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ENVIRONMENTAL PROTECTION ACT 1986

**ENVIRONMENTAL PROTECTION
(SWAN AND CANNING RIVERS)
POLICY APPROVAL ORDER 1998**

Environmental Protection Act 1986

Environmental Protection (Swan and Canning Rivers) Approval Order 1998

Background to the approval of this environmental protection policy

The Government of Western Australia —

- (a) is conscious that the Swan and Canning Rivers are an important aesthetic, recreational, commercial and environmental resource of the State;*
- (b) recognizes its obligations under the Intergovernmental Agreement on the Environment made between the Commonwealth, the States and Territories, and the Australian Local Government Association on 1 May 1992;*
- (c) affirms its commitment to restore, enhance, preserve and protect water quality and the environmental value of the Swan and Canning Rivers and to prevent further pollution and degradation of the Swan and Canning Rivers' ecosystem and acknowledges that this cannot be achieved independently of the catchment with which the rivers interact;*
- (d) is concerned that the water quality in the rivers is being significantly degraded by certain human activities and that the degradation of water quality is threatening biological diversity and thereby the ecological, genetic, economic, cultural, recreational and aesthetic values of biological diversity;*
- (e) notes that where there is a threat of serious or irreversible environmental damage the lack of complete scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;*
- (f) is aware that the development of environmental protection programmes and management-oriented research is required and stresses the importance of, and the need to promote, cooperation between persons, bodies, agencies and organizations in that development and research;*
- (g) has decided that the Swan and Canning Rivers Clean-up Program and Partnership Agreement between the Commonwealth and the Government which establishes the Swan-Avon Integrated Catchment Management Program provide a sound basis for new and more co-operative actions to restore, enhance, preserve and protect water quality and the beneficial values of the Swan and Canning Rivers; and*

- (h) *is determined to promote and foster the adoption of common objectives, to develop and implement co-operative programmes and other measures to protect the river ecosystem and achieve improved water quality in the Swan and Canning Rivers.*

Made by the Minister under section 31(d).

1. Citation

This order may be cited as the *Environmental Protection (Swan and Canning Rivers) Approval Order 1998*.

2. Approval of environmental protection policy

The environmental protection policy set out in the Schedule to this order is approved.

Schedule

[Clause 2]

Environmental Protection Act 1986

Environmental Protection (Swan and Canning Rivers) Policy Approval Order 1998

Approved by the Minister under section 31(d).

Part 1 — Preliminary

1. Citation

This policy may be cited as the *Environmental Protection (Swan and Canning Rivers) Policy 1997*.

2. Purpose of Policy

The purpose of this policy is to restore, enhance, preserve and protect the environmental quality, ecological processes and ecological integrity of the Swan and Canning Rivers.

3. Interpretation

- (1) In this policy, unless the contrary intention appears —
- “**aquaculture**” means the keeping, breeding, hatching or culturing of fish;
 - “**beneficial uses**” means the beneficial uses declared under clause 6;
 - “**best management practices**” means best management practices developed under clause 11;
 - “**clearing**” includes removing or destroying;
 - “**Comprehensive Management Plan**” means the comprehensive management plan referred to in clause 10;
 - “**fish**” means an aquatic organism of any species and includes molluscs and crustaceans;
 - “**fishing**” has the same meaning as in section 4 of the *Fish Resources Management Act 1994*;
 - “**fringing native vegetation**” means native vegetation that —
 - (a) occurs in or adjacent to; or
 - (b) is dependent for its survival upon, a watercourse;

“**mining operations**” has the same meaning as in section 8 (1) of the *Mining Act 1978*;

“**native vegetation**” means any locally indigenous plant species or community of plants;

“**policy area**” means the area referred to in clause 4;

“**prescribed**” means prescribed by regulations made under section 123 of the Act to supplement this policy;

“**protected catchment**” means a catchment referred to in clause 4(3)(b);

“**protected waterway**” means a waterway referred to in clause 4(3)(a);

“**protected watercourse**” means a watercourse within a protected catchment;

“**Swan River Trust**” means the Swan River Trust established by the *Swan River Trust Act 1988*;

“**this policy**” means this environmental protection policy;

“**wastewater**” means liquid waste and includes faecal matter and urine;

“**watercourse**” has the same meaning as in section 3 of the *Water and Rivers Commission Act 1995*.

