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THE WILDERNESS SOCIETY

26 June 2014

The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000
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Dear Sir/Madam

Re State Development, Infrastructure and Industry Committee consideration of the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill 2014

I write on behalf of the Wilderness Society regarding the above Inquiry, and wish the following to be accepted as a formal submission to the Committee. The issues in this submission relate to Chapter 4 of the Bill ('Repeal of the Wild Rivers Act 2005 and amendments for the repeal'), and the core argument in the Explanatory Notes for the Bill in this regard, where it is claimed (page 9), "The *Wild Rivers Act 2005* (Wild Rivers Act) can be repealed because its policy objectives can be more effectively implemented through Queensland's existing land use planning and development assessment framework and the new *Regional Planning Interests Act 2014* (RPI Act)."

The Wilderness Society is aware that the Queensland Environmental Defender's Office is also intending to make a submission on the Bill, with respect to other aspects and issues, and we wish to offer our support for those arguments.

Background

The Wilderness Society is one of Australia's leading community-based conservation and environmental advocacy organisations with a long history of engagement, campaigning and focus on river protection. In Queensland, the organisation has been a longstanding and consistent advocate for the protection of the state's wild rivers, and has sought to work with governments, local communities and Traditional Owners on preserving natural and cultural values associated with a number of river systems across the state. We have close collaborations and a range of long term associations with a number of Indigenous Traditional Owners, and have campaigned with Traditional Owners to stop damaging development and achieve conservation outcomes.

The Wilderness Society is committed to seeking conservation outcomes that are consistent with Aboriginal rights, as recognised under Australian Law. We consider that law reform with respect to recognition of Indigenous rights is, and should be, ongoing through the political process. In the backdrop of very public attacks on Wild Rivers on Cape York, the Wilderness Society has continued to work closely with Traditional Owners on the ground on Cape York and elsewhere.

Basic position of this submission

The Wilderness Society opposes the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill 2014* (the Bill) at least to the extent that it seeks to repeal the *Wild Rivers Act 2005*. The Bill will in our view lead to the removal of vital river protections that have been in place in Queensland for the past ten years, even though the case for such removal has not been successfully made, and the alternatives currently proposed are weak, complex and lack transparency.

The rationale for the government moving to repeal the *Wild Rivers Act* is obscure. Repeal of the *Wild Rivers Act 2005* was never spoken about in the lead up to, during, nor post the 2012 Queensland State election by the LNP. Nor has this action been mooted in any public policy discussions. It would appear that this is a politically and ideologically-motivated action, and a rushed and ill-conceived one at that. Late in 2013, the government initiated the process for revoking some of the Wild Rivers (those on Cape York and in the Channel Country), but this process – which was strongly opposed by a range of conservation interests and by some Traditional Owners – was seemingly never completed or reported on. It remains unclear what has happened to that process, and why the Act is now instead being repealed.

The Wilderness Society is concerned that the Bill being considered by the Committee has been prepared under a cloak of secrecy (it did not appear on the Daily Parliamentary Notice Paper for 3 June 2014), and was introduced just prior the State Budget being delivered when most media and policy attention was focused on the budget. Initially, the Bill was then referred to the Committee with a reporting deadline of early December 2014 (as recorded in Hansard and the Daily Parliamentary Notice Paper for 6 June 2014), but this was quietly changed by the government to 28 July, with a subsequent compression of public submission period to just a few days.

This altered approach makes it very hard for interested parties, especially Traditional Owners from remote regions, to participate and engage. It also suggests a culture of legislation, policy development, and administrative processes being developed, implemented and subsequently amended on the run[1]. We would encourage members of the Committee to acknowledge the

[1] This paragraph was written on 25 June 214. To prove this very point, on the morning of 26 June 2014 (the same day this submission must be tendered by), the Committee Chair has announced a review of the Regional Planning Interests Regulation, even though it is now in force, and is being relied upon in processes as discussed in this submission.

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poor processes at play with this Bill, and to seek more time and more transparency to allow greater input to the Bill's consideration.

Fundamentally, the Wilderness Society does not accept that any compelling case has been made about repealing the Wild Rivers Act, based on either that there is a suitable alternative, or that Wild Rivers represents 'red tape' which will be alleviated by its removal.

