6.
- (2) Under the *Fisheries Act 1994*, section 76DA, if any part of the application relates to development in the high preservation area, then despite section 3.2.1 of the *Integrated Planning Act 1997*—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (3) For all other applications under the *Fisheries Act 1994*, section 76DA, the applicable code that the assessment manager's and any concurrence agency's decision must comply with, is Part 8 of the *Wild Rivers Code*.

31. Works in declared fish habitat areas (regulated and prohibited activities)

- (1) This section applies to the following—
 - (a) a development application for building work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 1, item 2; and
 - (b) a development application for operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 7.
- (2) Under the *Fisheries Act 1994*, section 76DC—
 - (a) if any part of the application relates to development in the high preservation area, other than development for specified works, then despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (i) the application is taken not to be a properly made application; and
 - (ii) the assessment manager must refuse to receive the application.
 - (b) For all other applications, to the extent the application relates to development in—
 - (i) the wild river preservation area; or
 - (ii) for specified works in the wild river area,the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the *Wild Rivers Code*.

Division 3 Carrying out in-stream works and activities

32. Transport Infrastructure works (prohibited activities)

- (1) This section applies to works carried out in the wild river area under the *Transport Infrastructure Act 1994*.
- (2) The *Transport Infrastructure Act 1994* does not authorise the chief executive to carry out the following activities in the wild river area—
 - (a) for section 35, to carry out road works—extract quarry material from a watercourse;¹
 - (b) for section 39, to carry out road works to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse;
 - (c) for section 167, to carry out railway works to grant an approval under this section to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse;
 - (d) for section 306, to carry out busway transport infrastructure works to—
 - (i) divert or construct a watercourse; or
 - (ii) extract quarry material from a watercourse.
- (3) For this section, chief executive means the chief executive of the government entity in which the *Transport Infrastructure Act 1994* is administered.

Part 3 Activities in tidal areas

Division 1 Carrying out activities in tidal areas

33. Removal, destruction or damage of marine plants (regulated and prohibited activities)

- (1) This section applies to a development application for operational works mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 8.
- (2) Under the *Fisheries Act 1994*, section 76DB, if any part of an application relates to operational work in the wild river area, despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (3) Subsection (2) does not apply to the following operational work—
 - (a) for specified works in the area; or
 - (b) that is a necessary and unavoidable part of installing or maintaining works or infrastructure required to support other development for which a development permit is not required or, if a development permit is required, the permit is held or has been applied for.
- (4) For applications for operational works specified in subsection 3, under the *Fisheries Act 1994*, section 76DB, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the *Wild Rivers Code*.

¹ Quarry material in this instance is as defined under the *Water Act 2000*.

Division 2 Carrying out activities in tidal areas

34. Works in a coastal management district (regulated and prohibited activities)

- (1) This section applies to a development application for operational works mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 5.
- (2) Under the *Coastal Protection and Management Act 1995*, section 104A, if any part of the application relates to operational work in the wild river area other than for specified works, then despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (3) For all other applications under the *Coastal Protection and Management Act 1995*, section 104A, the applicable code that the assessment manager's and any concurrence agency's decision must comply with is Part 4 of the *Wild Rivers Code*.

35. Dredge management plans (regulated activities)

- (1) This section applies to the preparation, approval or refusal and renewal of dredge management plans under the *Coastal Protection and Management Act 1995*.
- (2) Under the *Coastal Protection and Management Act 1995*, section 90, in preparing a dredge management plan where the area to which the plan relates includes all or part of the wild river area, a person² must consider this declaration.
- (3) Under the *Coastal Protection and Management Act 1995*, section 93, the chief executive may approve the dredge management plan if satisfied the removal of quarry material and the placement or disposal of spoil under the plan do not adversely affect management of, amongst other things, the wild river area.
- (4) For renewing approvals under the *Coastal Protection and Management Act 1995*, section 96, if the area to which the approved plan relates includes all or part of the wild river area, the plan must include consideration of this declaration.
- (5) For this section, chief executive means the chief executive of the government entity in which the *Coastal Protection and Management Act 1995* is administered.

Part 4 Mining and petroleum activities

Division 1 Mining tenements

Subdivision 1 Granting of mining tenements

36. Application and scope of subdivision 1

This subdivision applies to the granting of mining tenements over certain parts of the wild river area under the *Mineral Resources Act 1989*, section 383.

² A dredge management plan is prepared by a person proposing to remove quarry material below high water mark or place spoil derived from the removal. A person may include a government entity or a port authority.

37. Granting of mining tenements other than an exploration permit or mining lease

If a mining tenement other than an exploration permit or a mining lease is granted over land that includes the wild river area, the following parts of the wild river area are excluded from the land to which the mining tenement applies—

- (a) the high preservation area; and
- (b) nominated waterways in the preservation area.

38. Granting of exploration permit or mining lease

- (1) If an exploration permit is granted over land that includes the wild river area, exploration may be carried out—
 - (a) to the extent the exploration permit applies to the high preservation area, other than watercourses and lakes—using only low impact activities³; and
 - (b) to the extent the exploration permit applies to watercourses and lakes in the high preservation area or nominated waterways—using only limited hand sampling techniques.
- (2) If a mining lease is granted over land that includes the wild river area, mining lease activities must not be carried out—
 - (a) on the surface of the land in the high preservation area; or
 - (b) in a nominated waterway.
- (3) Subsection (2)(b) does not apply if—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.

Subdivision 2 Renewal of mining tenements

39. Application and scope of subdivision 2

This subdivision applies to the renewal of mining tenements over certain parts of the wild river area under the *Mineral Resources Act 1989*, section 384.

40. Renewal of mining tenements other than an exploration permit, mining lease or mining claim

If a mining tenement, other than an exploration permit, a mining lease or a mining claim, is renewed over land that, at the time of renewal, includes the wild river area, the following parts of the wild river area are excluded from the land to which the mining tenement applies—

- (a) the high preservation area; and
- (b) nominated waterways in the preservation area.

³ Low impact activities are as defined in the *Mineral Resources Act 1989*, section 482.

