



Minister for Natural Resources and Water
C/- Wild Rivers Officer
Department of Natural Resources and Water
PO Box 937
Cairns Qld 4870

26 May 2009

By Email: wild.rivers@nrw.qld.gov.au

Re: Wenlock River Wild River Declaration Proposal

Dear Sir/Madam

I have been directed by the State Council of the Wildlife Preservation Society of Queensland (Wildlife Queensland) to forward comments on the Wild River declaration proposal for the Wenlock River.

Wildlife Queensland is one of the longest established and most respected wildlife-focused conservation groups in Queensland. With over 3500 supporters spread across numerous branches throughout Queensland, WPSQ is a strong voice for our wildlife and its habitat.

Wildlife Queensland is apolitical. Our aims include;

- Preserve the flora and fauna of Australia by all lawful means
- Educate the community in an understanding of the principles of conservation and preservation of the natural environment
- Discourage by all legal means, the possible destruction, exploitation and unnecessary development of any part of the natural environment.
- Encourage rational land use and proper land planning of existing and future development, and the use of the natural environment and its management.

Wildlife Queensland is in full support of the nomination of the Wenlock River under the *Wild Rivers Act 2005* and welcomes the opportunity to make comment. In this context, if Wildlife Queensland elects not to comment on a topic or aspect, this should not be construed necessarily as support for the view presented.

Wildlife Queensland would like to firstly draw attention to the 9 remaining wild unprotected river systems of the Cape York Peninsula. These river systems hold an ecological value equal to or higher than the Wenlock and are a part of the diverse network of habitats found within the Cape York Peninsula. Without legislative protection the remaining rivers are exposed to the same destructive impacts that have destroyed many other Australian river systems. Wildlife Queensland strongly urges the Government to commit to declaring the remaining Cape York wild rivers by 2010.

Wildlife Queensland commends the Government on the recent pledge to extend the Wild Rivers program and nominating Cooper Creek, the Diamantina and Georgina Rivers. However the formal declaration of these rivers is advocated within this term of Government. Wildlife Queensland is of the opinion that rivers in other regions of

Queensland should also be considered in the future. We suggest that Baffle Creek, the upper reaches of the Noosa River and other inland rivers of the Channel Country including the Paroo would be ideal additions to our wild rivers.

Wildlife Queensland considers the *Wild Rivers Act 2005* a strong framework for the protection of Queensland rivers. However, it is very disappointing that since its inception a number of amendments have occurred resulting in a dilution of its environmental protection. Of particular concern are the amendments made in 2006 to accommodate mining interests. The Government must commit to no more amendments that adversely affect the strength of this world-leading legislation and no further concessions to the mining industry under the *Wild Rivers Act 2005* or the *Wild Rivers Code 2006*. Wildlife Queensland understands that there are significant mining interests in the Wenlock River Basin. If the Government is truly committed to the protection of this Australian icon it must ensure, at all costs that mining does not adversely impact the wild river values of the area.

There is no doubt that the Wenlock River system holds immense ecological and natural values. It has the highest diversity of freshwater fish in all Australian waters. Its wetlands and estuaries provide breeding habitat to one of Queensland's largest Saltwater Crocodile populations and a spectacular array of bird life. The dense rainforest fringing the river system supports a magnificent diversity of life providing critical habitat and corridors for countless species of wildlife. The Wenlock not only provides great ecological values but also provides immense cultural value to the local Indigenous people. There are other organizations far more qualified and more appropriate to offer comment on the indigenous peoples cultural values than Wildlife Queensland. However the Traditional Owners of the Wenlock River catchment area maintain strong cultural and spiritual connections with the land and rivers. The traditional knowledge and health of these communities is in turn critical to the ongoing health of this wild river system. The Wild Rivers legislation has the potential to protect these ecological and cultural values if the Government remain focused on maintaining the integrity and strength of the legislation. Wildlife Queensland once again expresses its strong support for this nomination; however there are a number of issues discussed in this submission that must be addressed in order to protect the wild river values of the Wenlock.

This submission outlines Wildlife Queensland's comments on the following:

- Protection of Coolibah Springs Complex, Port Musgrave Wetlands and Embley Range Aggregation
- Protection of the natural water regimes of the Wenlock
- Recognition of Indigenous Rights and Participation
- Conclusion and Summary of Recommendations

Protection of Coolibah Springs Complex, Port Musgrave Wetlands and Embley Range Aggregation

Wildlife Queensland strongly supports the current and extensive boundaries of the High Preservation Area (HPA) for the Port Musgrave Wetlands and Embley Range Aggregation. However, there is need to extend the Coolibah Springs HPA to include its adjoining bauxite plateau. Both the Coolibah Springs Complex and the Embley Range Aggregation share comparable ecological function however there is no consistency in the approach taken to map these areas. The entire plateau and surrounding landscape of the Embley Range Aggregation has been mapped as HPA while the bauxite plateau of the Coolibah Springs is excluded from the HPA mapping. The Government must show consistency and extend the HPA of the Coolibah Springs Complex to include its adjoining plateau. Without this extension the ecological values

of the area remain under significant threat from mining interests in the area. Cape Alumina is proposing to strip mine for bauxite in close proximity to the springs. This will significantly impact the complex hydrological and hydrochemical interactions that occur between the springs and the adjoining bauxite plateau.