- (2) Words and expressions used in this policy that are given a meaning in the Act have the meaning so given.

4. Policy area

- (1) The policy area is the area comprising the Swan and Canning Rivers and their catchments excluding water reserves and catchment areas constituted under Part IV of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.
- (2) For information purposes a representation of the policy area is set out in Schedule 1.
- (3) The policy area consists of —
- (a) the waterways, being —
 - (i) the management area as defined in section 3 of the *Swan River Trust Act 1988*; and
 - (ii) that part of the port as defined in section 2 of the *Fremantle Port Authority Act 1902* as comprises the waters of the Swan River between the Western extremities of the North and South Moles and the Fremantle Traffic Bridge;and
 - (b) the catchments, being that part of the policy area other than the waterways described in paragraph (a).
- (4) The Department is to make a plan of the policy area available for public inspection during normal office hours at the head office of the Department in Perth.

5. Application

This policy applies to the portion of the environment in the policy area.

Part 2 — Basis for protection of policy area and environmental quality objectives**6. Beneficial uses**

- (1) The uses of the protected waterways that are declared to be beneficial uses to be protected under this policy are —
 - (a) their use —
 - (i) as a habitat for —
 - (I) locally indigenous fauna, including migratory or threatened species; or
 - (II) locally indigenous flora, including threatened species;
 - (ii) for the maintenance of the diversity and abundance of locally indigenous fauna and flora species;
 - (iii) to provide a biologically productive and genetically diverse natural environment;
 - (iv) to maintain ecological processes;
 - (v) as an important recreational element of the policy area;
 - (vi) as a water resource for irrigation;
 - (vii) for navigation of vessels;
 - (viii) for fishing or aquaculture;
 - (b) the use of fringing native vegetation as an important element of the natural landscape of the policy area; and
 - (c) the use of cliffs, escarpments, headlands, spits, promontories, beaches and contours within the policy area as an important element of the natural landscape of the policy area.
- (2) The uses of protected watercourses that are declared to be beneficial uses to be protected under this policy are their use —
 - (a) as a habitat for —
 - (i) locally indigenous fauna, including migratory or threatened species; or
 - (ii) locally indigenous flora, including threatened species;
 - (b) for the maintenance of the diversity and abundance of locally indigenous fauna and flora species;
 - (c) to maintain a biologically productive and genetically diverse natural environment;

- (d) to maintain ecological processes; and
- (e) together with their beds, banks and contours, as an important element of the natural landscape of the policy area.

7. Activities which can cause the waterways and catchments to be degraded

The activities that may degrade, impair or destroy the protected waterways or the protected catchments include —

- (a) damaging or clearing native vegetation;
- (b) introducing exotic flora or exotic fauna;
- (c) the disposal or discharge of waste;
- (d) the improper management of drainage;
- (e) agricultural discharge;
- (f) industrial discharge;
- (g) urban discharge;
- (h) the use of pesticides;
- (i) the withdrawal of water for irrigation or other purposes;
- (j) livestock grazing;
- (k) mining operations or excavation;
- (l) the construction of roads, bridges, railway lines, power lines, sewers and pipelines;
- (m) urban, industrial and agricultural development;
- (n) recreational activities;
- (o) fishing;
- (p) aquaculture;
- (q) the erection of artificial structures;
- (r) marina and canal developments;
- (s) boating and activities associated with boating (including but not limited to, refuelling, anti-fouling and the use of moorings and boatsheds);
- (t) the disposal or discharge of ballast or waste from vessels;
- (u) oil and fuel spills;
- (v) dredging; and
- (w) filling and reclamation of land.

8. Environmental quality objectives for policy area

- (1) The general environmental quality objective for the protected waterways and the protected catchments is to restore and maintain the beneficial uses.
- (2) The environmental quality objectives to be achieved and maintained by means of this policy in respect of the water quality of watercourses within the policy area are as prescribed.