41. Renewal of exploration permit, mining lease or mining claim

- (1) If an exploration permit is renewed over land that, at the time of renewal, includes the wild river area, exploration may be carried out—
 - (a) to the extent the renewed exploration permit applies to the high preservation area, other than watercourses and lakes—using low impact activities; and
 - (b) to the extent the renewed exploration permit applies to watercourses and lakes in the high preservation area or nominated waterways—using only limited hand sampling techniques.
- (2) If a mining lease is renewed over land that, at the time of renewal, includes the wild river area, mining lease activities must not be carried out—
 - (a) on the surface of the land in the high preservation area; or
 - (b) in a nominated waterway.
- (3) Subsection (2)(b) does not apply if—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.
- (4) This declaration does not regulate the renewal of a mining claim over the wild river area.

Subdivision 3 Conditions of mining tenements

42. Application and scope of subdivision 3

This subdivision applies to the conditions placed on the grant of mining tenements in the wild river area under the following sections of the *Minerals Resources Act 1989*, sections 25, 81, 141, 194 and 276.

43. Conditions of mining tenements

- (1) Under the *Mineral Resources Act 1989*, section 25, if a prospecting permit is granted over land that includes the wild river area, the prospecting permit is subject to the condition that the activity must not occur within 20 lateral metres of a nominated waterway.
- (2) Under the *Mineral Resources Act 1989*, section 81, if a mining claim is granted over land that includes the wild river area, the mining claim is subject to the condition that the activity must not occur within 20 lateral metres of a nominated waterway.
- (3) Under the *Mineral Resources Act 1989*, section 141, if an exploration permit is granted over land that includes the wild river area, the exploration permit shall be subject to a condition that the activity must not occur within 100 lateral metres of a watercourse or lake for that part of the tenement granted over the high preservation area.
- (4) Under the *Mineral Resources Act 1989*, section 141, if an exploration permit is granted over land that includes the wild river area, the exploration permit

is subject to the condition that the activity must not occur within 50 lateral metres of a nominated waterway.

- (5) Under the *Mineral Resources Act 1989*, section 194, if a mineral development licence is granted over land that includes the wild river area, the mineral development licence is subject to the condition that the activity must not occur within 50 lateral metres of a nominated waterway.
- (6) Under the *Mineral Resources Act 1989*, section 276, if a mining lease is granted over land that includes the wild river area, the mining lease is subject to the condition that the activity must not occur within 100 lateral metres of a nominated waterway unless—
 - (a) the mining lease is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project; and
 - (b) the report evaluating the environmental impact statement for the project shows—
 - (i) the relevant natural values of the wild river, included in the preservation area, will be preserved;
 - (ii) it is not reasonably feasible to take the natural resource under the lease by underground mining; and
 - (iii) the value of the natural resource is sufficient to warrant the grant of the lease over the nominated waterway.

Division 2 Environmental authority (mining activity)

44. Meaning of certain terms

For this division—

- (1) administering authority means administering authority as defined in the schedule 3 of the *Environmental Protection Act 1994*; and
- (2) Minister means the Minister responsible for the *Environmental Protection Act 1994*.

45. Decision on environmental impact statement requirement

- (1) This section applies to the decision of an administering authority, as to whether an environmental impact statement is required for an application for mining activity in the wild river area.
- (2) Under the *Environmental Protection Act 1994*, section 162, the administering authority must, in making the decision whether an environmental impact statement is required, consider if any part of the application relates to the wild river area—this declaration.
- (3) Under the *Environmental Protection Act 1994*, section 162, an environmental impact statement is required for the application if any part of the application relates to mining activities—
 - (a) below the surface of the high preservation area; or
 - (b) under a nominated waterway in the preservation area.
- (4) Under the *Environmental Protection Act 1994*, section 163, in making a decision whether an EIS is required for an application, the Minister must consider if any part of the application relates to the wild river area—this declaration.

46. Draft terms of reference for an environmental impact statement

- (1) This section applies to the submission of the draft terms of reference for an environmental impact statement under the *Environmental Protection Act 1994*, section 41—
 - (a) for applications for level 1 environmental authorities (mining activities);
 - (b) where any of the operational land is within the wild river area.
- (2) Under the *Environmental Protection Act 1994*, section 41, the proponent must submit to the chief executive draft terms of reference that must—
 - (a) include the following—
 - (i) any potential impacts of the activity on the relevant natural values; and
 - (ii) the manner in which the proponent proposes to minimise the impacts identified under (i); and
 - (b) if mining activities are to be carried out in the high preservation area or under a nominated waterway—include a statement of how the proponent proposes to decide the minimum depth below the surface of the land under which the mining activities can be carried out to comply with this declaration; and
 - (c) for a level 1 mining authority (mining lease), if mining activities are to be carried out in the high preservation area or under a nominated waterway—include in the draft terms of reference for the environmental impact statement, the following matters—
 - (i) how the activity will occur at a sufficient depth so that there will be no collapse or subsidence of the land above;
 - (ii) how there will be minimal impact on hydraulic connections between groundwater aquifers and a watercourse or lake in the high preservation area or a nominated waterway;
 - (iii) how there will be no contamination of hydraulically-linked groundwater; and
 - (iv) an assessment of the structural elements of the underlying geology, including—
 - (A) identifying the location and extent of fault lines;
 - (B) identifying the depth and extent of alluvial material;
 - (C) identifying the depth and extent of bedrock;
 - (D) identifying the bedrock formations;
 - (E) identifying the extent of aquifers;
 - (F) identifying the expected impacts, if any, on groundwater flow direction.

47. Decision about environmental management plan requirements

- (1) This section applies to a decision on whether an environmental management plan is required for non-code compliant applications for an environmental authority under the *Environmental Protection Act 1994* in the wild river area.
- (2) Under the *Environmental Protection Act 1994*, section 163B, the administering authority must decide whether an environmental management plan is required for the application, and the authority must, in making the decision, consider this declaration and the potential impact on the relevant natural values of the following—
 - (a) a non-code compliant environmental authority (exploration);
 - (b) a non-code compliant environmental authority (prospecting); and

- (c) a non-code compliant environmental authority (mining claim).