The government's shifting approach to wild rivers protection

The LNP's intended response to Wild Rivers has changed substantially over time and in its focus. Prior to and during the 2012 State Election, the LNP spoke of replacing Wild River Declarations on Cape York through a focus on preserving the region's waterways, under the auspices of a Bioregional Management Plan for Cape York. Wild Rivers in Western Queensland were seemingly to be retained, although there were some contradictory statements at the time about whether they would be considered at some point. The Gulf Country and Islands Wild River areas were not spoken about at all. No reference to repealing the *Wild Rivers Act* in its entirety was ever made.

Once elected in March 2012, the Newman Government shifted tack on Cape York rivers, and started proposing a statutory plan approach under which the fate of the rivers was unclear. Wild River Declarations in Western Queensland were amended at the behest of Santos, to wind back restrictions on gas exploration and extraction in the Cooper Basin. By late 2013, the Cape York Regional Planning process had reached the point of being released in draft form, but the exact processes for river protections remained unclear. The Wilderness Society raised a range of concerns in this regard in its submission to the government on the draft plan. Meanwhile, in December 2013, the Environment Minister released formal proposals for the revocation of Wild River declarations on Cape York and in Western Queensland. There was still no mention of Gulf Country or Islands rivers, and no reference to the Act itself.

By May 2014, no outcome from the proposed Wild River declarations revocation process had been announced, but the Department of State Development, Infrastructure and Planning (DSDIP) once again refined its proposed approach to Cape York planning, and subsequently seems to have created (process unclear) Strategic Environmental Areas for all the Wild River areas in Queensland, including mapping the High Preservation Areas as 'Designated Precincts'.

And in early June 2014, the government suddenly announced its intention to repeal the *Wild Rivers Act 2005*. Accordingly, it is now claimed by the Newman government that the *Wild Rivers Act*'s intent and outcomes can be "better achieved" through a combination of the Sustainable Planning Act, the State Planning Policy, and the *Regional Planning Interests Act* and Regulation. However, no clear statement that guarantees that the strong rivers protection framework established under the *Wild Rivers Act* will be replicated has been provided, and other statements from the government make it obvious that the policy intent here is to remove environmental protections and weaken environmental regulations as far as the state's wild rivers are concerned.

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In particular, it is quite clear that in Western Queensland's Channel Country, the intent is to remove current restrictions on unconventional gas extraction in sensitive river and floodplain areas under Wild Rivers, and only promise regulation of 'open cut' mining which is not the major threat. Similarly, in the Gulf Country, there is no clear regulation of other mining activities other than 'open cut' mining.

In all of the current (and past) Wild River areas – now apparently established as Strategic Environmental Areas, including those on Cape York – it is the policy intent to remove straightforward and openly stated prohibition of mining and other destructive activities and replace this with a more complicated but weaker set of processes which may still result in destructive activities to occur.

Clause 14 of Regional Planning Interest Regulation 2014 identifies that the ss 41(2)(b) (assessment of applications) and 49(1)(b) (Decisions on the applications) of the Regional Planning Interest Act 2014 are now to refer to Schedule 2 of Regional Planning Interest Regulation 2014. This seems to suggest that there are unacceptable activities in Designated Precincts which will be in addition to the assessment of the 'irreversible or widespread damage' tests under *Regional Planning Interest Act 2014*.

The Wilderness Society remains unconvinced about the strength of these restrictions, and questions whether the *Regional Planning Interest Act* and Regulation 2014 have sufficient legislative head of power to restrict activities under the *Mineral Resources Act 1989* around Strategic Environmental Areas (SEA) and regional plans. Without this, the processes and restrictions will have no force.

The other problem is that clause 4 of the Regional Planning Interest Regulation 2014 refers vaguely to a map on the DSDIP website, which turns out to be the one here, apparently: http://www.dsdip.qld.gov.au/about-planning/da-mapping-system.html (NB where it is necessary to select 'Regional Interests' and then select SEAs and zoom in to inspect the relevant areas). This mapping has already undergone modification over the last few days, suggesting it is at best a work in progress. Concerns with the arbitrariness and lack of transparency of the mapping process – which we believe are critically important issues for the Committee to examine – are raised later in this submission.

This new approach to rivers protection also disaggregates policy issues such as water entitlements and riparian land management which directly affect rivers, from development issues. Unlike Wild Rivers which sought to view river issues from a whole of system level, and brought together a range of regulations concerning vegetation management, water entitlements, access and use, as well as prohibiting or regulating specific activities, the government's alternative scatters these considerations across legislation and portfolios, ensuring that no one process or agency will comprehensively assess all issues relevant to river health. This will also result in multiple processes and decision points, likely to result in more not less red tape and inconsistent approaches to ecological protection.

