

# **Wild Rivers and Other Legislation Amendment Bill 2006**

## **Explanatory Notes**

### **General Outline**

#### **Short Title**

The short title of the bill is the *Wild Rivers and Other Legislation Amendment Bill 2006*.

#### **Policy Objectives**

The objectives of the Bill are to amend:

- the *Wild Rivers Act 2005* to remove unreasonable impediments to essential and low-impact developments in a wild river area. These include:
  - allowing small communal gardens to be established in a high preservation area.
  - providing an exemption for the construction of residential complexes (including homesteads, out stations and resorts) in high preservation areas.
  - providing an exemption for the construction of 'homesteads' (including outstations) in High Preservation Areas.
  - allowing new fodder crops to be established in PAs without wild river requirements;
  - allowing vegetation regrowth within existing agricultural areas in HPAs to be cleared;
  - allowing secondary tributaries in PAs to be 'nominated' for wild river purposes;
  - allowing essential urban infrastructure (eg sewage treatment works) to be developed in HPAs;
  - allowing low-impact mineral exploration within HPAs;

- allowing mining to occur beneath HPAs and nominated waterways;
- allowing mining to occur within nominated waterways in certain circumstances;
- allowing new riverine quarry material allocations to be granted; and
- allowing new riverine quarry material operations to be established.
- the *Water Act 2000* to:
  - facilitate the implementation of resource operations plan for the Great Artesian Basin;
  - in South East Queensland (and designated regions), empower the Queensland Water Commission (QWC) to require a water service provider to have non-residential customers prepare, amend and comply with a water efficiency management plan (WEMP);
  - outside of South East Queensland, empower the chief executive of the Department of Natural Resources and Water to require water service providers to have non-residential water customers prepare, amend and comply with a WEMP;
  - allow water service providers (usually councils) to require non-residential water customers to prepare, amend and comply with a WEMP;
  - provide an increased penalty for breaches of water restrictions by non-residential customers;
- The *Valuation of Land Act 1944* to standardise objection lodgement provisions, thereby making the Act easier to administer and removing public confusion;
- The *Building Act 1975* to provide councils with the power to mandate water tanks.

## **Reasons for the Policy Objectives**

### **Wild Rivers Act 2005**

The *Wild Rivers Act 2005* (the Act) was proclaimed in December 2005 providing the framework for declaring wild rivers. Subsequently, six rivers were nominated as proposed wild rivers.

Wild river areas are divided into two types of 'zones':

- high preservation areas (HPAs), which include the river, its major tributaries, any special off-stream features and a buffer up to 1km wide each side or around those features; and
- preservation areas (PAs), which form the balance of the wild river area, ie the general catchment area, including secondary watercourses.

Since December 2005, when the *Wild Rivers Act 2005* was commenced and the first six wild river nominations were released for public consultation, there have been significant concerns voiced by the pastoral and mining sectors as well as a few local governments. The main concern is the perceived potential impact on economic development in wild river areas. More recently the Cape York Land Council/Balkanu Cape York Development Corporation (CYLC) has expressed concern that perceived economic impacts could significantly affect the social amenity of indigenous communities on Cape York.

The previous Government negotiated an agreement with the Queensland Resources Council, The Wilderness Society and AgForce in regard to the six current wild river nominations. Part of the agreement was to amend the legislation as soon as possible to allow the declarations to be finalised and to provide certainty to affected landholders and miners.

On 24 July 2006, the Premier, following agreement with representatives of landholders and conservation groups, announced that changes would be made to the Wild Rivers legislation that would allow certain activities within the catchments of wild rivers without jeopardising the policy intent of protecting the natural value of these areas.

## **Water Act 2000**

### **Transferring Water Licences in a Water Resource Plan Area**

The Water Act provides a framework for the development and implementation of a Resource Operations Plan (ROP - the plan that implements the strategic water resource plan for the catchment).

In the Great Artesian Basin, (GAB) Water Resource Plan (WRP) area, water users hold water licences rather than water allocations. As the Water Act currently stands, the trading of water licences is much more limited than water allocations. However these limitations restrict the flexibility needed for management and use of water in the system and it is proposed to extend the ability to trade/transfer these licences.

This flexibility will be required in other WRP areas in the future.

### **Water Efficiency Management Plans**

Due to water shortages in south east Queensland (SEQ) and the need for more efficient management of water resources in other regions, a greater emphasis is being placed on demand management measures generally including the need to reduce consumption including the need to improve the efficiency of water use by the industrial and commercial sector. Consequently, there is a need to provide powers for both the Queensland Water Commission (QWC) (in the SEQ region and other designated regions) and the chief executive of Department of Natural Resources and Water (for other parts of the State) to direct that water service providers require a non-residential customer or types of non-residential customers to prepare, amend and comply with a water efficiency management plan (WEMP). A type of customer refers to different categories of customer which may, for example, include categories based on the volume of water consumed (e.g. a customer who uses more than 10 megalitres a year), customers who use water for specified purposes or uses (e.g. for cooling towers and sportsgrounds) or customers who fall within a specific industry (e.g. nurseries and turf farms).

Water service providers will also have power to require their non-residential customers to prepare, amend and comply with a WEMP.

### **Water restrictions**

Under sections 360ZD and 360ZE, the QWC has the power to impose a water restriction in the SEQ region (or any other designated area). Water service providers also have the power under sections 388 and 389 to impose a water restriction. These amendments clarify that a water

restriction can impose a prohibition on the use of water for specified uses and that a restriction can provide an exemption from a water restriction.

The penalty for a breach of a water restriction for a non-residential customer is being increased from 200 penalty units to 1665 penalty units under the Water Act. The penalty for any other person will remain at a maximum of 200 penalty units.

### **System Operating Plans**

Chapter 2A currently seeks to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and other designated regions. The proposed amendments will give greater recognition to demand management in a System Operating Plan (SOP).

### **Valuation of Land Act 1944**

Under the Act, a person has 42 days in which to object to an annual valuation. The 42 day period commences from the date that the valuation notice was given to the person. A person has up to one year in which to lodge a late objection to an annual valuation. The 1 year period commences from either the first advertisement about the valuation or the date that the valuation notice was given to the person.

Both the 42 day period in which a person may lodge an objection against a valuation (other than annual) and the 1 year late objection period commence from the date the notice was issued to the person.

The commencement date for an objection to an annual valuation causes confusion and conflict with property owners and departmental staff as it is difficult to determine the date the person actually received the valuation notice.

The commencement date for non annual valuations is more clearly understood.

### **Building Act 1975**

Provisions in council planning schemes enabled councils to require rainwater tanks to be installed in new homes. These provisions lapsed on 1 September 2006. This was the deadline for councils to replace their old planning scheme provisions by adopting standardised rainwater tank provisions under the Queensland Development Code. However, some councils were unable to adopt the Code provisions by the due date, and it is now necessary to revive planning provisions that existed prior to 1 September 2006 and extend their life for a further 12 months. This will

allow councils to continue to require the installation of rainwater tanks until they adopt the standardised provisions under the Queensland Development Code.

## **How the Policy Objectives will be achieved**

The policy is to be achieved by:

### **Wild Rivers Act 2005**

It is proposed to amend the legislation to remove restrictions on a small number of minor operational issues that would cause unintended consequences as well as to permit new economic developments that pose a low risk to wild river values. The policy never intended to prevent communities developing essential services necessary for social amenity, such as water supply, sewage treatment and mechanic workshops. Because these activities are captured under the *Environmental Protection Act 1994*, they are not permitted in high preservation areas, even if they are within urban areas. Other unintended consequences are that the restriction on taking gravel from rivers in high preservation areas will result in increased cost for road construction and maintenance. Also, the clearing of regrowth is not permitted in high preservation areas and this could cause pasture areas left to fallow for a year or two to become unusable. There are a number of definitions in the Wild Rivers Act, such as for agriculture and animal husbandry, that could be clearer to avoid confusion and misunderstanding. There are a number of provisions in the Wild Rivers Act, such as requiring declarations to include assessment codes, that are inflexible and create additional administrative processes (such as having to repeat the full public planning process for all declared wild rivers if a code is amended).

Amendments to remove unreasonable impediments to appropriate forms of low-impact economic development would also be proposed. These could include: certain mineral exploration methods in high preservation areas; lower assessment requirements for such exploration outside high preservation areas, allowing mining beneath high preservation areas and nominated waterways; a range of fodder crops grown without assessment in preservation areas; and 'grow-out' aquaculture activities in high preservation areas. Also a number of provisions will be clarified to remove uncertainty as to the extent of wild river requirements, such as allowing secondary tributaries in a preservation area to be nominated for management purposes in order to remove the need for the developer to interpret the definition of 'watercourse' under the Water Act. This was a

major issue raised by the mining sector as mining activity is not permitted in such stream reaches.

## **Water Act 2000**

### **Transfer of Water Licences in a Water Resource Plan (WRP) Area**

This proposed amendment is to facilitate more flexible transfer of water licences in certain WRP areas. This is currently envisioned in the proposed Great Artesian Basin (GAB) Resource Operations Plan (ROP) (the plan that implements the strategic water resource plan for the catchment). It is necessary to amend the existing Water Act 'transfer' power to allow licences to be relocated to other land or transferred to other entities or visa-versa for broader purposes. This flexibility will be required in other WRP areas in the future.

### **Water Efficiency Management Plans**

The proposed amendments to the *Water Act 2000* will introduce a power for water service providers to require non-residential customers to prepare, amend and comply with a water efficiency management plan (WEMP). Under the proposed amendments:

- The Queensland Water Commission (QWC) can direct that water service providers require types of non-residential customers to prepare and submit a WEMP;
- The QWC can mandate, under a System Operating Plan, desired levels of water savings and efficiency targets that apply to water service providers. Water service providers are able to consider the use of a range of demand management options, including WEMPs, to achieve those savings and targets;
- The chief executive of the Department of Natural Resources and Water can mandate that water service providers require types of non-residential customers to prepare and submit a WEMP; and
- Water service providers (many of whom are local governments) can require types of non-residential customers to prepare and submit a WEMP.

A type of non-residential customer refers to different categories of customer which, for example, may include categories based on the volume of water consumed (e.g. a customer who uses more than 10 megalitres a year), customers who use water for specified purposes or uses (e.g. for cooling towers and sportsgrounds) and customers who fall within a specific industry (e.g. nurseries and turf farms).

A WEMP involves a non-residential customer undertaking an examination of current water consumption and identifying actions to be taken within specified timeframes to improve water use efficiency.

Currently the definition of “customer” is limited, particularly for local government water service providers, where a customer is a ratepayer of the local government who enjoys registered service supplied by the local government. In order to ensure that WEMPs can be required for occupiers of premises as well as the ratepayer (owner) of premises, the definition of customer has been expanded for the WEMP provisions.

A WEMP can be required for an individual non-residential customer or type of non-residential customer. This enables WEMPs to be required for a group of customers (e.g. this may be a group of customers who use above a specified volume of water annually).