48. Content requirements for submitted environmental management plan

- (1) This section applies to a submitted environmental management plan under the *Environmental Protection Act 1994*—
 - (a) under section 189, for a non-code compliant application for environmental authority (exploration), and a non-code compliant application for environmental authority (mineral development); and
 - (b) under section 203, for a non-code compliant application for environmental authority (mining lease).
- (2) For the Environmental Management Plan mentioned in (1)(a) and (1)(b)—a submitted environmental management plan must, to the extent the plan relates to mining activities in the wild river area, state the way in which the applicant proposes to minimise any adverse effect of the mining activities on the wild river area, having regard to this declaration.

49. Conditions to be imposed

- (1) This section applies to the decision by the administering authority to impose additional conditions on the following non code compliant applications for environmental authorities under the *Environment Protection Act 1994*—
 - (a) under section 170, for applications for a level 2 mining project if no relevant mining tenement is a mining claim or mining lease;
 - (b) under section 176, for applications (mining claim) for a level 1 mining project; and
 - (c) under section 210, for applications (mining lease) for a level 1 mining project.
- (2) For applications mentioned in subsection (1)(a) the administering authority in deciding whether to impose an additional condition on the environmental authority must consider to the extent the application relates to mining activities in the wild river area, this declaration, including the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse or lake in the high preservation area or a nominated waterway; and
 - (b) the impact of contaminated wastewater on the natural values of the wild river area.
- (3) For applications mentioned in subsection (1)(b) the administering authority in fixing proposed conditions for the draft environmental authority must consider, to the extent the application relates to mining activities in the wild river area, this declaration and if the tenure area covers all or part of the high preservation area or nominated waterway, the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse or lake in the high preservation area or a nominated waterway; and
 - (b) the impact of contaminated wastewater on the natural values of the wild river area.
- (4) For applications mentioned in subsection (1)(c) the administering authority in fixing proposed conditions for the draft environmental authority must consider, to the extent the application relates to mining activities in the wild river area, this declaration and if the tenure area covers all or part of the high preservation area or nominated waterway, the potential for—
 - (a) contaminated wastewater entering receiving waters of a watercourse or lake in the high preservation area or a nominated waterway; and

- (b) the impact of contaminated wastewater on the natural values of the wild river area; and
- (c) if mining underground—
 - (i) impacts on the relevant natural values;
 - (ii) collapse or subsidence of the land above;
 - (iii) impacts on hydraulic connections between groundwater aquifers and water course or lake in the high preservation area or nominated waterway; and
 - (iv) contamination of hydraulically linked groundwater.

50. Decision whether to grant or refuse application

- (1) This section applies to the decision by the administering authority to grant or refuse the environmental authority under the *Environmental Protection Act 1994*.
- (2) Under the *Environmental Protection Act 1994*, section 171, for non-code compliant applications for a level 2 mining project if no relevant mining tenement is a mining claim or mining lease the administering authority in deciding to grant or refuse and to impose any additional conditions must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (3) Under the *Environmental Protection Act 1994*, section 173, for non-code compliant applications for environmental authority (mining claim) for level 1 mining project, the administering authority in deciding either to refuse or allow it to proceed under the *Environmental Protection Act 1994*, divisions 3 or 4, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (4) Under the *Environmental Protection Act 1994*, section 193, for non-code compliant applications for environmental authority (exploration) or environmental authority (mineral development) for level 1 mining project, the administering authority, in deciding whether to grant or refuse the application or to impose a condition, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.
- (5) Under the *Environmental Protection Act 1994*, section 207, for non-code compliant applications for environmental authority (mining lease) for level 1 mining projects, the administering authority in deciding either to refuse or allow it to proceed under the *Environmental Protection Act 1994*, divisions 5 to 7, must consider, to the extent the application relates to mining activities in the wild river area, this declaration.

Division 3 Fossicking activities

51. Fossicking (prohibited activities)

- (1) Under the *Fossicking Act 1994*, section 3, a protected area means, in the wild river area—
 - (a) the high preservation area; or
 - (b) a nominated waterway in the preservation area.
- (2) Under the *Fossicking Act 1994*, section 9, that Act does not apply to a protected area.

Division 4 Petroleum activities

52. Environmental authority (petroleum activity)

- (1) This section applies to an environmental authority (petroleum activities) in the wild river area regulated under the *Environmental Protection Act 1994*.
- (2) Under the *Environmental Protection Act 1994*, section 93, for a code compliant level 2 petroleum activity carried out in the wild river area, the applicable codes are the applicable codes are the codes mentioned in the *Environmental Protection Act 1994*, section 93 (2) and the conditions as follows—
 - (a) in the high preservation area, a level 2 petroleum activity must not occur within 200 lateral metres of a watercourse or lake; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.
- (3) Under the *Environmental Protection Act 1994*, section 97, in deciding whether to grant or refuse the application or to impose a condition under section 98, for a non-code compliant level 2 petroleum activity the administering authority must consider, if any part of the application relates to the wild river area, this declaration.
- (4) Under the *Environmental Protection Act 1994*, section 98, for a non-code compliant level 2 petroleum activity, the administering authority must include the following conditions for relevant petroleum activities for the authority carried out in the wild river area—
 - (a) in the high preservation area, a petroleum activity must not occur within 200 lateral metres of a watercourse or lake; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.
- (5) Under the *Environmental Protection Act 1994*, section 113, in deciding whether to grant or refuse the application for a level 1 petroleum activity, the administering authority must consider, if any part of the application relates to the wild river area, this declaration.
- (6) Under the *Environmental Protection Act 1994*, section 114, for a level 1 petroleum activity, the administering authority—must include, for relevant petroleum activities for the authority carried out in the wild river area, the following conditions—
 - (a) in the high preservation area, a petroleum activity must not occur within 1 lateral kilometre of a watercourse or lake; and
 - (b) in the preservation area, a petroleum activity must not occur within 100 lateral metres of a nominated waterway.
- (7) For this section, administering authority means the chief executive of the government entity in which the *Environmental Protection Act 1994* is administered.