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To understand why this alternative approach is both ill-conceived and poorly designed, and thus why the *Wild Rivers Act* should not be repealed, it is important to properly appreciate where the Wild Rivers initiative came from, and why and how it has been implemented in Queensland.

The origins and development of the Wild Rivers Act and associated processes

Freshwater ecosystems are under increasing ecological threat at both global and national scales. Many of Australia's river systems are seriously degraded due to over-extraction, pollution, catchment modification and lack of effective river regulation, the most severe and prominent example being the Murray-Darling Basin. Science and logic tell us that we need to deal with rivers protection at the catchment/basin level rather than dealing with it partially or incrementally. Although Australia has experienced a number of social, economic and environmental disasters when it comes to management and protection of its rivers, Queensland is blessed to retain some of the last remaining, pristine or near pristine waterways left of the planet.

The need for strong state legislation protecting wild rivers in Queensland was broadly recognised and accepted more than a decade ago. The *Wild Rivers Act 2005*, and its associated Wild River Declarations, have sought to protect the ecological values of some these last remaining, pristine or near pristine waterways left of the planet.

The *Wild Rivers Act 2005* was passed with full support of the Queensland Parliament. With minor amendments moved by now Deputy Premier Jeff Seeney, the Wild Rivers Act received endorsement by the Nationals and the Queensland Liberals as well as from Labor and the Independents. Comments made by then Liberal Party Leader Bruce Flegg in Parliament included:

> *"The Liberal Party supports the preservation of genuine wild river areas and is cognisant of the fact that this legislation will introduce a ban on activities such as mining, agriculture, animal husbandry, vegetation clearing, riverine disturbance, and dams and weirs … the Liberal Party understands that in a state with rapid development and a great deal of environmental impact from development the goal of preserving our relatively untouched river systems is a worthy goal, and we support the intent of a bill to that effect*" (Queensland Parliament Hansard 2005)

Prior to the legislation being passed, the Wilderness Society, Queensland Conservation Council and the Queensland Environmental Defender's Office released a policy position on the proposed Wild Rivers Act. Conservation groups' recommendations included:

- Multiple tiers of river protections with varying degrees of management goals.
- The establishment of a "Technical Advisory Panel" to provide expert advice to the Minister in the implementation of the initiative.

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- A $60 million Wild Rivers implementation fund, including a structural adjustment package to be part of the initiative.
- Formal recognition of Native Title and Traditional Ownership and management, protection of Indigenous cultural heritage and ensuring consultation rights for Indigenous people.

The Wilderness Society and the Queensland Conservation Council developed a discussion paper specifically addressing Indigenous issues – *Caring for Queensland's Wild Rivers: Indigenous Rights and Interests in the proposed Wild Rivers Act*. These two key policy documents were mailed out to environment groups, fishing groups, recreational user groups, local government, state government, and over 150 Native Title representative bodies and Indigenous organisations throughout Queensland. Follow up calls and meetings occurred, including between The Wilderness Society and the Cape York Land Council and Balkanu Cape York Development Corporation and with other sectoral interests. The Wilderness Society also undertook a campaign of community awareness raising.

The then government's *Wild Rivers Bill 2005* did not meet all the policy goals of the conservation groups, it did not a Technical Advisory Panel, nor a management fund, and there was no explicit recognition of Indigenous rights, cultural heritage or Traditional Ownership. Nevertheless, despite its shortcomings, the Act was a highly significant step, and signalled a major breakthrough in proactive protection of Queensland's free flowing rivers. It was the first legislation of its specific type in the world, and Queensland had taken an international lead in river conservation.

Three months after the passage of the *Wild Rivers Act 2005,* the first six wild river basins were nominated for protection: Settlement Creek, Gregory River, Morning Inlet, Staaten River (these four being in the Gulf of Carpentaria), Hinchinbrook Island and Fraser Island.