- (3) Without limiting the generality of subclause (2) —
- (a) levels of phosphorus, nitrogen or other pollutants in the watercourses within the policy area; and
 - (b) monitoring protocols, sampling procedures, standards, criteria, benchmarks, statistical treatments, simulation models and reporting procedures for measuring the environmental quality of the watercourses within the policy area,
- may be prescribed.

Part 3 — Programme for protection of the beneficial uses

9. Programme for protecting the beneficial uses of the policy area

- (1) The protection of the beneficial uses is to be effected by —
- (a) the preparation and implementation of a Comprehensive Management Plan;
 - (b) State and local authorities taking decisions and actions that are consistent with the environmental quality objectives referred to in clause 8 and the measures set forth in Part 4;
 - (c) the promotion of an understanding of this policy; and
 - (d) the co-operation of government agencies, local governments, industry organizations and the general public being sought in the implementation of this policy.
- (2) The decisions and actions referred to in subclause (1)(b) include the decisions and actions taken by —
- (a) the departments principally assisting the Minister to whom the administration of the following Acts is for the time being committed by the Governor in the administration of those Acts —
 - (i) the *Bush Fires Act 1954*;
 - (ii) the *Conservation and Land Management Act 1984*;
 - (iii) the *East Perth Redevelopment Act 1991*;
 - (iv) the *Environmental Protection Act 1986*;
 - (v) the *Fish Resources Management Act 1994*;
 - (vi) the *Forests Act 1918*;
 - (vii) the *Health Act 1911*;
 - (viii) the *Jetties Act 1926*;
 - (ix) the *Land Administration Act 1997*;
 - (x) the *Land Drainage Act 1925*;
 - (xi) the *Local Government Act 1995*;
 - (xii) the *Main Roads Act 1930*;
 - (xiii) the *Metropolitan Region Town Planning Scheme Act 1959*;

- (xiv) the *Mining Act 1978*;
- (xv) the *Rights in Water and Irrigation Act 1914*;
- (xvi) the *Shipping and Pilotage Act 1967*;
- (xvii) the *Soil and Land Conservation Act 1945*;
- (xviii) the *Stock (Identification and Movement) Act 1970*;
- (xix) the *Swan River Trust Act 1988*;
- (xx) the *Town Planning and Development Act 1928*;
- (xxi) the *Transport Co-ordination Act 1966*;
- (xxii) the *Water and Rivers Commission Act 1995*;
- (xxiii) the *Water Corporation Act 1995*;
- (xxiv) the *Waterways Conservation Act 1976*; and
- (xxv) the *Wildlife Conservation Act 1950*;
- (b) the National Parks and Nature Conservation Authority established by the *Conservation and Land Management Act 1984*;
- (c) the Lands and Forest Commission established by the *Conservation and Land Management Act 1984*;
- (d) a local government or commissioner under the *Local Government Act 1995*;
- (e) the Commissioner of Main Roads appointed under the *Main Roads Act 1930*;
- (f) the Commissioner for Soil Conservation appointed under the *Soil and Land Conservation Act 1945*;
- (g) the Swan River Trust established by the *Swan River Trust Act 1988*;
- (h) the Water and Rivers Commission established by the *Water and Rivers Commission Act 1995*;
- (i) a Management Authority constituted under the *Waterways Conservation Act 1976*;
- (j) the Western Australian Planning Commission established by the *Western Australian Planning Commission Act 1985*; and
- (k) a decision-making authority within the meaning of section 3 of the Act.

10. Comprehensive Management Plan

- (1) For the purposes of achieving and maintaining the environmental quality objectives referred to in clause 8 the Authority, with the advice and assistance of the Swan River Trust and after consultation with the departments, bodies and persons referred to in clause 9(2) is to prepare a Comprehensive Management Plan for the policy area.
- (2) The Comprehensive Management Plan is to —
 - (a) delineate the beneficial uses;
 - (b) establish a framework for the coordinated management of the protected waterways and the protected catchments and