Part 5 Other regulated activities

53. Residential, commercial or industrial development

- (1) This section applies to—
 - (a) 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 the wild river area; and

- (ii) the application is in relation to residential, commercial or industrial development; and
 - (iii) the proposed development is made assessable under—
 - (A) a local government planning scheme; or
 - (B) the *Integrated Planning Act 1997*, schedule 8, part 1, table 3, item 1; or
 - (C) the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 2.
- (2) This section does not apply to residential, commercial or industrial development in a designated urban area.
- (3) For subsection (1)(b)(iii)(B) there is no applicable code for wild river matters.⁴
- (4) For all other applications, under the *Wild Rivers Act 2005*, section 43 the assessment manager's decision must comply with Part 5 of the *Wild Rivers Code*.

54. Protected area management plans

- (1) This section applies to a final management plan for a protected area under the *Nature Conservation Act 1992*.
- (2) Under the *Nature Conservation Act 1992*, section 117, a final management plan for a protected area may, where this declaration applies to a part or all of the protected area, be inconsistent with this declaration only to the extent the management plan provides for a greater level of protection for the area than is provided for in this declaration.

55. Master planned areas

- (1) This section applies to the identification of master planned areas.
- (2) Under the *Integrated Planning Act 1997*, section 2.5B.2, the wild river area cannot be included in a master planned area.

56. Applications for authorities under the *Fisheries Act 1994*

- (1) This section applies to an application for the issue of an authority under the *Fisheries Act 1994*, section 55.
- (2) In considering an application for the issue of an authority, the chief executive must consider this declaration.
- (3) For this section, chief executive means the chief executive of the government entity in which the *Fisheries Act 1994* is administered.

57. Aquaculture

- (1) This section applies to a development application for a material change of use of premises mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 8.
- (2) Under the *Fisheries Act 1994*, section 76DA, if any part of the application relates to development in the high preservation area, then despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (3) For all other applications under the *Fisheries Act 1994*, section 76DA, the assessment manager's and any concurrence agency's decision must comply with Part 2 of the *Wild Rivers Code*.

⁴ Reconfiguring a Lot (see the *Integrated Planning Act 1997* for a full description).

58. Release of non-indigenous fisheries resources

- (1) This section applies to the release and possession of non-indigenous fisheries resources under the *Fisheries Act 1994*.
- (2) Under the *Fisheries Act 1994*, section 90, a person must not unlawfully release non-indigenous fisheries resources, or cause non-indigenous fisheries resources to be placed or released, in a waterway or lake in the wild river area.

59. Agricultural activities

- (1) This section applies to a development application for—
 - (a) making a material change of use of premises that is mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 11; and
 - (b) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 10.
- (2) Under the *Wild Rivers Act 2005*, section 42, if any part of the application relates to development in a—
 - (a) high preservation area; or
 - (b) preservation area in relation to the production of a high-risk species, subsection (3) applies.
- (3) Despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (4) For all other applications, under the *Wild Rivers Act 2005*, section 42, the assessment manager's and any concurrence agency's decision must comply with Part 1 of the *Wild Rivers Code*.

60. Animal husbandry activities

- (1) This section applies to a development application for—
 - (a) making a material change of use of premises that is mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 11; and
 - (b) operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 10.
- (2) Under the *Wild Rivers Act 2005*, section 42, if any part of the application relates to development in the high preservation area, then despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (3) For subsection (1)(b) there is no applicable code for wild river matters.
- (4) For all other applications, under the *Wild Rivers Act 2005*, section 42, the assessment manager's and any concurrence agency's decision must comply with Part 1 of the *Wild Rivers Code*.

61. Native vegetation clearing activities

- (1) This section applies to a development application for operational work in the high preservation area mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, items 1A through to and including 1G.
- (2) Under the *Vegetation Management Act 1999*, section 17, the high preservation area is taken to be declared to be an area of high nature conservation value and the declared area code is Part 12 of the *Wild Rivers Code*.

- (3) Under the *Vegetation Management Act 1999*, section 21, for the aspect of the application relating to the clearing of vegetation—
 - (a) the *Integrated Planning Act 1997*, section 3.5.13, does not apply; and
 - (b) the assessment manager's decision must comply with the applicable code.
- (4) Under the *Vegetation Management Act 1999*, section 22A, if a vegetation clearing application is not for a relevant purpose then despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken, for the *Integrated Planning Act 1997*, not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (5) Under the *Vegetation Management Act 1999*, section 22A a relevant purpose in the high preservation area is—
 - (a) necessary to control non-native plants or declared pests; or
 - (b) to ensure public safety; or
 - (c) for establishing a necessary fence, firebreak, road or vehicular track, or for constructing necessary built infrastructure, if there is no suitable alternative site for the fence, firebreak, road, track or infrastructure; or
 - (d) a natural and ordinary consequence of other assessable development for which a development approval as defined under the *Integrated Planning Act 1997* was given or a development application as defined under the *Integrated Planning Act 1997* was made, before 16 May 2003; or
 - (e) for clearing of encroachment; or
 - (f) in an urban area under the *Urban Land Development Authority Act 2007*; or
 - (g) for an area shown as a registered area of agriculture on a registered area of agriculture map—
 - (i) for clearing regrowth on leases issued under the *Land Act 1994* for agriculture or grazing purposes; or
 - (ii) for clearing regrowth on freehold land, or indigenous land, in the wild river high preservation area.

62. Pest control notices

- (1) This section applies to the issuing of a pest control notice under the *Land Protection (Pest and Stock Route Management) Act 2002* for a class 3 pest.
- (2) Under the *Land Protection (Pest and Stock Control Route Management) Act 2002*, section 78, the issuing entity may give the owner a written notice (a *pest control notice*) if the issuing entity reasonably believes a class 3 pest on the owner's land is causing, or as the potential to cause, an adverse economic, environmental or social impact on—
 - (a) the owner's land that is, or is in or adjacent to, an environmentally significant area; or
 - (b) an environmentally significant area adjacent to the owner's land.
- (3) Under the *Land Protection (Pest and Stock Route Management) Act 2002*, section 78, environmentally significant area includes the wild river area.