The development of a WEMP and compliance with a WEMP is the responsibility of the non-residential customer. The approval and monitoring of compliance with a WEMP will be the responsibility of the water service provider. There are also provisions requiring non-residential customers to report on their WEMP (including outlining progress, water savings and efficiencies and other specific issues).

A WEMP can be required as a drought management measure or as part of a long-term demand management strategy.

While the Act will set out provisions relating to WEMPs, additional requirements and information will be contained in guidelines. A WEMP must comply with guidelines:

- in the SEQ region (and any other designated areas), with relevant guidelines issued by the QWC;
- in all other areas in the state, with relevant guidelines issued by the chief executive of the Department of Natural Resources and Water, or if the chief executive has not issued any guidelines, any relevant guidelines issued by the water service provider.

The amendments also set out an approval process for WEMPs which incorporate an avenue for appeal for rejection of a WEMP.

The amendments include penalties for non-compliance with the requirements to prepare, amend, review, report on the progress of a WEMP and to comply with a WEMP.



The QWC has also incorporated WEMPs as a tool in its Level 4 water restrictions (e.g. a WEMP can be prepared by a customer to seek an exemption from the requirements of the water restriction).

### **Water restrictions**

The amendments confirm the power to make a water restriction includes the power to prohibit.

The QWC restrictions provide exemptions from restrictions where certain activities are undertaken by customers to enhance water use efficiency.

The amendments confirm that the restrictions may include exemptions from the restrictions. They also provide examples of measures which can be used to provide evidence of compliance with a water restriction.

### **System Operating Plan**

To ensure compliance with a published regional water security program, the Queensland Water Commission must prepare and enforce a 'system operating plan' (SOP) that sets out how water is to be shared and moved around the region, and what demand management measures need to be operationalised to deliver on the levels of service objectives specified in the regional water security program.

The Bill will strengthen the demand management measurement requirements in the making of a SOP by making it clear that a SOP must state 'the desired levels of water savings and efficiency targets'.

The water service providers in the region covered by the SOP will then determine how to achieve those savings or targets. These may, for example, be achieved through water restrictions or through the use of WEMPs.

### **Valuation of Land Act 1944**

The proposed amendment will make the commencement of the objection period for annual valuations consistent with the commencement of the objection period for non annual valuations.

Relevant objection periods have been extended to compensate for the shortening of the period that would otherwise be caused by this amendment.

### **Building Act 1975**

The proposed amendments reinstate any old planning scheme provisions in council planning schemes that enabled councils to require rainwater tanks

to be installed in new homes. These provisions lapsed on 1 September 2006. The reinstated provisions will operate from 1 September 2006 and allow further time for councils to act to adopt new provisions. Also included are proposed minor consequential amendments resulting from the *Building and Other Legislation Amendment Act 2006*.

### **Estimated administrative Cost to the Government for implementation**

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

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

The amendment to the *Building Act 1975* relating to provisions in local government planning schemes regarding rainwater tanks has retrospective effect. There was a legislative deadline giving local governments until 1 September 2006 to replace any existing planning scheme provisions requiring new homes to have rain water tanks with new rain water tank provisions contained in the Queensland Development Code. Any old rain water tank provisions lapsed on 1 September 2006. It is necessary to revive the provisions existing prior to 1 September 2006 and extend their life to give local governments more time to adopt the new standardised provisions in the Queensland Development Code.

Given the severe drought conditions and water shortages across much of Queensland with consequent pressure on water supplies, it is important to ensure that local governments can continue to relieve pressure on the reticulated water supplies through water replacement measures such as mandating water tank installation and encouraging re-use of greywater as well as limiting water usage through water efficient appliances, taps and shower heads.

This provision has a limited retrospective effect, but it complies with broader government intentions to utilise alternative water sources and reduce calls on reticulated potable water supplies during a crisis situation.

## **Consultation**

### **Community**

#### *Wild Rivers Act 2005*

Members of the public have not been consulted on the proposals. The Queensland Resources Council, Local Government Association of Queensland, AgForce and the Wilderness Society were consulted on the proposed legislative amendments.

#### *Valuation of Land Act 1944*

No consultation has occurred in regard to this amendment.

#### *Water Act amendments – Water efficiency management plans (WEMPs)*

NRW and the QWC has undertaken consultations with key government and industry groups including the Queensland Farmer's Federation, Agforce, the Queensland Resources Council, gas, petroleum and energy industry representatives, Sunwater, and LGAQ. Consultations on the bill were also carried out at a forum for key industry stakeholders and government agencies, held on Tuesday 17 October, and organised by the Queensland Water Commission to discuss the proposed water efficiency management planning guidelines to be issued by the Commission. There was further consideration by a meeting of the Technical Working Group of the SEQ Regional Drought Strategy on Tuesday 17 October, and written comments have been sought from the Project Management Group of the SEQ Regional Drought Strategy.

### **Government**

Representatives of the Departments of the Premier and Cabinet, Queensland Treasury, Communities, Disability Services, Seniors and Youth, Local Government, Planning, Sport and Recreation, Primary Industries and Fisheries, Emergency Services, Justice and Attorney-General, the Office of the Coordinator General, Environmental Protection Agency and the Queensland Water Commission were consulted in relation to the Bill.

## **Results of consultation**

### **Community**

#### *Wild Rivers*

The peak bodies consulted on the proposed legislative amendments have given their support. The Wilderness Society did have reservations on allowing new fodder crop areas to be established without assessment and would prefer to limit plant species that may become weeds. Also the Wilderness Society requested that nominated waterways be clearly marked in declaration proposals so that the public can comment on them during the submission process. The QRC and TWS will support the declaration of the Gregory and Settlement areas provided that the appropriate amendments are made to the legislation and draft declarations.

#### *Water*

Community consultation to date on the draft GAB ROP indicates a general support for the proposed amendment to provide for the relocation and more flexible transfer of water licences in accordance with the relocation rules stated in the draft ROP.

NRW staff will conduct further community meetings at key centres across the Basin to gain feedback on the draft GAB ROP and in particular the rules for relocation of water licences prior to finalising the ROP.

#### *Water Act amendments – Water efficiency management plans (WEPs)*

Some concern was raised about the cost implications of developing and implementing a water efficiency management plan. However, the Business Water Efficiency Program which has been provided with \$40M in funding by the state government for subsidy of water audits and measures for businesses will assist in addressing this.

Some concern was also raised in relation to the consistency of guidelines across Queensland.

Discussions with Agforce and the Queensland Farmers Federation will continue regarding two small groups of irrigators (mid-Brisbane irrigators and a group in the Lockyer) to determine whether water efficiency management plans could be required by those irrigators.

### **Government**

All Departments and agencies consulted support the Bill.

## **Notes On Provisions**

### **Part 1                      Preliminary**

#### **Short title**

Clause 1 provides that the short title of the Act is the Wild Rivers and Other Legislation Amendment Bill 2006.

### **Part 2                      Amendment of Wild Rivers Act 2005**

#### **Act amended in pt 2 and schedule**

Clause 2 provides that the Wild Rivers Act is amended as outlined in part 2 and in the schedule at the end of the Bill.

#### **Insertion of new pt 1, div 1, hdg**

Clause 3 (and 7) provides for the division of part 1 of the Wild Rivers Act into two divisions. The division in clause 4 provides for the introductory and purpose clauses of the Wild Rivers Act.

#### **Relocation and renumbering of s 3**

Clause 4 provides for the moving of the existing section 3 in the Wild Rivers Act to the new division 2 which covers the interpretive clauses of the Act. The existing section 3 will be renumbered according to the new clause order in the amended Wild Rivers Act.

#### **Omission of s 4 (Notes in text)**

Clause 5 provides for the removal of section 4 as there are no 'notes in the text' to be referred to.

## **Renumbering of ss 1–6A**

Clause 6 provides for the renumbering of subsections 1 to 6A (to 1 to 5) to reflect the new organisational layout of part 1 (Preliminary) of Wild Rivers Act.

## **Insertion of new pt 1, div 2, hdg**

Clause 7 (and 3) provides for the division of part 1 of the Wild Rivers Act into two divisions. The division in clause 8 provides for the interpretive clauses of the Wild Rivers Act.

## **Insertion of new s 6**

Clause 8 provides for the inclusion of a new section to include a definition for a ‘nominated waterway’ for use by the Wild Rivers Act (and other Acts amended by the Bill).

The object of designating (or nominating) certain parts of the drainage network is to provide greater certainty for developers (landholders, miners, etc.) and assessment agencies (e.g. Natural Resources and Water, Environmental Protection Agency, Primary Industries and Fisheries, and Local Governments) as to where wild river requirements apply in a wild river preservation area.

Wild river requirements can be applied through legislation (e.g. restrictions on mining tenure via the *Mineral Resources Act 1989*), a declaration (e.g. mandatory setbacks for gas production works), or the Wild Rivers Code (e.g. setbacks for new animal husbandry facilities).

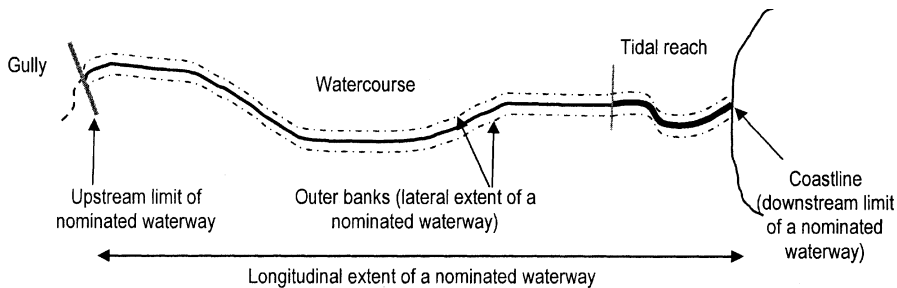
A nominated waterway is a drainage feature within the wild river system, which can have tidal and non-tidal elements. It does not have to be a non-tidal watercourse (as defined under the Water Act) but may include watercourse reaches. Nominated waterways are connected to high preservation areas (which contain the main river and major tributaries), terminal wetlands or the coast at their downstream extent.

A nominated waterway defines a management area or reference point for wild river requirements in a preservation area. Their designation is required to protect them from adverse impacts caused by a range of activities. Hence, to maximise the effectiveness of these wild river requirements, it is important that the surface area of a nominated waterway extend laterally to the outer banks.

Note that constraints on riverine quarry material and riverine protection permits under the Water Act would be limited only to ‘watercourse elements’ within the nominated waterway.

Section 6(1) defines the extent of a nominated waterway (see Figure 1). The upstream and downstream extents will be clearly described in a wild river declaration and can be identified on the ground using GPS co-ordinates. The lateral extent of a nominated waterway is defined by the ‘outer banks’ which are described by their physical form.