Recommendations

- Extend the HPA of the Coolibah Springs Complex to include its adjoining bauxite plateau.

Protection of Natural Water Regimes

The natural water flow regimes are an important mechanism for determining the health of a river system. The protection of these natural water flow regimes is a fundamental purpose of the *Wild Rivers Act 2005*. The natural flows of a river system can be altered a number of ways. One mechanism which is not sufficiently covered in this declaration proposal and *Wild Rivers Code* is the development of storages and levees on floodplains or other areas of flow capture. Wildlife Queensland recognizes that the *Wild Rivers Code*, *Water Act 2000* and *Integrated Planning Act 1997* are responsible for regulating the scale and configuration of works interfering with overland flow. Wildlife Queensland is concerned that there is no mechanism that limits the volumetric take of overland flow in the declaration proposal. Additionally, the construction of levees up to 200m long is allowed in HPAs according to the *Wild Rivers Code*.

Wildlife Queensland finds it astonishing that applications can currently be made for the construction of dams and weirs on nominated waterways. This undermines both the *Wild Rivers Act* and the 2004 *Wild Rivers* policy commitment to protect wild rivers from dams and weirs. In 2006 the *Wild Rivers Act 2005* was amended to accommodate mining interests. The amendments changed the definition of waterways to specify *nominated* waterways. This resulted in the reduction of the number of tributaries that are encapsulated in designated wild river management areas. Under the amended legislation waterways are protected from excavation of material, riparian vegetation removal, stream diversion or realignment under the *Water Act 2000*, but not from the construction of dams or other flow impoundments. This inconsistency is also reflected in the *Fisheries Act 1994* (s76DA).

Another aspect affecting the natural flow regimes is the direct take of water from river systems. There is a chronic paucity of reliable stream data for this part of Queensland. Making decisions on appropriate conditions that are attached to water licenses is extremely difficult and likely to be based on assumptions. From our understanding, Government policy in wild river areas is to limit consumptive water reserves to less than 1% of the river basin's mean annual discharge, which is intended to maintain natural river flow regimes. Mean annual discharge does not take into consideration the high variance of inter and intra-annual flows which is so common in the Cape. As a result of this Wildlife Queensland considers mean annual discharge an unreliable indicator and predictor of flows and recommends that it should not be used as the basis to set consumptive allocations. Due to the paucity of reliable stream data and the ecological complexity of these river systems it is vital that all water licenses strictly adhere to the local ecological conditions.

There are significant mining interests in the Wenlock catchments many of which propose to extract considerable amounts of water from the system. This poses a huge threat to the wild river values of the Wenlock and must be addressed. Wildlife Queensland is particularly concerned about the two Special Agreement Acts (*Alcan Queensland Pty Special Agreement Act 1965* and *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957*) that are currently in place to allow access to up to 80% of the water from the Wenlock to the Rio Tinto Alcan's bauxite

mining operations. These agreements not only allow for huge amounts of water to be extracted but also permit the development of dams and other infrastructure without requiring the usual process of environmental approval. Wildlife Queensland is concerned that this shockingly outdated legislation is supported by a Government committed to the protection of Wild Rivers. Wildlife Queensland is of the opinion that Rio Tinto Alcan or any other company should not be given any exemptions under the declaration and that the current exemption be immediately modernized. Wildlife Queensland believes that the Wenlock River Basin can not be declared without a resolution to this issue. Wildlife Queensland advocates the removal of section 17 exemption clause from the *Wild Rivers Act 2005* for special agreement acts.

Cape Alumina is also seeking to extract water (6000 ML per annum) directly from the Wenlock for a bauxite mine. Although Wildlife Queensland does not support the use of mean annual flow as an accurate measure for the Cape catchments, if it is to be used and if Cape Alumina is to extract this amount of water the Government must ensure that the maximum water reserved for other users, including Rio Tinto Alcan is no more than 1% of the mean annual flow (33 000ML). Wildlife Queensland recommends that the Wild Rivers Team become actively involved in the development of Cape Alumina's EIS to ensure that licensing conditions are consistent with the Wild River Declaration.