63. Environmentally relevant activities (ERA)

- (1) Sections 63, 64, and 65, apply to a development application for—
 - (a) making a material change of use of premises mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 2, item 1; and

- (b) development mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 5, item 4.

64. Applications that are not properly made for environmentally relevant activities (ERA) (prohibited activities)

- (1) Under the *Environmental Protection Act 1994*, section 73AA, if any part of the application relates to—
 - (a) development in waters in the wild river area that is for an extraction ERA, unless the development application is accompanied by an allocation notice; and
 - (b) development in the high preservation area, other than—
 - (i) a sewage ERA;
 - (ii) a water treatment ERA;
 - (iii) a dredging ERA;
 - (iv) an extraction ERA, if the activity is a low impact activity⁵ carried out outside waters and is for specified works, or residential complexes, in the area;
 - (v) a screening ERA, if the activity is carried out outside waters and is for specified works, or residential complexes, in the area; or
 - (vi) a crude oil or petroleum product storage ERA, if the activity is—
 - (A) for residential complexes in the area; and
 - (B) carried out outside a designated urban area;
 - (vii) an exempt environmentally relevant activity in a designated urban area; and
 - (c) development in a floodplain management area that is for an extraction ERA, other than—
 - (i) if the activity is a low impact activity carried out outside waters; and
 - (ii) is for specified works, or residential complexes, in the area, subsection 2 applies.
- (2) Despite the *Integrated Planning Act 1997*, section 3.2.1—
 - (a) the application is taken not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.

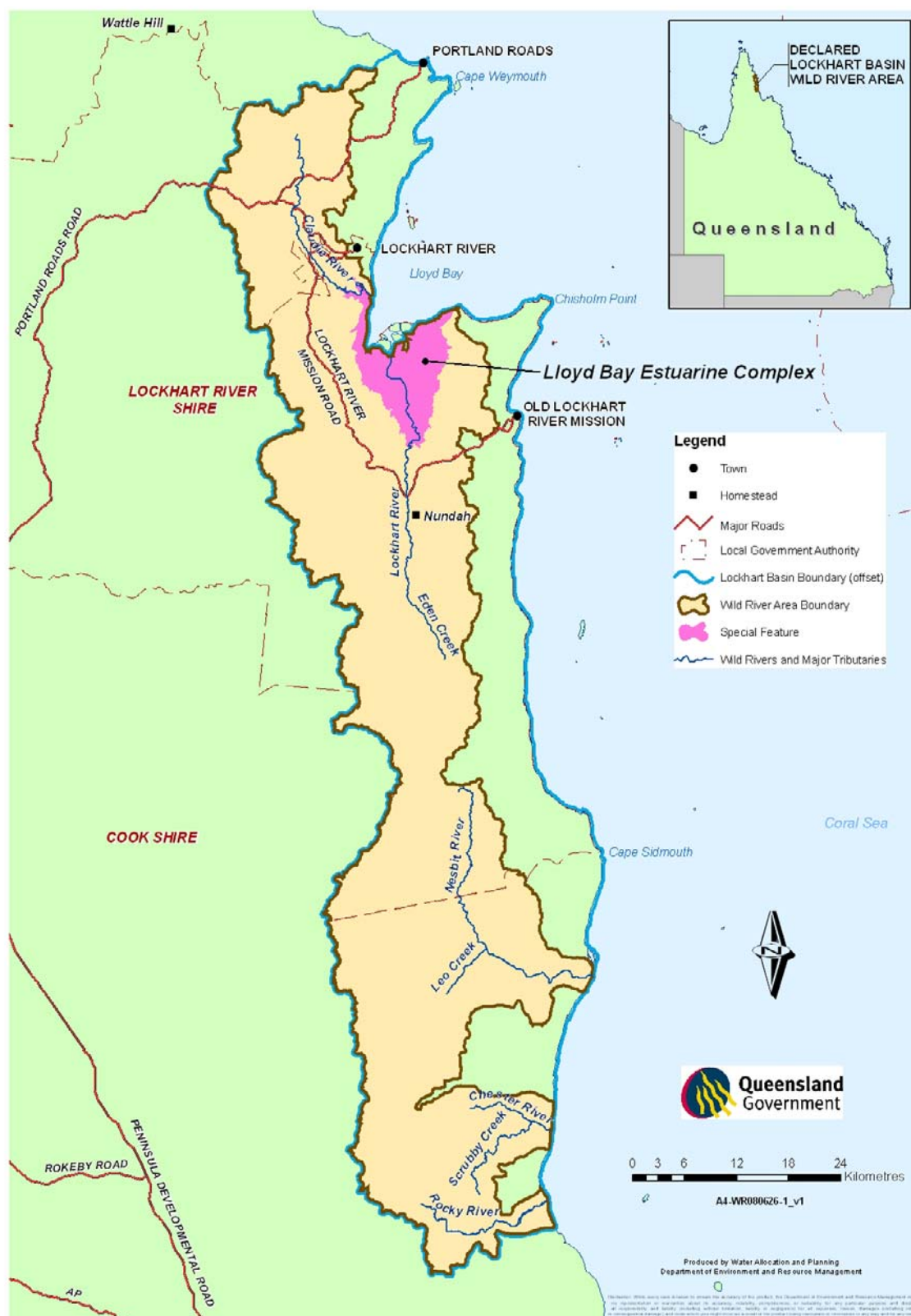
65. Applications that are assessable for environmentally relevant activities (regulated activities)

- (1) For all other applications under the *Environment Protection Act 1994*, section 73AA, which are not prohibited, to the extent that the application relates to development in the wild river area the assessment manager's and any concurrence agency's decision must—
 - (a) in assessing and deciding an application for development mentioned in section 64(1)(b)(i), or section 64(1)(b)(ii), be satisfied there is no viable location for the development outside the high preservation area; and
 - (b) comply with—
 - (i) Part 10 of the *Wild Rivers Code* for a dredging ERA or extraction ERA for the purpose of riverine quarry material extraction; and