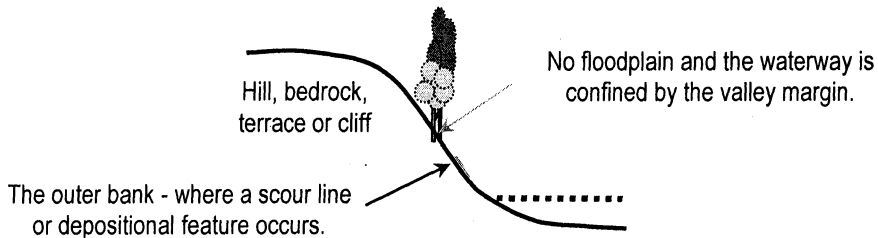
To define the outer bank of a nominated waterway using physical form it is important to understand the valley setting in which the waterway is set and the geomorphic processes operating within a channel.



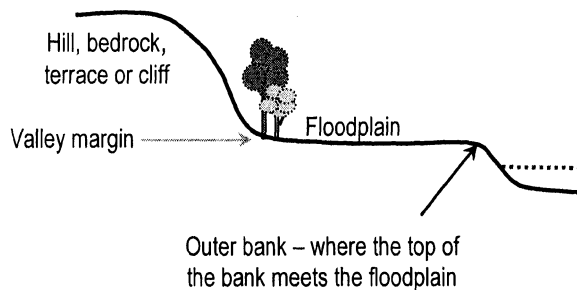
**Figure 1 Example plan view of the longitudinal and lateral extent of a nominated waterway**

The valley setting is determined by the degree to which a stream is confined – whether it is bordered by hills, bedrock, terraces or floodplain. In turn this determines the characteristics and behaviour of a waterway (e.g. the amount of migration, the size of a channel, types of instream features etc) and the method to determine the outer bank.

A waterway that is confined abuts its valley margin (i.e. it is bordered by hills, bedrock or a terrace) – for a nominated waterway this is referred to as a ‘confined bank’ (see Figure 2). A waterway that is unconfined is bordered by a floodplain – for a nominated waterway this is referred to as an ‘unconfined bank’ (see Figure 3).



**Figure 2 Cross-section of a confined bank**



**Figure 3 Cross-section of an unconfined bank**

Section 6(2) adds definitions of terms used in defining a nominated waterway. Some additional definitions to assist in interpreting the extent of a nominated waterway are:

*Bars, Benches and Mid-Channel islands:* depositional features formed by in-channel processes. They occur within the active channel (i.e. between the *outer banks*) and are formed as a result of bank forming or channel maintenance flows, which can be of any size. Bars can have varying morphologies (e.g. be made up of sand or gravel) due to variable flow energy, sediment texture and flood regimes. Benches can be differentiated from a floodplain in that floodplain deposits are usually finer and more layered. Benches are usually partly stabilised by vegetation and are higher than bars.

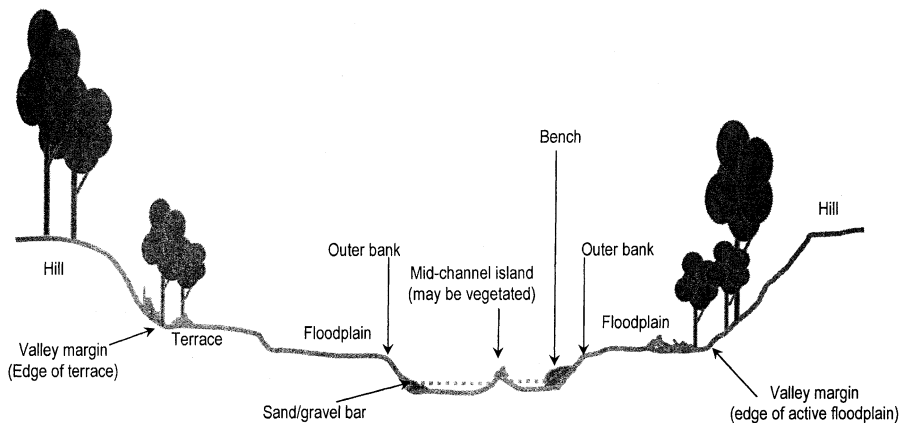


*Terrace*: an abandoned floodplain perched above the active floodplain. A terrace is formed when floodplains are abandoned (i.e. no longer inundated by flood flows) during down cutting into the valley floor by base level change (i.e. tectonic activity), shifts in sediment load or changes in the flow regime.

Figure 4 presents a diagrammatic example of these features.

### **Amendment of s 10 (Application of moratorium)**

Clause 9 adds applications for licences to interfere with water in a non-tidal watercourse to the types of application that can not be dealt with during a wild river moratorium. This will prevent persons obtaining a licence during the moratorium period to construct a dam or weir.



**Figure 4 Examples of key geomorphic features that may be associated with a nominated waterway used throughout this guide**

### **Amendment of s 12 (Content of declaration proposal)**

Clause 10(1) adds details on nominated waterways and designated urban areas to the matters to be included in a declaration proposal.

Clause 10(2) replaces the requirement for codes to form part of a declaration proposal with the requirement for applicable codes to be listed in (but not be a part of) a declaration proposal.

Clause 10(3) renumbers section 12(1)(ga) to (r) to 12(1)(h) to (t).

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

Clauses 11(1) and 11(2) add details on nominated waterways and designated urban areas to the matters to be included in a declaration.

Clause 11(3) requires a declaration to include information on the reservation of water for future use, including the purpose and amount of water available for allocation.

Clause 11(4) replaces the requirement for codes to form part of a declaration with the requirement for the applicable codes to be listed in (but not be a part of) a declaration. This separation of codes and declaration will enable minor amendments of the codes to occur without unnecessarily triggering a declaration amendment process.

Clause 11(5) renumbers section 14(1)(m) paragraphs (b) to (f) to (b) to (h).

Clause 11(6) renumbers section 14(1)(ea) to (m) to 14(1)(f) to (p).

### **Amendment of s 17 (Effect of declaration on activities and taking natural resources)**

Clause 12 amends section 17 (effect of declaration on activities and taking natural resources). The original section 17 of the Wild Rivers Act preserves the existing rights of entities to carry out activities and take natural resources as authorised by a licence or permit held at the time of a declaration. It did not preserve those existing agricultural and animal husbandry activities that did not require an authorisation prior to a declaration. This clause adds these activities as an existing right (prior to declaration) allowing them to continue, even in parts of the wild river area where they would otherwise not be permitted.

### **Insertion of new s17A**

**Clause 13 inserts a new section 17A into the Wild Rivers Act.** This new section clarifies that a code described in a wild rivers declaration as a code for the Integrated Development System (IDAS) is a code for IDAS

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

The amendment to Section 31 of the Wild Rivers Act provides two outcomes. The first is to increase the stated list of minor amendments that can be dealt with. The second outcome is the clarification of different processes to deal with minor amendments that can be made to a declaration without triggering a full planning/consultation process.

Clause 14(1) adds three additional types of minor amendment that can be made to a declaration. These relate to fixing errors in the location of management area boundaries and extent of nominated waterways. These boundaries are determined by desktop studies and it is possible that they do not always precisely match the corresponding features on the ground. Also it may be desirable or necessary to have a declaration refer to a new or improved assessment code from time to time. This will allow the declaration to remain relevant and practical as development practices and methods improve.

Clause 14(2) adds a requirement that affected landholders must be consulted if the minor changes relate to nominated waterways or codes. Affected landholders are referred to as ‘owners of land’ (defined as per the *Water Act 2000* definition), as well as holders of exploration permits and mining claims (defined as per the *Mineral Resources Act 1989*).

### **Amendment of s 41 (Classification of wild river area into high preservation area and preservation area)**

Clause 15 amends section 41 of the Wild Rivers Act to add designated urban areas to management areas used in the regulation of activities across a wild river area.

### **Amendment of s 42 (Effect of classification on particular development applications)**

Clause 16 amends section 42 of the Wild Rivers Act (effect of classification on particular development applications). Section 42(2) of the Wild Rivers Act prohibits certain agricultural and animal husbandry activities in high preservation areas. The amendment adds agricultural activities in a preservation area that use fodder species with a high risk of becoming an environmental weed. These species will be listed in a regulation.

### **Amendment of s 43 (Effect of declaration on particular development applications)**

Clause 17 amends section 43 of the Wild Rivers Act (effect of declaration on particular development applications). The amendment replaces the term ‘urban’ with ‘residential’ to be more consistent with *Integrated Planning Act 1997* terminology and to clarify that rural residential development is included.

Clause 17(2) removes any Wild River requirement to comply with an applicable code for residential, commercial or industrial development within a designated urban area. Such development is expected to be closely managed by the relevant local government.

### **Amendment of s 48 (Meaning of *specified works*)**

Clause 18(1) renumbers section 48(2)(c)(iii) to (vii) to (v) to (ix).

Clause 18(2) adds public jetties and boat ramps, and rehabilitation works (e.g. for abandoned mines) to the definition of ‘specified works’. Jetties and boat ramps can be elements of linear infrastructure. Adding rehabilitation works to the definition allows them to be undertaken in wild river areas, which is desirable for preserving natural values.

### **Amendment of sch 2 (Dictionary)**

Clause 19(1) adds definitions for a number of terms associated with this Bill.

Clause 19(2) expands the definition of ‘domestic needs’. This expanded definition provides scope to develop in the wild river area communal market gardens to provide fresh food for a community. The current definition limits such gardens to the “*domestic needs of the occupants of the land*”. It is not intended for this definition to capture areas used to produce food crops for commercial sale outside of the community.

Clause 19(3) amends the definition of ‘agricultural activities’ to exempt pasture improvement and fodder production (i.e. do not require assessment), as long as species listed in a wild river regulation are not used. The use of moderate and high risk species will continue to be prohibited in a high preservation area and moderate risk species assessable in a preservation area. See also clause 16.

Clause 19(4) amends the definition of ‘animal husbandry activities’ to clarify that the supplementary feeding of livestock is not captured.

Clause 19(5) rennumbers 'schedule 2' as 'schedule'.

## **Part 3                      Amendment of Building Act 1975**

### **Act amended in pt 3**

Clause 20 provides that *the Building Act 1975* is amended in part 3.

#### **Insertion of new s 68A (Statement of reasons for approving alternative solution)**

Clause 21 inserts new section 68A into the *Building Act 1975* to ensure there is appropriate documentation to justify a decision of the assessment manager in respect of a building approval. An assessment manager must provide a statement of reasons if an alternative solution is relied on for giving a building approval.

New section 68A (2) requires the statement of reasons to be written. Subsection (3) requires details of how the alternative solution differs from the relevant deemed-to-satisfy provisions under the Building Code of Australia or the acceptable solutions under the Queensland Development Code. This includes details of any inspection or test results and other documents or information relied on to decide the application on the basis of that alternative solution.

#### **Amendment of s 95 (Reminder notice requirement for lapsing)**

Clause 22 is a minor amendment to correct a cross reference.

#### **Amendment of s 228 (Random inspection of buildings for which development approval is given)**

Clause 23 amends section 228 to clarify, in respect of building work involving an alternative solution, that the solution is alternative to the performance requirements under the Building Code of Australia.