The response from many Traditional Owners in the Gulf of Carpentaria and the islands was overall positive, although concerns about the lack of recognition of cultural values, and the consultation process were raised. However, the Carpentaria Land Council supported the declarations, and in fact noted that the protection measures did not go far enough. A statement from Indigenous leader Murandoo Yanner in a joint media release at the time with the Wilderness Society captures the flavour of the support for the protection of the Gulf rivers:

> *"Healthy rivers are the lifeblood of our people — everything depends on that. Water for drinking, fish for eating — we have to protect this for our children's children. We've talked with the Government and we thought we were on the same page — we want the Settlement and Gregory Rivers declared — the Government shouldn't cave in to the scare-mongering of those mining and agriculture mobs."* (The Wilderness Society and Carpentaria Land Council 2006)

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As indicated in Mr Yanner's comments above, there was fierce opposition from AgForce, the Queensland Resources Council, and from the Cape York Land Council. These bodies remain unreconciled with the need to protect our last free flowing pristine river systems, and have campaigned against Wild Rivers for both commercial and political reasons. Their endeavours saw various amendments to the *Wild Rivers Act* which weakened aspects of the legislation, but the core principles and effects of the model survived – namely to ensure the ecological values of the rivers remained intact. The conservation outcomes were still very significant. The Wild River declarations in the Gulf for example, were the first major conservation initiative in that region since the creation of the Lawn Hill (Boodjamulla) National Park in 1985, and included the protection of vast areas of coastal wetlands of international significance.

The move to protect river basins of Cape York was characterised by greater controversy, delay and obfuscation, fuelled largely by a concerted and ongoing campaign of fear and misinformation by those opposed to Wild Rivers. In June 2008, the Queensland Government formally nominated the Archer, Stewart and Lockhart River Basins under the Wild Rivers legislation, with public submissions set to close in November 2008. The Balkanu Development Corporation was contracted by the Queensland Government to help conduct the formal consultation process for the first phase of nominations.

An extensive community consultation exercise ensued, with over one hundred meetings and briefings with Traditional Owners in relevant parts of Cape York. During the consultation phase, the Wilderness Society met with a group of Traditional Owners who had remaining concerns about the impacts of Wild Rivers. We also sought a commitment from the Government that there would be a process of dialogue and negotiation to enable agreement to be reached on the Wild River declarations. The Wilderness Society understands that several attempts were in fact made to undertake such negotiations (in late December 2008, and in February 2009), but that these were frustrated by Balkanu.

The re-elected Labor Government, which had run in part of a clear platform of completing Wild River processes and nominating new rivers during the March 2009 state election, moved to declare the Archer, Stewart and Lockhart Rivers as Wild Rivers in March/April 2009[2]. Meanwhile, the Queensland Government also nominated the Wenlock River Basin for Wild River protection in late 2008. This was completed in mid-2010.

Since the proclamation of the *Wild Rivers Act 2005*, and in particular since Cape York rivers were nominated, there has been a great deal of misinformation and misreporting about how the initiative operates, and a range of critiques have been levelled at Wild Rivers[3]. These have included claims that Wild Rivers prevents all development, stops cultural activities, is akin to a National Park, "locks up" the land, that it impinges on Native Title or broader property rights, and that it is generally unnecessary. These accusations have been ill-informed and

[2] A ruling from the Federal Court last week has found them to be invalid because the precise process of considering submissions and making the decision did not comply with the prescribed process.
[3] There have also been a number of untrue allegations levelled at The Wilderness Society in relation to our support for Wild Rivers.

unsubstantiated. Nevertheless, it is worth Committee members acquainting or reminding themselves with how Wild Rivers protections have operated in practice.

Wild River declarations support sustainable development and sustainable economic opportunities (such as eco-tourism, grazing, fishing, building infrastructure for tourism), they protect traditional activities and cultural practices, the do not interfere with recreational uses or river access, and allocate specific Indigenous water reserves (a first in Australia). As well as evidently not getting in the way of a wide range of sustainable and lower level commercial activities (often Indigenous-owned enterprises), Wild River declarations have operated in a tenure-blind way, and the *Wild Rivers Act* explicitly states that Native Title rights are fully protected under declarations (Section 44, 2).

Each of the Wild River Declarations in Queensland has only occurred following extensive consultation with communities, particularly Indigenous Traditional Owners and Land Councils, and other stakeholders. A number of attempts in the Federal Parliament to overturn the Queensland legislation via the *Wild Rivers (Environmental Management) Bill 2010* on the basis of the Wild Rivers consultation process were unsuccessful.

In the midst of the debate about protecting the wild rivers of Cape York, the Queensland Government moved to protect the spectacular Channel Country rivers under the Wild Rivers legislation. This was in response to ongoing threats from unconventional gas extraction and previous plans by the cotton industry to divert large quantities of the Cooper's Creek's water to grow cotton in Queensland's western desert. An alliance between graziers, Traditional Owners and conservationists called for permanent river protection of the Channel Country, and three Western Queensland rivers were declared Wild Rivers in late 2011.