- specify the persons, bodies, agencies or organizations responsible for that management;
- (c) identify areas within the protected waterways and the protected watercourses which require protection;
 - (d) identify critical areas within the policy area which require —
 - (i) priority protection; or
 - (ii) priority remedial action to achieve the environmental quality objectives referred to in clause 8;
 - (e) recommend indicators, parameters or criteria to measure the environmental quality of the policy area;
 - (f) develop a programme to achieve and maintain pollutant levels in accordance with the environmental quality objectives referred to in clause 8;
 - (g) develop on-going programmes for community involvement in achieving the environmental quality objectives referred to in clause 8;
 - (h) include strategies for the development of best management practices for the control of drainage, sewage and the disposal of wastewater and the discharge of nutrients, whether directly or indirectly;
 - (i) include strategies to prevent litter entering the protected waterways;
 - (j) review the existing drainage systems to identify opportunities for enhancement to minimise the environmental impact on the protected waterways arising from their design and operation;
 - (k) specify a data management policy for, and which reflects the data needs of, the departments, bodies and persons referred to in clause 9(2);
 - (l) specify the period or periods within which any action recommended in the plan is to be implemented; and
 - (m) specify a period within which it is recommended the plan should be reviewed and, if necessary, revised by the Authority.
- (3) The Comprehensive Management Plan is to be completed and submitted to the Minister by 1 December 1999.
- (4) Notice of the completion of the Comprehensive Management Plan and details of the locations at which the plan may be inspected are to be published —
- (a) in a daily newspaper circulating throughout the State; and
 - (b) in a local newspaper circulating within the policy area.

11. Best management practices

The Authority, in association with the departments, bodies and persons referred to in clause 9(2), is to develop best management practices for the control or management of activities that may degrade, impair or destroy the protected waterways or the protected catchments in the policy area and is to promote the adoption of those practices in the making of decisions and actions in relation to those activities.

Part 4 — Measures to achieve the environmental quality objectives for the policy area**12. Clearing vegetation**

Fringing native vegetation within the policy area should be managed by taking into consideration the following factors —

- (a) the use of the vegetation for —
 - (i) bank and shoreline stabilization;
 - (ii) erosion control; or
 - (iii) filtration and attenuation of the discharge of pollutants;
- (b) whether the vegetation —
 - (i) is remnant vegetation in a region that has been extensively cleared;
 - (ii) is in unusually good condition or has integrity as a sample of its type;
 - (iii) has a low boundary to area ratio;
- (c) whether the vegetation —
 - (i) is a disjunct population of a native species;
 - (ii) is a species that is near the limit of its geographical range; or
 - (iii) is adequately represented in lands reserved for the conservation of fauna or flora or for the purpose of a timber reserve;
- (d) whether the vegetation has connective importance as, or as part of, a corridor of native vegetation;
- (e) whether the vegetation is situated in an area that has high biological diversity;
- (f) whether the vegetation is —
 - (i) along a migratory route for indigenous fauna;
 - (ii) a significant habitat for indigenous fauna;
 - (iii) situated in an area which is, or is part of, land identified for conservation under the *Conservation Through Reserves Committee Report on Conservation Reserves for Western Australia* published by the Authority; or

- (iv) regionally significant remnant vegetation identified for conservation by the Department;
- (g) whether clearing of the vegetation would be likely to contribute to —
 - (i) eutrophication;
 - (ii) salinization of soil or water;
 - (iii) acidification of soil or water; or
 - (iv) deterioration in the quality of surface water;
- (h) the natural amenity of the landscape.

13. Maintenance and encouragement of species diversity and abundance

In determining whether the optimum use is being made of a protected waterway or protected watercourse as a habitat for locally indigenous fauna and flora species and whether species diversity and abundance is being maintained regard shall be had to whether —

- (a) the relevant area of the waterway or watercourse is listed on any register established under the Ramsar Convention on Wetlands of International Importance;
- (b) the protection of the waterway or watercourse is required to meet the Japanese – Australian Migratory Bird Agreement 1974 or the Chinese – Australian Migratory Bird Agreement 1988;
- (c) the waterway or watercourse provides a habitat for fauna or flora declared under the *Wildlife Conservation Act 1950* to be likely to become extinct, rare or to be otherwise in need of special protection;
- (d) the waterway or watercourse is a national park, nature reserve, marine nature reserve or marine park within the meaning of those terms in the *Conservation and Land Management Act 1984*; and
- (e) the waterway or watercourse is managed to ensure —
 - (i) fish species diversity, health and abundance is maintained; and
 - (ii) fish are of a quality fit for human consumption.