#### **Amendment of s 231(Owner's fire safety record-keeping obligation)**

Clause 24 amends section 231 to clarify that records required to be kept for building work involving an alternative solution, means the solution is alternative to the performance requirements under the Building Code of Australia.

**Amendment of s 246 (Apportionment of cost of constructing dividing fence)**

Clause 25 amends section 246 to clarify that a local law about the construction of fencing around swimming pools does not limit the discretion of a Magistrates Court under the *Dividing Fences Act 1953*.

**Amendment of s 256 (Prosecution of offences)**

Clause 26 is a minor amendment to correct cross references.

**Insertion of new section 283 (Existing rainwater tank provisions in planning schemes)**

Clause 27 inserts new section 283 that refers to provisions in local government planning schemes that require the installation of a rainwater tank for new class 1 buildings in areas with reticulated water supply. Any such provisions that expired on 1 September 2006 are continued in force from 1 September 2006 to one year after the commencement of this section. This ensures that local governments which had rain water tank provisions can continue to require the installation of rainwater tanks for a further transitional period of twelve months. During that time, local governments can decide whether to implement, through their planning schemes, the rainwater tank code (Part 25 of the Queensland Development Code), which provides for a consistent approach to rain water tank installation in Queensland.

**Amendment of schedule 2 (Dictionary)**

Clause 28(1) amends paragraph (f) of the definition *approval documents* as a consequence of new section 68A which requires a written statement of reasons detailing how the alternative solution is different from the relevant deemed-to-satisfy provisions under the Building Code of Australia or the acceptable solutions under the Queensland Development Code.

Clause 28(2) updates a cross reference in the definition *assessable development* from the Integrated Planning Act to IPA.

## **Part 4                      Amendment of Coastal Protection and Management Act 1995**

### **Act amended in pt 4 and schedule**

Clause 29 explains that the *Coastal Protection and Management Act 1995* is amended as outlined in part 4.

### **Amendment of s 90 (Preparation of plans)**

If a proposed dredge management plan covers part or all of a wild river area, then clause 30 adds a wild river declaration to those things that must be considered when developing that plan.

### **Amendment of s 93 (Approving or refusing to approve plans)**

When approving or refusing to approve a dredge management plan (under the Coastal Protection and Management Act), the chief executive must be satisfied that operations carried out under the plan will not adversely affect the management of areas with high natural values (e.g. national parks, fish habitat areas, etc.). Clause 31 adds wild river areas to the list of areas with high natural values.

### **Amendment of s 96 (Renewing approvals)**

Clause 32 adds a new subsection to section 96 which requires a wild river declaration to be considered when renewing a dredge management plan if the plan area overlaps with a wild river area.

## **Part 5                      Amendment of Environmental Protection Act 1994**

### **Act amended in pt 5**

Clause 33 explains that the *Environmental Protection Act 1994* is amended as outlined in part 5.

### **Amendment of s41 (Submission)**

Clause 34(1) amends the Environmental Protection Act to ensure that any draft Terms of Reference for an environmental impact statement (EIS) for a mining activity in a wild river high preservation area, or nominated waterway, will require a statement in the EIS that describes how the applicant for a mining activity will set a minimum distance below the surface at which the mining activity can occur. The draft terms of reference must also include any other matters stated in a wild river declaration to be addressed by the EIS.

Clause 34(2) rennumbers section 41(2)(ba) and (c) to 41(2)(c) and (d).

### **Amendment of s73AA (Development applications in relation to wild river areas)**

Clause 35(1) replaces '*Integrated Planning Act 1997*' with '*Integrated Planning Act*' for section 73AA(1).

Clause 35(2) amends section 73AA of the Environmental Protection Act to allow additional environmentally relevant activities (ERA) to be granted in wild river areas.

Currently new ERA20s are prohibited in wild river areas. New subsection (2) has the effect of allowing new ERA20 (extracting rock or other material) in all streams (both tidal and non-tidal) in a wild river area if a quarry material allocation/allocation notice has been granted. In tidal areas No new quarry material allocations can be approved (under the *Coastal Protection and Management Act 1995*) therefore only allocations existing at the time of declaration can be used for a new ERA20. New allocation notices can be issued under the Water Act for non-tidal streams.

Currently all ERAs are prohibited in the high preservation area. New subsections (3) and (5) have the effect of allowing in high preservation areas new ERAs for:

- Sewage treatment and municipal water treatment plants (ERAs 15 and 16);
- Dredging material (ERA19);
- Out-of-stream extraction (ERA20), as long as it is of low impact (i.e. borrow pits of not more than 10,000m<sup>3</sup>) and only for specified works or residential complexes;



- Out-of-stream screening of materials (ERA22) but only for specified works or residential complexes (Note: instream ERA22 is prohibited for both tidal and non-tidal streams);
- Small fuel storages (ERA11) but only <10,000 litres only for residential complexes (outside of a designated urban area); and
- A range of low level ERAs within a designated urban area and essential for urban communities (as identified in subsection (9)).

Currently ERA20s are permitted in a floodplain management area (outside of a high preservation area). New subsections (4) and (5) have the effect of prohibiting new out-of-stream ERA20 in a floodplain management area unless it is of low impact (i.e. borrow pits of not more than 10,000m<sup>3</sup>) and only for specified works or residential complexes.

New subsection (6) states, if an application can be lodged for an ERA, then, despite the identified sections in the *Integrated Planning Act 1997*, the assessment manager's and any concurrence agency's decision regarding the application, must comply with the applicable code mentioned in the wild river declaration (as per new subsection (7)). This provision ensures the code requirements are applied to all applications. This is similar to the approach taken by the *Vegetation Management Act 1999* to ensure strict compliance with an approved code. There are two exceptions for this rule, and therefore no Wild River code requirements, in a designated urban area for:

- ERA15 and ERA16; and
- The ERAs identified as exempt under new subsection (9).

Subsection (8) requires proposals for a new ERA15 or 16 in a high preservation area (outside of a designated urban area) to demonstrate there is no alternative location outside the high preservation area. It also requires the development to be assessed against the relevant code.

New subsection (9) adds definitions related to these changes to section 73AA.

### **Amendment of s151 (What is a level 1 mining project and a level 2 mining project)**

Clause 36(1) amends the definition of level 1 mining project to exclude exploration permits in a preservation area. Currently all exploration permits in wild river areas are level 1 projects.

Clause 36(2) deletes section 151(2)(b)(iii) as the section is superfluous and covered by section 151(1)(c).

### **Amendment of s162 (Decision about EIS requirement)**

Clause 37 adds the requirement for an automatic environmental impact statement (EIS) for applications relating to mining activities that occur beneath the surface of a high preservation area or nominated waterway.

### **Amendment of s163 (Minister's power to overturn decision about EIS requirement)**

Clause 38 adds a new subsection to remove the Minister's discretion to overturn EIS requirements in regard to proposed mining activities beneath a high preservation area or nominated waterway. This will prevent the overturn of a decision made that an EIS will be required for such activities.

### **Amendment of sch 3 (Dictionary)**

Clause 39(1) adds definitions for 'designated urban area', 'nominated waterway' and 'residential complex'. These terms are introduced in the Bill.

Clause 39(2) rennumbers 'schedule 2' as 'schedule'.

## **Part 6                      Amendment of Forestry Act 1959**

### **Act amended in pt 6 and schedule**

Clause 40 explains that the *Forestry Act 1959* is amended as outlined in part 6 and in the schedule at the end of the Bill.

### **Amendment of s33A (Management in a wild river area)**

Section 33A states that when approving a management plan for the management of State forests, timber reserves and forest entitlements areas in wild river areas, that the chief executive must have regard to a relevant code of practice approved under section 44A. Clause 41 adds a requirement that if there is no approved code of practice, then the chief executive must

consider the relevant wild river declaration and any code mentioned in the declaration.

### **Amendment of s 44A (Code of practice for getting forest products in wild river areas)**

Clause 42 adds a new subsection that states the code of practice that may be developed for the getting of forest products in a wild river area must not be inconsistent with achieving the purposes of the Wild Rivers Act. Currently there is no requirement for a code of practice to be developed or for it to be consistent with the Wild Rivers Act.

### **Amendment of s44B (Getting forest products in wild river areas)**

Clause 43(1) adds a new subsection that requires if there is no approved code of practice (under s44A) then the applicable code stated in the wild river declaration is to be used in making decisions about applications to get forest products

Clause 43(2) adds a new subsection which states that if there is any inconsistency between a code of practice made under section 44A, and an applicable code mentioned in a wild river declaration, the one with the greater level of protection will override the other.

## **Part 7                      Amendment of Integrated Planning Act 1997**

### **Act amended in pt 7**

Clause 44 explains that the *Integrated Planning Act 1997* (IPA) is amended as outlined in part 7.

### **Amendment of sch 8 (Assessable development and self-assessable development)**

Clause 45(1) removes wild river requirements for vegetation clearing in urban areas in high preservation areas. While this will allow general clearing to occur in such circumstances, it does not remove any Vegetation Management Act requirements.

Clause 45(2) removes the need for certain low-impact building activities in declared fish habitat areas to be automatically assessable. These activities are associated with monitoring and research and maintenance of approved works. These activities become self-assessable. Wild river requirements may apply to those self assessable activities if the requirements are clearly identified in a wild river declaration (see IPA section 3.5.4(2)).

Clause 45(3) removes the need for certain low-impact operational works in declared fish habitat areas to be automatically assessable. These activities are associated with monitoring and research and maintenance of approved works. These activities become self-assessable. Wild river requirements may apply to those self assessable activities if the requirements are clearly identified in a wild river declaration (see IPA section 3.5.4(2))

Clause 45(4) removes the need for operational works for the removal, destruction or damage of marine plants) to be automatically assessable. These activities become self-assessable. Wild river requirements may apply to those self assessable activities if the requirements are clearly identified in a wild river declaration (see IPA section 3.5.4(2))

Clause 45(5) adds a requirement that operational works for the removal of dead marine wood for commerce or trade remains assessable in a wild river area. However, this activity is prohibited in wild river areas via the Fisheries Act (s76DB). This is consistent with constraints within declared fish habitat areas.

## **Part 8                      Amendment of Mineral Resources Act 1989**

### **Act amended in pt 8 and schedule**

Clause 46 explains that the *Mineral Resources Act 1989* is amended as outlined in part 8 and in the schedule at the end of the Bill.

### **Amendment of s25 (Conditions of prospecting permit)**

Clause 47(1) adds a requirement that relevant conditions outlined in a wild river declaration apply to a prospecting permit if that permit is in a wild river area. This is to ensure that such mining activity is sensitive to wild river natural values.

Clause 47(2) renumbers section 25(2) to (4) to section 25(1A) to (4).

### **Amendment of s81 (Conditions of mining claim)**

Clause 48 (1) adds a requirement that relevant conditions outlined in a wild river declaration apply to a mining claim if that claim is in a wild river area. This is to ensure that such mining activity is sensitive to wild river natural values.