Until last week, there were thirteen declared Wild Rivers in Queensland – the Gregory River, Settlement Creek, Staaten River, Morning Inlet, Hinchinbrook Island, Fraser Island, Wenlock River, Cooper Creek, Georgina and Diamantina Rivers, and the Archer River, Stewart River, Lockhart River. A Federal Court ruling on Wednesday 18 June, 2014 has resulted in the Wild River Declarations on the last three of these rivers has been pronounced invalid, for reasons of incorrect administrative procedure and non-compliance with necessary steps in the legislation by the Minister at the time.

In response to advocacy from The Wilderness Society, it was announced during the 2006 State election that Labor would commitment to creating a program of Indigenous Wild River Ranger jobs. This was a highly significant announcement, as it directly recognised the skills and knowledge of local Indigenous people, as well as providing much needed jobs in remote areas. It is understood that some 50-60 Wild River Rangers were employed in total, and the program remains today but under a different name.

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The benefits of Wild Rivers

Australians have learnt the hard way that failing to protect the continent's rivers and waterways has dire consequences for the environment and for the people and communities who depend on rivers for social and economic imperatives. At the same time, Queenslanders have been reminded in recent times, through significant flooding and through drought, of the benefits of free-flowing river systems in northern and western parts of their state.
Rivers are the lifeblood of our landscapes and communities, and Wild Rivers has been a ground-breaking approach to protecting pristine and sensitive river systems, which have largely been well-cared for but which increasingly face serious threats from large scale and destructive development activities. Regardless of historical custodianship and good intentions, without Wild Rivers, it will only be a matter of time before the state's last remaining rivers succumb to damming, mining, excessive water usage, and degradation or pollution.

The pressures to make 'productive use' of these rivers and adjacent landscapes are significant, and it is in this context that Wild Rivers has offered a sensible mechanism to support sustainable activities and smaller scale economic uses under a regulatory framework, whilst ensuring a strict protection regime against undesirable development and activities in the most sensitive parts of the river systems.

The Mechanics of the Wild Rivers Act and associated Declarations

Queensland's Wild Rivers Act is a tenure-blind, planning and management approach to conservation. It operates in tandem with many other pieces of Queensland legislation and is designed to protect the natural values of wild rivers by regulating new development activities through whole-of-catchment management. This approach supports the scientific concept of 'Hydro-ecology'.

The Wild Rivers Act is operationalised through individual Wild River area declarations and the *Wild Rivers Code*. A declared Wild River includes a number of different management areas which have varying rules to guide development activities. These areas include:

- High Preservation Area
- Preservation Area
- Floodplain Management Area
- Subartesian Management Area
- Designated Urban Area
- Nominated Waterways

The *Wild Rivers Act* is best described as enabling legislation which delivers a planning and management approach to conservation. It operates in tandem with Queensland's *Sustainable Planning Act 2009, Water Act 2000* and other relevant Queensland legislation to regulate new developments in declared "Wild River areas", setting a baseline for ecologically sustainable development that protects wild river values. But critically, each Declaration is very detailed and specific in its application and is a single document for landholders and others to refer to.

The following excerpt from the *Wild Rivers Code*, which is used to assess development in a Wild River area, is a good explanation of how Wild Rivers operates.