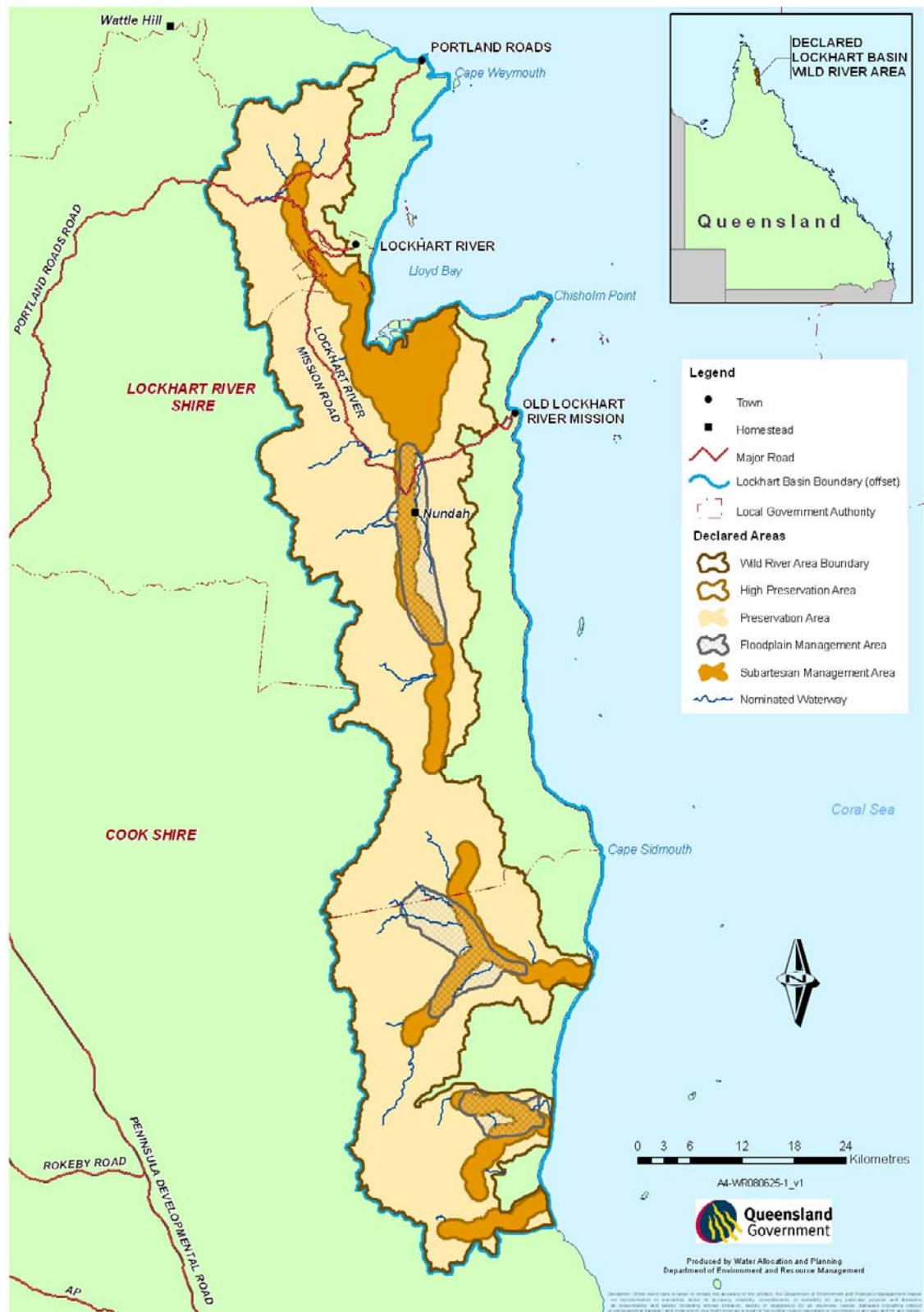
⁵ Low impact activity as defined under the *Environmental Protection Act 1994*.

- (ii) for all other environmentally relevant activities, Part 3 of the *Wild Rivers Code*.
- (2) Subsection 1 does not apply to development in the wild river area for—
 - (a) a sewage ERA or water treatment ERA, if the development is in a designated urban area;
 - (b) an exempt environmentally relevant activity within a designated urban area.

Schedule 1 Wild river area features



Schedule 2 Areas



Schedule 3 Setbacks and slopes

Part 1 *Wild Rivers Code* requirements for activities other than vegetation clearing

1 **Setbacks**

The minimum setback distance for probable solutions, for the *Wild Rivers Code*, other than for Part 12, is 200 metres.

2 **Slopes and soil stability**

The maximum slope value for probable solutions, for the *Wild Rivers Code*, other than for Part 12, is outlined in Table 1.

Table 1: Maximum slope values for probable solutions for the *Wild Rivers Code* (other than Part 12)

Soil stability class*	Soil characteristics	Slope of Land
Stable	Soils that are Calcarosols, Rudosols (lithosols, shallow stony soils), Organosols (peats, organic soils), Dermosols (structured loams, prairie soils, rendzinas, red and yellow podzolics), Ferrosols (krasnozems, eucrozems, xanthozems), non saline Hydrosols (humic gleys), Podosols (podzols, humus podzols, coloured sands), Tenosols (lithosols, alluvial soils, earthy sands); OR Soils with no dispersible layers; OR Soils with dispersible layers where the dispersible layer is located at a depth greater than 45 centimetres.	10%
Unstable	Soils that are Chromosols (podzolics, acid and neutral texture contrast soils), shallow Dermosols, saline Hydrosols (Solonchacks), Kandosols (red, yellow and grey earths), shallow Tenosols, Vertosols (cracking clays, black, grey, red and brown), Kurosols; OR Soils with a dispersible layer located between 25 and 45 centimetres deep; OR Soils less than 45 centimetres deep.	3%
Very Unstable	Soils that are Sodosols (Solodic soils, Solodised solonetz); OR Soils with a dispersible layer located less than 25 centimetres deep; OR Soils less than 25 centimetres deep.	1%

**Where a soil meets the characteristics of two soil stability classes then the less stable class must be used.*

Part 2 *Wild Rivers Code* requirements for vegetation clearing activities

1 *Acceptable solutions for Part 12 of the Wild Rivers Code*

- (1) The minimum setback distances for acceptable solutions for Part 12, section W of the *Wild Rivers Code* are—
 - (a) stream order 5 or greater—200 metres;
 - (b) stream order 3 or 4—100 metres; and
 - (c) stream order 1 or 2—50 metres.
- (2) The minimum setback distance for acceptable solutions for Part 12, other than section W, of the *Wild Rivers Code* is 200 metres.
- (3) The maximum slope values for acceptable solutions for Part 12, sections E, P, R and W of the *Wild Rivers Code* are—
 - (a) stable soils—10%;
 - (b) unstable soils—3%; and
 - (c) very unstable soils—1%.