Clause 48(2) renumbers section 81(1) and (2) to section 81(1), (1A) and (2).

### **Amendment of s141 (Conditions of exploration permit)**

Clause 49(1) adds a requirement that relevant conditions outlined in a wild river declaration apply to an exploration permit if that permit is in a wild river area. This is to ensure that such mining activity is sensitive to wild river natural values.

Clause 49(2) renumbers section 141(6), subsections (1), (2) and (5) to subsections (1), (1A), (2) and (5).

### **Amendment of s194 (Conditions of mineral development licence)**

Clause 50(1) adds a requirement that relevant conditions outlined in a wild river declaration apply to a mineral development licence if that licence is in a wild river area. This is to ensure that such mining activity is sensitive to wild river natural values.

Clause 50(2) renumbers section 194(6), subsections (1), (2) and (5) to subsections (1), (1A), (2) and (5).

### **Amendment of s276 (General conditions of mining lease)**

Clause 51 adds a requirement that relevant conditions outlined in a wild river declaration apply to a mining lease if that lease is in a wild river area. This is to ensure that such mining activity is sensitive to wild river natural values.

### **Amendment of s382 (Definitions for pt 10A)**

Clause 52(1) removes the definitions for 'mining tenement', 'wild river area' and 'wild river declaration' from part 10 so that they can be added to

the general dictionary (see clause 85). These definitions apply to the whole Act, not just in part 10.

Clause 52(2) adds definitions for ‘low impact activity’ and ‘nominated waterway’. These terms are introduced in the Bill.

Clause 52(3) deletes ‘or a tributary of a watercourse’ in the definition of ‘limited hand sampling techniques’ as it is superfluous.

Clause 52(4) rennumbers ‘schedule 2’ as ‘schedule’.

### **Replacement of ss 383 and 384**

Clause 53 amends sections 383 (grant of mining tenements in wild river areas) and 384 (renewal of mining tenements in wild river areas) to allow exploration and mining to occur in high preservation areas and nominated waterways under certain circumstances. Currently these activities are not permitted in these situations.

The revised sub-section 383(1) does not permit mining tenements (other than exploration permit and mining lease) to apply to land covered by high preservation areas or nominated waterways within the tenement. This change provides an exemption for exploration permits and mining leases.

The new sub-section 383(2) restricts the activities that can occur under an exploration permit over a high preservation area or nominated waterway:

- Out of stream (in a high preservation area) – ‘low impact activities’ only.
- Instream – ‘limited hand sampling techniques’ only.

These terms are defined in section 382.

The new sub-section 383(3) restricts the activities that can occur under a mining lease over a high preservation area or nominated waterway to those that do not disturb the land’s surface in those areas, i.e. only underground mining can occur. Any entry points for such mining must occur outside of the high preservation area only.

The new sub-section 383(4) allows mining to occur in a nominated waterway under a mining lease if the project has been declared to be a significant project under the *State Development and Public Works Organisation Act 1971* and an EIS has been carried out showing:

- the wild river values will be preserved;
- the resource cannot be accessed via underground mining; and

- the resource is of sufficient value to warrant mining in such a sensitive location.

The renumbered sub-section 383(5) removes the constraints in sub-sections (1) to (4) for a project operating under a special agreement Act. This means that if the special agreement Act allows an application for a mining tenement to be made then the restrictions and conditions outlined in subsections (1) to (4) do not apply.

The renumbered sub-section 383(6) provides that where a mining tenement is divided into two or more parts by a high preservation area or nominated waterway, that tenement can still be considered as a single tenement.

The renumbered sub-section 383(7) provides that the holder of a mining tenement is not required to pay rent on land excluded under this section. Current Department of Mines and Energy operational procedures still apply.

The revised section 384 replicates the exclusions and exemptions provided in the revised section 383, but for the renewal of tenements. Mining claims may also be renewed for land covered by a high preservation area or nominated waterway.

## **Part 9                      Amendment of Valuation of Land Act 1944**

### **Act amended in pt 8**

Clause 54 provides that *the Valuation of Land Act 1944* is amended in part 8.

### **Amendment of s 2 (Definitions)**

Clause 55 removes the existing definition for ‘annual valuation notice’ and inserts a new definition for ‘notice of valuation’. This replaces the definition for ‘annual valuation notice’. This new definition provides the relevant sections that relate specifically to notices of valuation—not just an annual valuation notice.

**Amendment of s 28 (Alteration of valuation in force or to come into force)**

Clause 56 replaces a general reference to a part of the Act with a specific reference to the section of the Act that a relevant valuation notice would be issued under. There is no change in the intent of the section.

**Amendment of s 41A (Notice to owners about valuations)**

Clause 57 amends the content of the valuation notice to state that the owner has 45 days after the date of issue of the notice to lodge an objection rather than 42 days after the notice is given to the owner. The clause also inserts the requirement to include the date of issue on the valuation notice to ensure that the property owner is aware of the starting date for the objection period. Clause 52 details the amendments to the objection period and associated reasons.

Clause 57 also renumbers the existing and new subsections of 41A(2).

**Amendment of s 42 (Owner may object)**

Clause 58 amends the period in which an owner may lodge an objection against a valuation to 45 days after the date of issue of the valuation notice rather than 42 days after the notice is given to the owner. The clause also inserts more specific references to the sections that notices are issued under.

The change to the date of issue as the objection period commencement date is consistent with section 52 of the act that already provides for the 42 day objection period to commence from the date of issue.

The calculation of the 42 day period from the date that the notice is given to the owner has caused confusion and conflict with property owners and departmental staff. This has been due to the difficulty in actually determining the exact date that the owner received the notice to allow for the calculation of the 42 day period. Postage periods vary and it is not possible to state, categorically, that a notice would have been delivered on a specific date.

Section 52 of the act also deals with objection periods and is clearly understood as the 42 day objection period commences from the date of issue of the notice.

Commencing the objection period from the date of issue allows the exact date to be known and no possibility for confusion. It also allows the



department to put the actual closing date for the objection period on valuation notices rather than detailing the number of days and expecting the property owner to calculate the closing date themselves.

Due to the perceived shortening of the objection period (calculated from the date of issue rather than the date of receipt), the 42 day period has been extended to 45 days. It is believed that the 3 day period would be an average time taken to deliver a notice and the addition of 3 days is a reasonable compensation for the change to the start date.

### **Amendment of s 43C (Effect on objection of change in valuation)**

Clause 59 simply inserts the specific section of the act that the notice of valuation is issued under. There is no change in the intent of this section.

### **Amendment of s 44 (Late objection)**

Clause 60 reflects the changes detailed in previous clauses by amending the start date for the 1 year period to lodge a late objection to the date of issue of the valuation notice rather than when the notice was received. As discussed previously, determining the date of receipt of the notice has caused confusion and conflict with departmental staff and property owners.

This amendment is consistent with section 52A(1)(b) of the act where the 1 year late objection period commences on the issue date of the notice.

The clause also removes the provision for the start date for the 1 year late objection period to be from the date of the first advertisement about the valuation. This is superfluous as the first advertisement occurs prior to the date of issue of the valuation notices which would mean that, in this case, the 1 year late objection period would finish prior to the 1 year period that commences from the date of issue.

### **Amendment of s 46 (Right of new owner to carry on objection or appeal)**

Clause 61 clarifies that the relevant date of notice after which a change in ownership of land occurs and the new owner has the right to lodge an objection, is now the date of issue of the notice of valuation. This reflects amendments contained in earlier clauses where the date of receipt of a notice has been amended to the date of issue and the date of the first advertisement has been removed as it occurs prior to the date of issue.

The clause also removes the specific definition of ‘relevant date of notice’ as its meaning is now included within the content of the section.

### **Amendment of s 52 (Objections to valuation)**

Clause 62 increases the period for an owner to lodge an objection against a valuation from 42 to 45 days. This section already provided for the objection period to commence from the date of issue of the valuation notice and this is not changing however, to be consistent with the extension of the period to 45 days detailed in clause 52, this objection period has also been extended to 45 days.

### **Amendment of s 52A (Late objections to valuation)**

Clause 63 rewords this subsection to provide a more appropriate process description. There is no change to the intent of the provision.

### **Amendment of s 54 (Notice to objector)**

Clause 64 simply adds the specific reference to the section of the act that the notice of valuation is issued under. There is no change in intent.

## **Part 10                      Amendment of Vegetation Management Act 1999**

### **Act amended in pt 10 and schedule**

Clause 65 explains that the *Vegetation Management Act 1999* is amended as outlined in part 10 and in the schedule at the end of the Bill.

### **Amendment of s22A (Particular vegetation clearing applications may be assessed)**

Clause 66(1) adds the clearing of regrowth vegetation on freehold or indigenous land in high preservation areas as a relevant purpose (under section 22A) for which clearing applications can be made. This will allow clearing of regrowth in high preservation areas to be captured, irrespective of tenure.

Clause 66(2) removes the clearing of regrowth from the list of clearing activities that cannot occur in a high preservation area.

Clause 66(3) adds the clearing of regrowth in a high preservation area as a relevant purpose if it occurs in a registered area of agriculture, as shown on a registered area of agriculture map.

Clause 66(4) adds a definition of ‘registered area of agriculture map’, which is one that is approved by the chief executive and held by the department (regulating the *Vegetation Management Act 1999*) for that purpose.

## **Part 11                      Amendment of Water Act 2000**

### **Division 1                      Preliminary**

#### **Act amended in pt 11 and schedule**

Clause 67 explains that the *Water Act 2000* is amended as outlined in part 11 and in the schedule at the end of the Bill.

### **Division 2                      Amendments for *Wild Rivers Act 2005***

#### **Amendment of s209 (Applications that may be decided without public notice)**

Clause 68 adds wild river declaration to the types of plan against which an application for a water permit or licence may be refused without public notice if it is inconsistent with the plan.

#### **Amendment of s210 (Criteria for deciding application for water licence)**

Clause 69 adds wild river declaration to the types of plan that the chief executive must consider when deciding whether to grant or refuse the application, or when setting conditions, for the water licence.

**Amendment of s266 (Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)**

Clause 70 limits the prohibition (with certain exemptions) on destroying vegetation, excavating or placing fill in a watercourse, lake or spring to high preservation areas and nominated waterways. Currently such activity is prohibited (with the same exemptions) in all watercourses, lakes or springs in a wild river area

**Amendment of s268 (Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)**

Clause 71(1) adds a wild river declaration, and the relevant code, to the criteria that the chief executive must consider when deciding whether to grant or refuse the application, or when setting conditions, for a permit.

Clause 71(2) rennumbers section 268(ga) to (i) to (h) to (j).

**Amendment of s280 (Applying for allocation of quarry material)**

Clause 72 removes residential complexes and specified works from the purposes for which an application for quarry material allocation cannot be accepted in a wild river area. This effectively allows allocations to be sought only for these purposes.