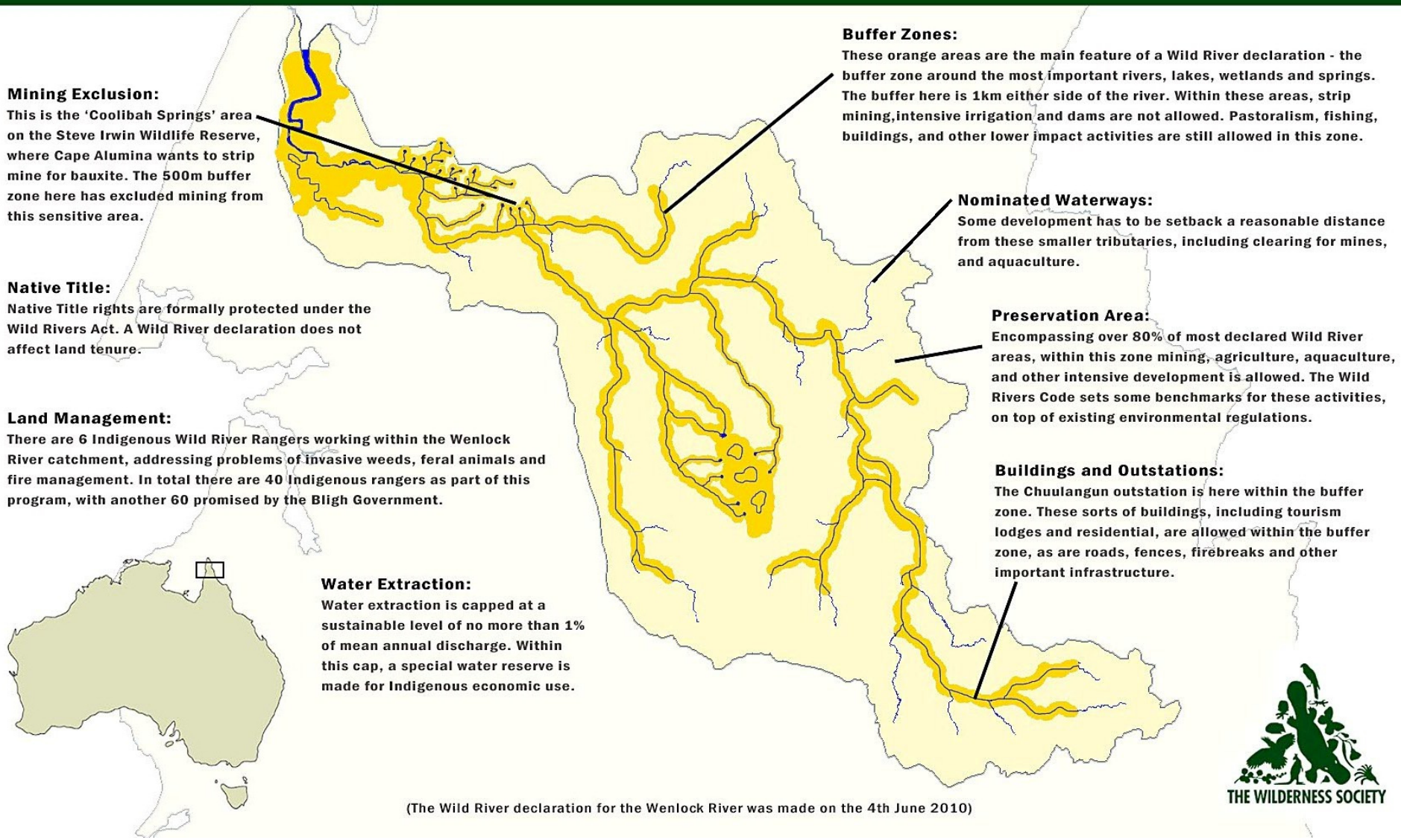
> *"The Queensland Government can declare a wild river area under the Wild Rivers Act in order to preserve the natural values of that river system. Once a wild river area is declared, certain types of new development and other activities within the river, its major tributaries and catchment area will be prohibited, while other types must be assessed against this code. Each wild river declaration will identify these developments and other activities. Also proposed developments and activities assessed against this code must comply with its requirements.*
>
> *The natural values to be preserved through a wild river declaration are:*
>
> - *hydrological processes …*
> - *geomorphic processes …*
> - *water quality …*
> - *riparian function;… and*
> - *wildlife corridors …*
>
> *Proposed development activities are assessed for their potential impact on these natural values."*

In order to give more definition for this assessment process, a declared Wild River area (defined by a river basin) is spatially mapped into different management areas, which have varying rules to guide development activities in the *Wild Rivers Code*. These management areas are shown in the map on following page and summarised below.

The management areas are as follows:

- **High Preservation Area**: the buffer zone around the main watercourses and wetlands (the orange areas on the above map) where ecologically destructive development like dams, irrigated agriculture and strip mining is prohibited. Lower-impact activities, such as grazing, infrastructure such as houses, and fishing are allowed.
- **Preservation Area**: the remainder of the basin, where most development activity can occur as long as it meets requirements that minimise the impacts on the river system.
- **Floodplain Management Area**: important floodplain areas in the basin (shown in cross-hatch above), where the construction of levees and other flow-impeding development is regulated to protect the connectivity between this area and the main river channels.
- **Subartesian Management Area**: areas where there is an underlying aquifer that is strongly connected to the river system. Water extraction from this area needs to be considered in the overall water allocation for the basin.
- **Designated Urban Area**: areas where there is a town or village, so certain types of development are exempt from the *Wild Rivers Code* (shown in pink in the above map).
- **Nominated Waterways**: secondary tributaries or streams in the Preservation Area where certain development set-backs apply.