Recommendations:

- Amend the Wenlock declaration proposal, the *Wild Rivers Code*, the *Water Act 2000* and the *Fisheries Act 1994* to specify that waterway barrier works are prohibited in nominated Wild Rivers
- The proposed water reserves nominated in the declaration proposal should include water extracted by overland flow works, a volumetric limit be placed on the take of overland flow and the allowable levee bank size in the *Wild Rivers Act 2005*, (Part 6) reduced to 50m.
- Due to the similarities in the ecological conditions of the Gulf and the Cape the water license conditions for releasing unallocated water should be similar, but not limited to the conditions detailed in the *Water Resource (Gulf) Plan 2007* and should include the following:
 - Detailed local surveys and plans to ensure the license is catered to the local conditions and ecological requirements.
 - No allowance, or very strict allowance for water extraction in dry months, when the integrity of water refugia is critical to the ongoing survival of a range of flora and fauna; cease-to-pump thresholds on water harvesting licences should be based on protecting refugia during the dry season.
 - The 'multiple wetting' and 'habitat diversity threshold' approaches (Smith *et al* 2006).
 - Consideration of the impact on: in-stream water levels; the natural movement of sediment; the bed and banks of a watercourse or lake; riparian vegetation; habitat for native plants and animals; movement of fish and other aquatic species; cultural and ecological values of the watercourse, waterhole, lake or spring.
 - Land and Water Management Plans for any new license.
- Ensure no exemptions for Rio Tinto Alcan or any other company through the declaration.
- Remove section 17 exemption clause from the *Wild Rivers Act 2005* for special agreement acts.

- Ensure that the maximum water reserved for all users, including Rio Tinto Alcan is no more than 1% of the mean annual flow (33 000ML).

Recognition of Indigenous Rights and Participation

Wildlife Queensland commends the government on the formal recognition of native title rights and continued commitment to the Wild River Ranger Program. As indicated there are other more appropriate organisations to address Indigenous rights and participation. Wildlife Queensland supports such organisations that promote the rights and participation of Indigenous Peoples. It is vital that Indigenous communities of Cape York play a leading role in the conservation and management of these areas. It is essential that ongoing meaningful consultation occurs with the Indigenous Peoples. Wildlife Queensland would like to see that ongoing funding is provided to accommodate for this commitment. The Wenlock River Basin should be the priority for the future ranger positions. In addition an overarching and coordinated framework should be developed to ensure that the natural and cultural values of the wild river basins are adequately recognized, protected and managed.

Recommendations

The development and incorporation of an Indigenous Natural and Cultural Resource Management Plan (INCRMP) into the Wenlock Basin Wild River Declaration is recommended. This should be implemented by land managers and the Indigenous Wild River Rangers.

Recognition of cultural values and an INCRMP should include the following:

- Maintenance of cultural knowledge and practices.
- Protection of places of cultural significance.
- Protection of Indigenous cultural material.
- Protection of culturally significant flora and fauna.
- Address threats to wetlands and waterways.
- Protect intellectual and cultural property.
- Consider social and economic issues.
- Develop appropriate policy, management and legislation frameworks.
- Build capacity and lead institutional change.

Conclusion

Once again Wildlife Queensland would like to congratulate the Government on its firm commitment to protect Queensland's Wild Rivers. It is vital that the Government remain focused on maintaining the integrity and strength of the world-leading legislation.

Wildlife Queensland would like to thank you for considering our comments. Below is a summary of our recommendations.

Summary of Recommendations

- Extend the High Preservation Area of the Coolibah Springs Complex to include its adjoining plateau.
- Amend the Wenlock declaration proposal, the *Wild Rivers Code*, the *Water Act 2000* and the *Fisheries Act 1994* to specify that waterway barrier works are prohibited in nominated Wild Rivers.

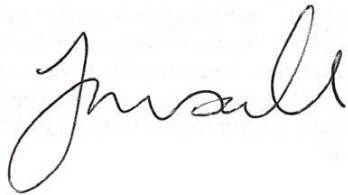
Wildlife Queensland – Wenlock Wild River Declaration Proposal Submission

- The proposed water reserve nominated in the declaration proposal should include water extracted by overland flow works, a volumetric limit be placed on the take of overland flow and the allowable levee bank size in the *Wild Rivers Act 2005*, (Part 6) reduced to 50m.
- Ensure water license conditions strictly adhere to local ecological conditions.
- Ensure no exemptions for Rio Tinto Alcan or any other company through the declaration.
- Remove section 17 exemption clause from the *Wild Rivers Act 2005* for special agreement acts.
- Ensure that the maximum water reserved for all users, including Rio Tinto Alcan is no more than 1% of the mean annual flow (33 000ML).
- Ensure ongoing funding is provided to the Wild River Ranger Program.
- Develop an Indigenous Natural and Cultural Resource Management Plan for the Wenlock basin.

Reference

Smith R., Markham A., Tait J., Thomas M., Cuff C., Rasmussen C., and Levy V. (2006). *Ecological and geomorphological assessment of the Gulf and Mitchell draft water resource plans*. Department of Natural Resources, Mines and Water, Queensland.

Yours Sincerely



Fiona Maxwell
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