**Amendment of s282 (Criteria for deciding application for allocation of quarry material)**

Clause 73(1) adds wild river declaration to the criteria that the chief executive must consider when deciding whether to grant or refuse an application, or when setting conditions, for the allocation.

Clause 73(2) adds wild river declaration to the list of criteria that do not limit the other relevant matters the chief executive may consider when assessing an application.

Clause 73(3) adds a requirement that the chief executive must not grant a quarry material allocation unless satisfied that:

- the quarry material is to be used for specified works or residential complexes; and
- there is no other suitable off-stream source of material that is within a reasonable distance from where the material will be used.

### **Amendment of s966C (Applications in relation to removal of quarry material in wild river areas)**

Clause 74 adds a requirement that a quarrying operation in a watercourse or lake under an allocation notice must be subject to any wild river requirements outlined in the applicable code mentioned in a wild river declaration.

## **Division 3                      Amendments about the commission and other matters**

### **Amendment of s 223 (Transferring water licence to other land)**

Clause 75 amends section 223 of the Water Act to extend the scope of section 223 to include other more flexible transfers of water licences.

The amendment provides that a regulation may provide for the ability to trade/transfer water licences by allowing a transfer of licence so that it can be relocated by attaching or detaching from land and allowing for licences to be used for broader purposes.

This section will only apply where a regulation provides for it and only for water to which a Water Resource Plan (WRP) applies.

This amendment is intended to initially apply to the Great Artesian Basin (GAB) WRP area, however it will also apply to other WRP areas in the future as necessary.

In the GAB, water users hold water licences rather than water allocations. As the Water Act currently stands, the trading of water licences is much more limited than water allocations. However these limitations restrict the flexibility needed for management and use of water in the system and it is proposed to extend the ability to trade/transfer these licences.

To facilitate transfer of water licences in the GAB WRP area, as envisioned in the proposed ROP, it is necessary to amend the existing Water Act 'transfer' power to allow licences to be relocated to other land or transferred to other entities or visa-versa for broader purposes.

### **Amendment of s 360W (Content of plan)**

Clause 76 amends section 360W of the Act to expand the matters that can be included in a system operating plan (SOP). Chapter 2A currently seeks

to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and other designated regions which falls under the jurisdiction of the Queensland Water Commission (QWC). The chapter enables the creation of regional water security programs.

To ensure compliance with a published regional water security program, the QWC can prepare and enforce a SOP that sets out how water is to be shared and moved around the region, and what demand management measures need to be operationalised to deliver on the levels of service objectives specified in the regional water security program.

The proposed amendments will give greater recognition to demand management by strengthening these requirements in the making of a SOP. The amendments will make it clear that a SOP may include measures such as desired water savings and water efficiency targets to be achieved under the SOP. It may then set out the actions (or types of actions) by which the savings or targets are to be achieved. Such actions may include a requirement for the preparation and submission of WEMPs or other demand management measures.

### **Insertion of new ch 2A, pt 5, div 3**

Clause 77 inserts a new chapter 2, part 5, division 3 into the *Water Act* dealing with water efficiency management plans.

## **New Division 3 Water efficiency management plans**

New Division 3 is one of several new Divisions (the other inserted by clause 82) being inserted into the *Water Act 2000* by this Bill dealing with Water Efficiency Management Plans (WEMP). A WEMP requires non-residential water users to examine their water consumption and identify actions to be taken to reduce water consumption within a specified time period.

New Division 3 will provide powers and obligations in relation to WEMPs in the south east Queensland (SEQ) region and other designated areas.

### **‘360ZCA Purpose and application of division**

New section 360ZCA provides that the purpose of this new division is to promote the efficient use of water by non-residential customers. This

division only applies for a non-residential customer in the SEQ region (or a designated region) who does not hold a water entitlement. However, if a non-residential customer who holds a water entitlement also obtains water from a water service provider in another way, then the division applies to that customer for that water.

Additionally, there may be some non-residential customers who obtain water from more than one water service provider. To provide those customers with a level of certainty as to which water service provider is the relevant provider and which WEMP provisions apply, new section 360ZCA also states:

- that if a customer obtains water from a water service provider who is in the SEQ region (or other designated area) which falls under the jurisdiction of the QWC (i.e. chapter 2A, part 5, division 3), as well as obtaining water from another water service provider who does not fall under that same jurisdiction (i.e. they fall under chapter 3, part 2, division 7 which is under the jurisdiction of the chief executive), then the WEMP provisions in chapter 2A, part 5, division 3 apply and that customer is deemed to fall under the jurisdiction of the QWC.
- That if a customer obtains water from one or more water service providers in the same region, then the water service provider who provides the customer with the most water is the relevant water service provider for the WEMP provisions. This is to avoid the situation where a customer may have a requirement from two (or more) water service providers to prepare a WEMP.

### **‘360ZCB When water efficiency management plan may be required**

New section 360ZCB details when a WEMP may be required. A WEMP may be required when:

- the QWC gives a written direction requiring a water service provider to give a customer, or type of customer, a written notice to prepare and submit a WEMP; or
- a water service provider without direction, gives a customer, or type of customer, a written notice approved by the QWC to prepare and submit a WEMP; or
- a customer wishes to prepare a WEMP for any reason. For example, a customer may wish to prepare a WEMP to obtain the benefit of an exemption from a water restriction.

Regardless of which way a WEMP is required, the WEMP must be prepared and approved in accordance with the division.

A water service provider must comply with the direction from the QWC to require customer to prepare and submit a WEMP. A customer must comply with a direction given by water service provider to prepare and submit a WEMP.

### **‘360ZCC Content of water efficiency management plan**

New section 360ZCC details the content of a WEMP. The WEMP must comply with any relevant guidelines issued by the QWC. Under this division, the only party who can issue guidelines is the QWC. The QWC guidelines will contain information relating to matters which must be addressed and included in the WEMP as well as processes to be followed in the preparation of a WEMP, and other issues.

The WEMP must also state the following:

- the name of the customer and the location where the WEMP applies;
- the water savings and efficiencies that will be achieved by implementing the WEMP (this includes identifying the actions or measures to be implemented); and
- the timeframes for implementing the WEMP (e.g. a WEMP can include a variety of actions which may be staged or progressed over a specified period of time).

A specific penalty has not been included under this section as a customer can face a penalty under section 360ZCD for not resubmitting a WEMP which resolves issues identified in a decision to reject the WEMP.

### **‘360ZCD Approving water efficiency management plan**

New section 360ZCD sets out a general process and timeframes involved in having a WEMP approved by the water service provider. The water service provider is able to request more information from a customer to make a decision about a WEMP. The water service provider must approve, with or without conditions, or refuse to approve the WEMP:

- if additional information is not required—within 60 business days after receiving the WEMP; or



- if additional information is required—within 60 business days of when the information is received or should have been given, whichever is earlier.

Within 10 business days after making the decision, the water service provider must give the customer an information notice about the decision.

If the water service provider does not approve the WEMP, the customer must, within 20 business days of receiving the information notice, give the water service provider a revised WEMP that overcomes the issues that resulted in the WEMP being rejected. The water service provider may extend the 20 business day period for a customer. A customer who does not provide a revised WEMP which deals with the issues raised in the information notice faces a maximum penalty of 200 penalty units.

A customer can appeal a decision made by the water service provider in the information notice (e.g. a decision to reject the WEMP or to apply conditions to the approval of a WEMP). The appeal provisions set down in chapter 6 apply as if any water service provider were a local government. This means that whether a decision to reject a WEMP was made by a local government or another type of water service provider (e.g. a local government owned corporation or private company), the same provisions will apply and the water service provider is deemed to be a local government for the purposes of chapter 6. Those appeal provisions include a requirement for an internal review of the decision by the water service provider, followed by application to a Magistrates Court for resolution of the matter.

Additionally a specific provision has been incorporated to give water service providers power to charge a nominal application fee for the approval of the WEMP should they desire to do so. The intention of the provision is that the application fee is to be based on a nominal amount and not reflect full cost recovery of the WEMPS. The provision will remove any doubt as to whether a water service provider (no matter what type of water service provider) can make such a charge.

### **‘360ZCE Complying with water efficiency management plan**

New section 360ZCE provides that a customer must comply with their approved WEMP. A maximum penalty of 1665 units may apply for non-compliance.

### **'360ZCF Reporting under water efficiency management plan**

New section 360ZCF details the reporting obligations of a customer who has an approved WEMP. The customer must report annually within 10 businesses days of the anniversary day of approval of the WEMP and provide the report to the water service provider.

The report must include:

- the extent to which the WEMP has been implemented;
- the water savings and efficiencies achieved by implementing the WEMP;
- whether there has been any change of circumstance (under 360ZCG(1)(a)) in terms of a significant increase in production output (this may relate directly to the number of items produced or the scale of intensity where there is no specific identifiable production output e.g. this could encompass a significant increase in the number of clients) or a significant increase in water consumption. This may help a water service provider to identify, amongst other things, whether a WEMP is being complied with and whether a WEMP may require an amendment or review (e.g. a significant increase in production may mean that a WEMP should be reviewed to determine whether further water savings can be made).

Customers who do not comply with the annual reporting requirement for WEMPs face a maximum penalty of 100 penalty units.

Water service providers also have reporting obligations to the QWC. Under the amendments, the QWC will have the power to ask a water service provider at any time for:

- a copy of WEMP which has been approved (e.g. if the QWC wishes to see a WEMP for instance for a high volume water customer it can do so);
- information about a WEMP that has not been approved;
- a report summarising progress by the customers of the water service providers in achieving water savings and efficiencies (e.g. to determine the overall level of water savings achieved by a particular date by a non-residential customer or type of non-residential customer, the QWC may request a report outlining progress from any or all water service providers).

The water service provider will have 20 business days to comply with the QWC's request, otherwise the water service provider faces a maximum penalty of 100 penalty units.

### **'360ZCG Amending or replacing water efficiency management plan by commission direction**

New section 360ZCG empowers the QWC to require a water service provider to serve a notice on a customer requiring the customer to amend an approved WEMP or prepare a new WEMP and submit it to the water service provider. The QWC may exercise this power where it is satisfied that there is or there is likely to be:

- a severe water supply shortage; or
- an increase in the severity of a water supply shortage.

A water service provider must comply with the direction of the QWC and a customer must comply with a notice issued by a water service provider to amend or replace a WEMP. Maximum penalty for the water service provider and the customer is 500 penalty units.

If a WEMP is amended or if a new WEMP is prepared, the WEMP is subject to the division (e.g. it must comply with the guidelines issued by the QWC and state the content required under section 360ZCC, the approval process and timelines outlined in section 360ZCD apply, the customer must comply with the WEMP under section 360ZCE and reporting obligations apply and any other requirements).