How does Wild Rivers work? - The Wenlock River example



Mining Exclusion:
This is the 'Coolibah Springs' area on the Steve Irwin Wildlife Reserve, where Cape Alumina wants to strip mine for bauxite. The 500m buffer zone here has excluded mining from this sensitive area.

Native Title:
Native Title rights are formally protected under the Wild Rivers Act. A Wild River declaration does not affect land tenure.

Land Management:
There are 6 Indigenous Wild River Rangers working within the Wenlock River catchment, addressing problems of invasive weeds, feral animals and fire management. In total there are 40 Indigenous rangers as part of this program, with another 60 promised by the Bligh Government.

Water Extraction:
Water extraction is capped at a sustainable level of no more than 1% of mean annual discharge. Within this cap, a special water reserve is made for Indigenous economic use.

Buffer Zones:
These orange areas are the main feature of a Wild River declaration - the buffer zone around the most important rivers, lakes, wetlands and springs. The buffer here is 1km either side of the river. Within these areas, strip mining,intensive irrigation and dams are not allowed. Pastoralism, fishing, buildings, and other lower impact activities are still allowed in this zone.

Nominated Waterways:
Some development has to be setback a reasonable distance from these smaller tributaries, including clearing for mines, and aquaculture.

Preservation Area:
Encompassing over 80% of most declared Wild River areas, within this zone mining, agriculture, aquaculture, and other intensive development is allowed. The Wild Rivers Code sets some benchmarks for these activities, on top of existing environmental regulations.

Buildings and Outstations:
The Chuulangun outstation is here within the buffer zone. These sorts of buildings, including tourism lodges and residential, are allowed within the buffer zone, as are roads, fences, firebreaks and other important infrastructure.

(The Wild River declaration for the Wenlock River was made on the 4th June 2010)

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For better or worse, Wild Rivers has left in place pre-existing mining entitlements, but along with other environmental and planning instruments, it has regulated future mining activity and has clearly had the necessary legislative head of power to constrain the *Mineral Resources Act 1989,* and subsequently, the *Petroleum and Gas (Production and Safety) Act 2004*.

A Wild River declaration cannot occur without extensive community consultation, including a public submission phase. The formal consultation process has been triggered when the Government released a draft declaration proposal (a 'nomination'). This included releasing a draft map showing proposed management areas, followed by months of face-to-face meetings between the Government and communities, sectoral groups, and industry organisations, as well as a chance for people to lodge submissions with the Government.

There was also the opportunity for parties to seek to negotiate directly with the Government following the close of submissions, including for the Archer, Stewart and Lockhart Rivers. It is understood that this occurred in the case of most Wild River declarations, and was strongly promoted and supported by the Wilderness Society in every case.

The complexity of the government's alternative approach to the Wild Rivers Act

For the Committee to assess the claim in the Explanatory Notes regarding there being a suitable alternative to the *Wild Rivers Act*, and thus to consider the impacts of its repeal, it must have due regard to the government's alternative approach to Wild Rivers protection.

As stated earlier, the *Wild Rivers Act 2005*, and its associated Wild River Declarations, have ensured that new destructive development such as mining, dams and intensive irrigated agriculture has been prohibited in the most sensitive parts of the respective river systems, while allowing a wide range of economic, cultural, social and recreational activities and uses are unaffected. Rights under the Commonwealth *Native Title Act* were protected, and a number of commercial enterprises, including Indigenous-run ones, have operated in Wild River areas unhindered.

The alternative 'Strategic Environmental Area' approach to rivers protection in Queensland being put forward by the government is in our view far too weak in its approach to restricting mining and other destructive development in sensitive river areas, and loses the capacity under Wild Rivers to ensure comprehensive management of whole river systems. The status of SEAs and regional planning processes *vis-à-vis* Native Title is unclear and unstated, but their establishment has certainly not been Traditional Owner consent-based.