Schedule 4 Processes for granting unallocated water

Division 1 Preliminary

1. Application of Schedule 4

- (1) Subject to section 9 of this Schedule, a process stated under division 2 or 3 of this Schedule applies for granting the water in the wild river area.

Division 2 Competitive processes

2. Application of div 2

- (1) This division provides for the process for granting unallocated water by public auction or tender.

3. Public notice of auction or tender

- (1) The chief executive must publish a notice (a **public notice**) about the availability of the water by auction or tender in a newspaper circulating generally in the wild river area.
- (2) The public notice must—
 - (a) be published before—
 - (i) the day the auction is held; or
 - (ii) the start of the period in which tenders may be made; and
 - (b) state—
 - (i) whether the water may be granted by public auction or tender; and
 - (ii) where the sale notice about the auction or tender can be inspected.
- (3) The chief executive may amend the public notice by publishing a notice amending the public notice at any time before—
 - (a) the day the auction is held; or
 - (b) the closing day for the tender.

4. Sale notice about auction or tender

- (1) The chief executive must, before holding the auction or inviting tenders, prepare a written notice (a **sale notice**) about the auction or tender stating the following—
 - (a) the following details for identifying the water—
 - (i) the wild river declaration under which the water is available;
 - (ii) the reserve from which the water is available;
 - (iii) the purpose for which the water is available;
 - (iv) the type of water entitlement under which the water is to be granted;
 - (b) other details, if any, sufficient to identify the water, including, for example—
 - (i) the volume of water that may be granted; and
 - (ii) the location from which the water may be taken;
 - (c) whether the water is to be granted by public auction or public tender;
 - (d) the requirements, if any, for eligibility to bid or tender;
 - (e) for an auction—
 - (i) the day and time when the auction will be held; and
 - (ii) the place where the auction will be held;

- (f) for a tender—
 - (i) the day (the ***closing day***) and time by which tenders must be made; and
 - (ii) the place where tenders must be lodged; and
 - (iii) the criteria, if any, for evaluating tenders;
- (g) the conditions for the auction or tender;
- (h) the forms required for—
 - (i) taking part in the auction or tender; and
 - (ii) completing the purchase of the water made available by the auction or tender.
- (2) The sale notice must be available for inspection during business hours at the department's head office and the regional office nearest to the wild river area.

Editor's note—

The department's head office is at 41 George Street, Brisbane. A sale notice may also be available for inspection on the department's website at <www.nrw.qld.gov.au>.

5. Conditions for auction or tender

- (1) Without limiting section 4(1)(g), subsections (2) to (5) state the conditions that apply to a sale by auction or tender.
- (2) A person bidding at an auction or making a tender must—
 - (a) be eligible to bid or tender in accordance with the requirements, if any, under—
 - (i) the wild river declaration; and
 - (ii) the sale notice; and
 - (b) be eligible to hold the water entitlement under which the water is to be made available; and
 - (c) complete and lodge the required forms under the sale notice for taking part in the auction or tender within the period stated in the sale notice.
- (3) If the chief executive accepts a bid or tender as the successful bid or tender, the person making the bid or tender must complete the purchase of the water as required under the sale notice, including—
 - (a) paying the deposit and purchase price for the water within the period stated in the sale notice; and
 - (b) completing and lodging the required forms under the sale notice for buying the water within the period stated in the sale notice.
- (4) For a sale by auction, the highest bid that is at least the reserve price or the reserve cash premium for the water is the successful bid.
- (5) For a sale by tender, subject to subsection (6), the successful tender is either—
 - (a) if criteria for evaluating tenders are stated in the sale notice—the tender the chief executive considers is the successful tender having regard to the criteria; or
 - (b) otherwise, the highest tender that is at least the reserve price or the reserve cash premium for the water.
- (6) If there are 2 or more tenders of equal value that comply with subsection (5), the chief executive may—
 - (a) give each of the tenderers an opportunity to make an offer; and
 - (b) sell the water by accepting the best offer under paragraph (a).

6. Failure to complete purchase after auction or tender

- (1) This section applies if—

- (a) the chief executive accepts a bid at an auction or a tender as the successful bid or tender; and
 - (b) the person who made the bid or tender does not complete the purchase of the water in accordance with the conditions for the auction or tender for the water.
- (2) Any deposit paid by the person is forfeited to the State and the chief executive may otherwise deal with the water under this division.

7. Selling water after auction

- (1) If the water is not sold at an auction under this division, the chief executive may sell the water—
 - (a) by accepting the best offer made after the auction; or
 - (b) by reducing the reserve price, advertising the reduced reserve price in the newspaper in which the auction was advertised and accepting the best offer that is at least the new reserve price or new reserve cash premium.
- (2) The conditions of sale stated in the sale notice for the auction apply, to the extent they can be applied, to a sale under this section.

8. Sale of water may be withdrawn

- (1) The chief executive may withdraw the sale of the water—
 - (a) for a sale by auction—
 - (i) before the auction; or
 - (ii) if the water is not sold at the auction, after the auction; or
 - (b) for a sale by tender—before the closing day for the tender.
- (2) If the sale of the water is withdrawn under subsection (1), the chief executive must publish a notice about the withdrawal in the newspaper in which the public notice about the auction or tender was published.