### **'360ZCH Amending or replacing water efficiency management plan by water service provider direction**

New section 360ZCH empowers a water service provider to require a customer to amend a WEMP or replace a WEMP if the water service provider is satisfied:

- for a customer, or a type of customer, production output or water consumption has increased significantly (e.g. if after a WEMP has been approved a customer has doubled its production capacity, and no allowance for that increase in production was incorporated in the WEMP, a water service provider may require a customer to amend their approved WEMP); or
- the cost effectiveness of implementing a WEMP is likely to have changed significantly (e.g. if the cost of purchasing a water efficiency

device, appliance or technology has decreased significantly, the water service provider may require the customer to amend their approved WEMP to require the use or installation of the cost effective measures); or

- there is or there is likely to be a severe water supply shortage.

The notice given by the water service provider must state a reasonable time for the customer to submit the amended or new WEMP. A customer must comply with the notice.

The division applies for the amended WEMP or new WEMP, as for 360ZCG.

### **‘360ZCI Amending or replacing water efficiency management plan by request**

New section 360ZCI enables a customer to request an amendment of a WEMP or the preparation of a new WEMP. If a water service provider approves the request to amend or prepare a new WEMP, the customer must amend the WEMP or prepare the new WEMP in the reasonable time stated by the water service provider. For instance, if a customer is aware that there may be difficulties associated in meeting timeframes included in the existing approved WEMP, they may ask their water service provider if they can amend their WEMP. If the water service provider agrees, then the customer can amend the WEMP accordingly.

The division applies for the amended WEMP or new WEMP, as for 360ZCG.

### **‘360ZCJ Notice to comply with water efficiency management plan**

New section 360ZCJ empowers a water service provider to issue a notice to a customer to comply with a WEMP where the water service provider is satisfied or reasonably believes the customer has not complied with the WEMP. For example, if a water service provider reasonably believes that the customer has not undertaken an action specified in the WEMP within the timeframe stated in the WEMP, the water service provider can issue a notice requiring the customer to comply with the WEMP.

This provision does not prevent a water service provider from taking other action such as issuing a show cause notice requiring the customer to

demonstrate compliance with the WEMP, before issuing a compliance notice to the customer.

### **‘360ZCK Reviewing water efficiency management plans**

New section 360ZCK has been inserted to empower water service providers to ensure a customer with an approved WEMP reviews the WEMP when the water service provider considers it appropriate. However, the WEMP must be reviewed by the customer at least every five years.

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

Clause 78 amends section 360ZD and confirms that a water restriction can provide an exemption from all or part of the restriction.

The amendment also clarifies that a QWC water restriction may apply in all or part of the SEQ region or designated area. For example, this would enable the QWC to impose restrictions in local government areas in SEQ region or designated area where there is a more severe water supply shortage, and exclude other local government areas.

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

Clause 79 amends section 360ZE by introducing a new higher penalty for non-residential customers of 1665 penalty units for breach of a water restriction. The penalty for breach of a water restriction by any other person (not a non-residential customer) will remain at 200 penalty units.

This section is also being amended to provide how customers seeking to take advantage of exemptions from water restrictions can prove compliance with the water restriction.

Under the new provisions in section 360ZE, evidence of compliance with a part of the restriction includes (but is not limited to):

- an authorised person of the water service provider being satisfied that the premises meets the requirements for the restriction. For instance, the customer may invite an authorised person into the house to inspect the devices. However, customers are provided with other mechanisms (below) to demonstrate compliance, should they not wish an authorised officer to enter their house;

- provision of a certificate from a licensed plumber certifying that the premises meets the requirements for the restriction; or
- provision of a statutory declaration declaring that the premises meets the requirements for the restriction.

### **Amendment of s 388 (Restricting water supply)**

Clause 80 amends section 388 of the *Water Act 2000* and confirms that a water restriction can provide an exemption from all or part of the restriction.

### **Amendment of s 389 (Notice of service provider water restriction must be given)**

Clause 81 amends section 389 of the *Water Act* (notice of water service provider water restriction) by introducing a new higher penalty for non-residential customers of 1665 penalty units for breach of a water restriction.

The penalty for breach of a water restriction by any other person (not a non-residential customer) will remain at 200 penalty units.

The section is also being amended to provide how customers seeking to take advantage of exemptions from water restrictions can prove compliance with the water restriction.

Under the new provisions in section 389, evidence of compliance with a part of the restriction includes (but is not limited to):

- an authorised person of the water service provider being satisfied that the premises meets the requirements for the restriction. For instance, the customer may invite an authorised person into the house to inspect the devices. However, customers are provided with other mechanisms (below) to demonstrate compliance, should they not wish an authorised officer to enter their house;
- provision of a certificate from a licensed plumber certifying that the premises meets the requirements for the restriction; or
- provision of a statutory declaration declaring that the premises meets the requirements for the restriction.

**Insertion of new ch 3, pt 2, div 7**

Clause 82 inserts a new chapter 3, part 2, division 7 into the Water Act dealing with water efficiency management plans. New division 7 is one of several new Divisions (the other inserted by clause 77) being inserted into the Water Act by this Bill dealing with Water Efficiency Management Plans (WEMP). A WEMP requires non-residential water users to examine their water consumption and identify actions to be taken to reduce water consumption within a specified time period.

New Division 7 will provide powers and obligations in relation to WEMPs in the areas in Queensland other than the SEQ region or a designated area under the jurisdiction of the QWC.

**‘Division 7            Water efficiency management plans****Purpose and application of division**

New section 399 provides that the purpose of this new Division is to promote the efficient use of water by non-residential customers. This division only applies for a non-residential customer outside the SEQ region or a designated region (as those customers fall under the jurisdiction of the QWC in the new chapter 2A, part 5, division 3) who does not hold a water entitlement. However, if a non-residential customer who holds a water entitlement also obtains water from a water service provider in another way, then the division applies to that customer for that water.

Additionally, there may be some non-residential customers who obtain water from more than one water service provider. To provide those customers with a level of certainty as to which water service provider is the relevant provider and which WEMP provisions apply, new section 399 also states:

- that if a customer obtains water from a water service provider who is in the SEQ region (or other designated area) which falls under the jurisdiction of the QWC (i.e. Chapter 2A, part 5, division 3), as well as obtaining water from another water service provider who does not fall under that same jurisdiction (i.e. they fall under chapter 3, part 2, division 7 which is under the jurisdiction of the chief executive), then the WEMP provisions in Chapter 2A, part 5, division 3 apply and that customer is deemed to fall under the jurisdiction of the QWC.

- That if a customer obtains water from one or more water service providers in the same region, then the water service provider who provides the customer with the most water is the relevant water service provider for the WEMP provisions. This is to avoid the situation where a customer may have a requirement from two (or more) water service providers to prepare a WEMP.

### **When water efficiency management plan may be required**

New section 400 details when a WEMP may be required. A WEMP may be required when:

- the chief executive (of the Department of Natural Resources and Water) gives a written direction requiring a water service provider to give a customer, or type of customer, a written notice to prepare and submit a WEMP; or
- a water service provider without direction, gives a customer, or type of customer, a written notice approved by the QWC to prepare and submit a WEMP; or
- a customer wishes to prepare a WEMP for any reason. For example, a customer may wish to prepare a WEMP to obtain the benefit of an exemption from a water restriction.

Regardless of which way a WEMP is required, the WEMP must be prepared and approved in accordance with the division.

A water service provider must comply with the direction from the chief executive to require customer to prepare and submit a WEMP. A customer must comply with a direction given by water service provider to prepare and submit a WEMP.

### **Content of water efficiency management plan**

New section 401 details the content of a WEMP. The WEMP must comply with any relevant guidelines issued by chief executive. Alternatively, if the chief executive has not issued guidelines, then the WEMP must comply with guidelines issued by the water service provider.

The guidelines will contain information relating to matters which must be addressed and included in the WEMP as well as processes to be followed in the preparation of a WEMP, and other issues.



The guidelines issued by the chief executive are likely to be based on a long-term demand management approach involving a cost-benefit analysis of potential water saving measures. It is anticipated that these guidelines will be issued in late 2006 or early 2007.

New section 401 also requires a WEMP must state the following:

- the name of the customer and the location where the WEMP applies;
- the water savings and efficiencies that will be achieved by implementing the WEMP (this includes identifying the actions or measures to be implemented); and
- the time frames for implementing the WEMP (e.g. a WEMP can include a variety of actions which may be staged or progressed over a specified period of time).

A specific penalty has not been included under this section as a customer can face a penalty under section 402 for not resubmitting a WEMP which resolves issues identified in a decision to reject the WEMP.

### **Approving water efficiency management plan**

New section 402 sets out a general process and timeframes involved in having a WEMP approved by the water service provider. The water service provider is able to request more information from a customer to make a decision about a WEMP. The water service provider must approve, with or without conditions, or refuse to approve the WEMP:

- if additional information is not required—within 60 business days after receiving the WEMP; or
- if additional information is required—within 60 business days of when the information is received or should have been given, whichever is earlier.

Within 10 business days after making the decision, the water service provider must give the customer an information notice about the decision.

If the water service provider does not approve the WEMP, the customer must, within 20 business days of receiving the information notice, give the water service provider a revised WEMP that overcomes the issues that resulted in the WEMP being rejected. The water service provider may extend the 20 business day period for a customer. A customer who does not provide a revised WEMP which deals with the issues raised in the information notice faces a maximum penalty of 200 penalty units.

A customer can appeal a decision made by the water service provider in the information notice (e.g. a decision to reject the WEMP or to apply conditions to the approval of a WEMP). The appeal provisions set down in chapter 6 apply as if any water service provider were a local government. This means that whether a decision to reject a WEMP was made by a local government or another type of water service provider (e.g. a local government owned corporation or private company), the same provisions will apply and the water service provider is deemed to be a local government for the purposes of Chapter 6. Those appeal provisions include a requirement for an internal review of the decision by the water service provider, followed by application to a Magistrates Court for resolution of the matter.

Additionally a specific provision has been incorporated to give water service providers power to charge a nominal application fee for the approval of the WEMP should they desire to do so. The intention of the provision is that the application fee is to be based on a nominal amount and not reflect full cost recovery of the WEMPS. This will remove any doubt as to whether a water service provider (no matter what type of water service provider) can make such a charge.

### **Complying with water efficiency management plan**

New section 403 provides that a customer must comply with their approved WEMP. A maximum penalty of 1665 units may apply for non-compliance.

### **‘404 Reporting under water efficiency management plan**

New section 404 details the reporting obligations of a customer who has an approved WEMP. The customer must report annually within 10 businesses days of the anniversary day of approval of the WEMP and provide the report to the water service provider.

The report must include:

- the extent to which the WEMP has been implemented;
- the water savings and efficiencies achieved by implementing the WEMP;
- whether there has been any change of circumstance (under 360ZCG(1)(a)) in terms of a significant increase in production output (this may relate directly to the number of items produced or the scale of intensity where there is no specific identifiable production output

e.g. this could encompass a significant increase in the number of clients) or a significant increase in water consumption. This may help a water service provider to identify, amongst other things, whether a WEMP is being complied with and whether a WEMP may require an amendment or review (e.g. a significant increase in production may mean that a WEMP should be reviewed to determine whether further water savings can be made).