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The proposed SEA alternatives to Wild Rivers, and the processes detailing allowable and restricted activities, are also embedded in a complex web of legislation and administrative systems and processes. In researching how this system is intended to operate, where precisely it applies, and how decisions will be made, it appears to be a far more complex and disaggregated process than Wild Rivers has ever been, requiring examination of multiple pieces of legislation, multiple government website pages across several departments, yet-to-be-completed policy such as forthcoming iterations of the Cape York Regional Plan, and mapping processes.

The provisions which apply to what sort of development may occur in an SEA are spread across the Regional Planning Interests Act, the Regional Planning Interests Regulation[4], the Sustainable Planning Act, and the State Planning Policy, as well as in a Regional Plan in some but not all instances, and also in online maps providing information on 'Areas of Regional Interest' which are part of the government's Development Application mapping system, under its State Assessment and Referral Agency.

This is the opposite of increasing transparency and ease of navigation for landholders and others, and by comparison the *Wild Rivers Act* and processes are far easier to follow and involve far less 'red tape'. Wild River Declarations have had a high level of transparency and precision in relation to where and how they operate, with detailed mapping and descriptions which are tabled in Parliament. Specific boundaries around the High Preservation Areas, Special Features, and Floodplain Management Zones have each been made clear, including the extent of buffer zones around main water courses, tributaries and features.

The government's proposed model will prove difficult for many people to follow, especially Traditional Owners who will rightly expect to be able to understand how the new planning regime interacts with their traditional country and in some cases their own properties. It is paradoxical that the presently proposed SEAs and Designated Precincts[5] (as of 4pm, 26 June 2014) appear to essentially rely on the current Wild River boundary mapping, including High Preservation Area, Special Feature, and Floodplain Management Zone buffers within Wild River Declarations. But should the Wild Rivers Act be repealed, these geo-data will no longer be relevant and there will be no obvious ongoing basis for the mapped areas of SEAs or Designated Precincts.

Most ominously of all, however, is the concern that SEAs appear open to arbitrary and secretive amendment. It appears easy for the government to alter the boundaries of mapped SEAs and thus affect which parts of relevant rivers or other areas are subject to Designated Precinct provisions, which relate to general SEA provisions, and which are outside of SEAs. The Wilderness Society cannot locate any legislative or prescribed policy processes for making the maps, nor changing them. This is a highly discretionary process which lacks any transparency, and it compounds the proposed SEA approach lacking precision that Wild River

[4] STOP PRESS – as noted earlier, it now turns out that the Regional Planning Interests Regulation is now being reviewed and thus may change! This makes it virtually impossible right now to make any definitive comments on how SEAs will really operate, and even where geographically will be captured.

[5] The only exceptions to this are some minor variations in the Channel Country mapped areas, the excision of a section of the lower Wenlcok River, and the inclusion of the Steve Irwin Wildlife Reserve.

Declarations have provided in terms of geographic boundaries, by setting up the prospect of amendments to mapped areas without proper scrutiny. Considering how often the government has changed its approach to Cape York planning and conservation, not to mention elsewhere, such changes to boundaries should be anticipated. Who will be scrutinising this, what will the criteria for change be, and how will the public know about it?

The Wilderness Society believes this mapping arbitrariness and lack of accountable process is quite irresponsible, and represents a breach of Fundamental Legislative Principles, which could render associated decisions invalid. The Committee has an obligation to satisfy itself that there are sufficiently clear and accountable processes for mapping SEAs for example, to ensure all stakeholders and indeed government itself can rely on the accuracy and consistency they will need to plan, make investment or conservation decisions, and ensure they act lawfully in land use terms. Parliament should retain the capacity to scrutinise Ministerially-endorsed mapped areas purporting to protect rivers, as it can under Wild Rivers.

Summary

The *Wild Rivers Act* and associated declarations prevent destructive developments like mega-dams, intensive irrigation, and mining occurring in sensitive riverine and wetlands environments, while supporting sustainable economic and other uses. Without Wild Rivers protection, sensitive rivers and wetlands will be at risk of these and other damaging activities.

Queensland's wild rivers are too ecologically, culturally and socially important to be used as a political football by the Newman Government. Governments have a general duty of care towards the environment including wild rivers, and are bound to seek its protection.

We urge the Committee to recommend against the proposed repeal of the *Wild Rivers Act*, as proposed in the Bill under examination. We also advise that we think it is imperative for the Committee to hold public hearings about the Bill, and the Wilderness Society will ensure it is available to present upon invitation.

Yours sincerely

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On behalf of the Wilderness Society

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