Division 3 Process without competition

9. Application of div 3

- (1) This division provides for the process for granting unallocated water, other than by public auction or tender.
- (2) If the unallocated water is reserved under the wild river declaration for a State purpose or for helping indigenous communities achieve their economic and social aspirations, only the process under this division may be applied.
- (3) In this section—

State purpose means any of the following—

 - (a) a project of State significance;
 - (b) a town water supply;
 - (c) a project of regional significance; or
 - (d) ecotourism.

10. Public notice of availability of water

- (1) The chief executive must publish a notice (a **public notice**) about the availability of the water in a newspaper circulating generally in the wild river area.
- (2) The notice must state the following—
 - (a) the following details for identifying the water—
 - (i) the wild river declaration under which the water is available;

- (ii) the reserve from which the water is available;
 - (iii) the purpose for which the water is available;
 - (b) other details, if any, sufficient to identify the water, including, for example—
 - (i) the volume of water that may be granted; and
 - (ii) the location from which the water may be taken;
 - (c) if the chief executive has decided there is a purchase price for the water, the purchase price;
 - (d) that the water may be granted only to a person who is granted a water licence to take water in the wild river area;
 - (e) details about making an application for the water licence, including for example, where to make the application and by when the application must be received;
 - (f) the other relevant conditions, if any, for granting the water that the chief executive considers appropriate.
- (3) The chief executive may amend the public notice by publishing a notice amending the public notice.

11. Availability of water may be withdrawn

- (1) The chief executive may withdraw the availability of the water.
- (2) If the chief executive withdraws the availability of the water, the chief executive must publish a notice about the withdrawal in the newspaper in which the public notice about the availability of the water was published.

Schedule 5 Dictionary

agricultural activities, as defined under the *Wild Rivers Act 2005*.

allocation notice, means an allocation notice given either under the *Water Act 2000*, section 283; or under the *Coastal Protection and Management Act 1995*, section 76.

animal husbandry activities, as defined under the *Wild Rivers Act 2005*.

chief executive- for Schedule 4, means the chief executive of the government entity in which the *Water Act 2000* is administered.

closing day see Schedule 4, section 4(1)(f)(i).

crude oil or petroleum product storage ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

domestic purposes, as defined under the *Water Act 2000*.

dredging ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

ecotourism, includes commercially based enterprise that encompasses a spectrum of nature-based activities that foster visitor appreciation and understanding of natural heritage that are managed to be ecologically, economically and socially sustainable.

exempt environmentally relevant activity, as defined under section 73AA of the *Environmental Protection Act 1994*.

existing overland flow works means works that—

- (a) allow taking overland flow water; and
- (b) either—
 - (i) were in existence on 25 January 2007; or
 - (ii) were started, but not completed by 25 January 2007; and—
 - (A) if a variation to a moratorium notice was granted for the works under section 27 of the Act—have been, or are being, completed in accordance with the moratorium notices, as varied; or
 - (B) if subparagraph (A) does not apply—were completed by 30 June 2007.

extraction ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

general reserve, means a reserve of water to be made available for any purpose—these may include the purposes of agricultural activities, aquaculture or general industrial uses.

groundwater means water that is—

- (a) artesian water; or
- (b) subartesian water.

high water mark, as defined under the *Coastal Protection and Management Act 1995*.

Indigenous reserve, means a reserve of water to be made available under a wild river declaration for the purpose of helping Indigenous communities in the area achieve their economic and social aspirations, as per the *Cape York Peninsula Heritage Act 2007*.

lake, as defined under the *Water Act 2000*.

limited hand sampling techniques, as defined under the *Mineral Resources Act 1989* section 382.

master planned area, means an area identified under the *Integrated Planning Act 1997*, section 2.5B.2 as a master planned area.

nominated waterway, as defined under the *Wild Rivers Act 2005*.

non-code compliant applications, as defined under the *Environmental Protection Act 1994*.

overland flow water, as defined under the *Water Act 2000*.

project of regional significance, means a project the chief executive of the government entity in which the *Water Act 2000* is administered, considers is significant for a region in the wild river area, having regard to the following—

- (a) the relevant natural values the wild river declaration intends to preserve;
- (b) the economic or social impact the project will have on the region;
- (c) the public interest and the welfare of people in the region; and
- (d) any other relevant consideration.

project of state significance, means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

public notice—

- (a) for Schedule 4, division 2—see Schedule 4, section 3(1); or
- (b) for Schedule 4, division 3—see Schedule 4, section 10(1).

quarry material, as defined under the *Water Act 2000* and the *Coastal Protection and Management Act 1995*

residential complex, as defined under the *Environmental Protection Act 1994*.

sale notice see Schedule 4, section 4(1).

screening ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

sewage ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.

slope, is a measure of the upward or downward incline of the land surface over any 30 metre length in the application area.

specified works, as defined under the *Wild Rivers Act 2005*.

spring, as defined under the *Water Act 2000*.

started, for existing overland flow works, means—

- (a) construction of the works had physically begun or, if construction had not physically begun, a contract had been entered into to begin construction; and
- (b) an independently verifiable construction program existed for progressive construction towards completion of the works; and
- (c) detailed design plans existed showing, amongst other things, the extent of the works; and

- (d) if a permit under the *Local Government Act 1993*, section 940, was required for the works—the permit had been issued; and
- (e) if a development permit was required for the works—the permit had been given.

stock purposes, as defined under the *Water Act 2000*.

strategic reserve, means a reserve of water to be made available for developments of state or regional significance, town water supplies and for ecotourism.

stream order, as defined as in the *Regional Vegetation Management Codes* approved under the *Vegetation Management Act 1999*.

subartesian water, as defined under the *Water Act 2000*.

watercourse, as defined under the *Water Act 2000*.

water entitlement, as defined under the *Water Act 2000*.

water in a watercourse or lake, as defined under the *Water Act 2000*.

water licence, as defined under the *Water Act 2000*

water permit, as defined under the *Water Act 2000*.

water treatment ERA, as defined under section 73AA of the *Environmental Protection Act 1994*.