Customers who do not comply with the annual reporting requirement for WEMPs face a maximum penalty of 100 penalty units.

New section 404 also details the reporting obligations of water service providers to the chief executive. Under the amendments, the chief executive will have the power to ask a water service provider at any time for:

- a copy of WEMP which has been approved (e.g. if the chief executive wishes to see a WEMP for instance for a high volume water customer it can do so);
- information about a WEMP that has not been approved;
- a report summarising progress by the customers of the water service providers in achieving water savings and efficiencies (e.g. to determine the overall level of water savings achieved by a particular date by a non-residential customer or type of non-residential customer, the chief executive may request a report outlining progress from any or all water service providers).

The water service provider will have 20 business days to comply with the chief executive's request, otherwise the service provider faces a maximum penalty of 100 penalty units.

#### **'405 Amending or replacing water efficiency management plan by chief executive direction**

New section 405 empowers the chief executive to require a water service provider to give a notice to a customer requiring the customer to amend an approved WEMP or prepare a new WEMP and submit it to the water service provider. The chief executive may exercise this power where it is satisfied that there is or there is likely to be:

- a severe water supply shortage; or
- an increase in the severity of a water supply shortage.

A water service provider must comply with the direction of the chief executive and a customer must comply with a notice issued by a water service provider to amend or replace a WEMP. Maximum penalty for the service provider and the customer is 500 penalty units.

If a WEMP is amended or if a new WEMP is prepared, the WEMP is subject to the division (e.g. it must comply with the relevant guidelines and state the content required under section 401, the approval process and timelines outlined in section 402 apply, the customer must comply with the WEMP under section 403 and reporting obligations apply and any other requirements of the division).

#### **‘406 Amending or replacing water efficiency management plan by water service provider direction**

New section 406 empowers a water service provider to require a customer to amend a WEMP or replace a WEMP if the service provider is satisfied:

- for a customer, or a type of customer, production output or water consumption has increased significantly (e.g. if after a WEMP has been approved a customer has doubled its production capacity, and no allowance for that increase in production was incorporated in the WEMP, a water service provider may require a customer to amend their approved WEMP); or
- the cost effectiveness of implementing a WEMP is likely to have changed significantly (e.g. if the cost of purchasing a water efficiency device, appliance or technology has decreased significantly, the water service provider may require the customer to amend their approved WEMP to require the use or installation of the cost effective measures); or
- there is or there is likely to be a severe water supply shortage.

The notice given by the water service provider must state a reasonable time for the customer to submit the amended or new WEMP. A customer must comply with the notice.

The division applies for the amended WEMP or new WEMP, as for section 405.

**‘407 Amending or replacing water efficiency management plan by request**

New section 407 enables a customer to request an amendment of a WEMP or the preparation of a new WEMP. If a water service provider approves the request to amend or prepare a new WEMP, the customer must amend the WEMP or prepare the new WEMP in the reasonable time stated by the water service provider. For instance, if a customer is aware that there may be difficulties associated in meeting timeframes included in the existing approved WEMP, they may ask their water service provider if they can amend their WEMP. If the water service provider agrees, then the customer can amend the WEMP accordingly.

The division applies for the amended WEMP or new WEMP as for section 405.

**‘407A Notice to comply with water efficiency management plan**

New section 407A empowers a water service provider to issue a notice to a customer to comply with a WEMP where the water service provider is satisfied or reasonably believes the customer has not complied with the WEMP. For example, if a water service provider reasonably believes that the customer has not undertaken an action specified in the WEMP within the timeframe stated in the WEMP, the water service provider can issue a notice requiring the customer to comply with the WEMP.

This provision does not prevent a water service provider from taking other action such as issuing a show cause notice requiring the customer to demonstrate compliance with the WEMP, before issuing a compliance notice to the customer.

**‘407B Reviewing water efficiency management plans**

New section 407B has been inserted to empower water service providers to ensure a customer with an approved WEMP reviews the WEMP when the water service provider considers it appropriate. However, the WEMP must be reviewed by the customer at least every five years.

**Insertion of new ch 9, pt 5, div 7**

Clause 83 inserts a new chapter 9, part 5, division 7 into the Water Act dealing with transitional provisions for the *Wild Rivers and Other Legislation Amendment Bill 2006*.

## **Division 7                      Transitional provisions for Wild Rivers and Other Legislation Amendment Bill 2006**

### **Plans taken to be water efficiency management plans**

New section 1144 provides transitional arrangements for two different situations where a customer already has an approved WEMP. Firstly, where a customer has a WEMP and the WEMP was approved by the water service provider before this section commences, that WEMP is taken to be an approved WEMP.

Secondly, if a further region is designated in respect of which the QWC is to perform its functions, and a customer, within that newly designated area, already has an approved WEMP, then that WEMP is taken to be an approved WEMP.

### **Validation of commission water restrictions**

New section 1145 provides that water restrictions made by the QWC before the commencement of this Bill are valid. This is to remove any doubt regarding the validity of any water restrictions already issued.

### **Validation of service provider water restrictions**

New section 1146 provides that water restrictions made by a water service provider before the commencement of this Bill are taken to be valid. This is to remove any doubt regarding the validity of water service provider's water restrictions already issued.

### **Amendment of sch 4 (Dictionary)**

Clause 84 amends the dictionary to the Water Act to:

- include a definition of an anniversary day which relates to the date of approval of a WEMP;
- expand the definition of customer for the purposes of chapter 2A, part 5, division 2 and chapter 3, part 2, division 7, and in the definition of non-residential customer (which includes provisions dealing with water restrictions), to include occupiers of premises. Often with non-residential premises the water user is an occupier rather than the owner;

- include definitions of non-residential customer and non-residential premises;
- include a definition of a water efficiency management plan and an approved water efficiency management plan.

## **Part 12                      Amendment of other Acts**

### **Amendment of other Acts**

Clause 85 explains that the schedule amends the Acts it mentions.

## **Schedule                      Other amendments of Acts**

This schedule outlines consequential and minor amendments of other Acts for the purposes of making consistent changes across legislation affected by the Bill.

### ***Amendment of the Coastal Protection and Management Act 1995***

Clause 1 changes terminology for the clause, which clarifies the intent of the clause, without changing the intent of the original Wild Rivers Bill.

Clause 2 renumbers ‘schedule 2’ as ‘schedule’.

### ***Amendment of the Fisheries Act 1994***

Clause 1 replaces reference to the ‘*Integrated Planing Act 1997*’ with ‘Planning Act’ in sections 76DA to 76DC.

Clause 2 changes terminology for the clause, which clarifies the intent of the clause, without changing the intent of the original Wild Rivers Bill.

Clause 3 replaces the term ‘watercourse’ with ‘waterway or lake’. This makes it illegal to release non-indigenous fishery resources into lakes as well as streams in a wild river area.

Clause 4 adds a definition for ‘lake’, as associated with clause 3.

Clause 5 replaces reference to the '*Integrated Planning Act 1997*' with 'Planning Act' in the schedule.

Clause 6 renumbers 'schedule 2' as 'schedule'.

### ***Amendment of the Forestry Act 1959***

Clause 1 renumbers 'schedule 2' as 'schedule'.

Clause 2 adds a definition for 'wild river declaration'.

Clause 3 removes sections 55(2) and 56(2A) as the removal of quarry material in watercourses and lakes is controlled by the *Water Act 2000* rather than the Forestry Act, and therefore such clauses are redundant.

### ***Amendment of the Fossicking Act 1994***

Clause 1 adds a definition for 'nominated waterway'.

Clause 2 replaces the reference to 'watercourse' with 'nominated waterway'.

Clause 3 renumbers 'schedule 2' as 'schedule'.

### ***Amendments of the Integrated Planning Act 1997***

Clauses 1 to 9 make a number of minor amendments to the *Integrated Planning Act* to corrects out of date reference to sections of other Acts and make minor drafting corrections.

Clause 10 adds definitions for 'designated urban area' and 'wild river high preservation area'.

Clause 11 makes a minor amendment to correct a reference to a section in another regulation....

Clause 12 changes reference to schedules in two definitions.

### ***Amendment of the Land Protection (Pest and Stock Route Management) Act 2002***

Clause 1 renumbers 'schedule 2' as 'schedule'.



### ***Amendment of the Local Government Act 1993***

Clause 1 amends the definition of “Local Government Act” to reflect the addition of chapter 2A of the *Water Act 2000* which was added to the Water Act in 2006.

### ***Amendment of the Mineral Resources Act 1989***

Clause 1 removes the definition of mining tenement from section 422. It has been relocated to the schedule.

Clause 2 replaces definitions for low impact activity and mining tenement and includes other required definitions.

Clause 3 adds definitions to the Mineral Resources Act schedule.

### ***Amendment of the Nature Conservation Act 1992***

Clause 1 renumbers ‘schedule 2’ as ‘schedule’.

### ***Amendment of the State Development and Public Works Organisation Act 1971***

Clause 1 renumbers ‘schedule 2’ as ‘schedule’.

### ***Amendment of the Vegetation Management Act 1999***

Clause 1 changes the reference in the wild river definitions for *wild river area* and *wild river declaration* from ‘schedule 2’ to ‘schedule’.

### ***Amendment of the Water Act 2000***

Clause 1 amends sections 55 (when water resource plans may be amended or replaced) and 57 (minor or stated amendments of water resource plan) with specific references to section 14 of the *Wild Rivers Act 2005*.

Clauses 2 and 3 corrects a reference to a section that has since been repealed.

Clauses 4 and 5 amend references to subsection numbers within section 678 of the Act consequent on the amendment made by clause 3 above.

Clause 6 changes terminology for the respective clauses, which clarifies the intent of the clause, without changing the intent of the original Wild Rivers Bill.

Clause 7 removes a redundant subsection relating to the relationship between declared subartesian areas (Water Act) and subartesian management areas (Wild Rivers Act).

Clause 8 adds a definition of ‘nominated waterway’ to the schedule.

Clause 9 changes the reference in the wild river definitions for *wild river area* and *wild river declaration* from ‘schedule 2’ to ‘schedule’.

### ***Amendment of the Wild Rivers Act 2005***

Clause 1 corrects an editorial error in new section 3(3)(f) – known as section 5(3)(f) before renumbering.

Clause 2 renumbers ‘schedule 2’ as ‘schedule’ in section 5 – known as section 3 before renumbering.

Clause 3 provides for the renumbering of section 10(2) to (5) to 10(2) to (4).

Clause 4 provides for the update in sections 13 (Matters Minister must consider in preparing a wild river declaration), 25 (Matters Minister must consider in preparing a wild river amendment declaration) and 37 (relationship with water resource plans) of specific references to section 14.

Clause 5 provides for the renumbering of section 22(2) to (5) to 22(2) to (4).

Clause 6 amends the reference to the authorising provision for the schedule to be consistent with the renumbering of the front end of the Wild Rivers Act.