14. Maintenance of ecological processes

In determining whether the ecological processes are being maintained within a protected waterway or protected watercourse regard shall be had to whether —

- (a) water level and flow regimes are being maintained;
- (b) there is any net loss of seagrass quality or abundance as a result of human activities;
- (c) there is an increase in the frequency, abundance, distribution or duration of algal blooms or populations of exotic aquatic plants;

- (d) there is any interruption to the recruitment, fecundity or life cycles of indigenous fauna or flora;
- (e) migratory routes, drought refuges and habitats for the breeding, nursing, feeding, loafing, roosting or other similar activities of indigenous fauna are being maintained;
- (f) in the case of a protected waterway, aerobic conditions are being achieved in the bottom waters;
- (g) there is an increase in the introduction, and particularly in the unplanned introduction, of exotic fauna or flora; and
- (h) wetlands have been preserved, protected, rehabilitated or established.

15. Maintenance of natural landscape amenity

In determining whether the natural landscape amenity of the policy area is being maintained regard shall be had to the impact and proximity of existing and proposed developments on that amenity.

16. Wastewater

In order to protect the beneficial uses of the policy area —

- (a) wastewater treatment plants should not be established or operated to discharge wastewater (whether directly or indirectly) into protected waterways or protected watercourses unless the discharge —
 - (i) is in accordance with best management practices;
 - (ii) is treated to a minimum standard of secondary treatment; and
 - (iii) would not degrade, impair or prejudice the receiving watercourse; and
- (b) strategies should be developed and implemented to minimize discharges of wastewater from emergency release structures or from any malfunction or failure of sewerage systems.

17. Drainage

In order to protect the beneficial uses of the policy area and with the objective of augmenting the existing nutrient retention capacity of the protected catchments —

- (a) drainage systems should be designed, constructed and operated —
 - (i) in accordance with best management practices; and
 - (ii) in order to prevent and mitigate land degradation within the meaning of that term in the *Soil and Land Conservation Act 1945*; and
- (b) strategies should be developed and implemented to prevent litter from entering drainage systems.

18. Agriculture

- (1) Strategies with regard to agricultural activities within the policy area should be developed and implemented to protect the beneficial uses of the policy area.
- (2) The strategies should have the objective of achieving and maintaining the discharge (whether directly or indirectly) of phosphorus or nitrogen from agricultural activities into a protected waterway in amounts which do not create algal blooms at populations or frequencies which pollute the waterway.

19. Withdrawal of water for irrigation or other purposes

In order that withdrawal of water from a protected waterway or a protected watercourse protects the beneficial uses of the policy area all reasonable and practical measures should be taken to maintain —

- (a) water level and flow regimes within the watercourse so that the aquatic ecosystem and fringing native vegetation are protected; and
- (b) water quality within the waterway or watercourse so that stock illness or death or impairment to the growth of crop or pasture does not occur,

within the policy area.

20. Recreation

- (1) In order to protect the beneficial uses of the policy area recreational facilities and activities should be planned, undertaken and managed to minimise the impact on the protected waterways.
- (2) In determining whether recreational activities protect the beneficial uses of the policy area regard shall be had to whether recreation within the protected waterways and protected catchments is managed to ensure that the closure of the waterways to swimming or boating (whether for human health reasons or otherwise) does not occur.

21. Fishing and aquaculture

- (1) In order to protect the beneficial uses of the policy area the protected waterways should be managed —
 - (a) in a way which ensures that the following do not occur —
 - (i) mass deaths of fish;
 - (ii) tainting of fish flavour;
 - (iii) the imposition of restrictions on the human consumption of fish;
 - (iv) fish disease, tumours or deformities;
 - (v) a reduction in the fecundity of fish; or
 - (vi) the impoverishment of indigenous fish species diversity or abundance.

- (2) In order to protect the beneficial uses of the policy area fishing and aquaculture (and in particular activities which involve the use of equipment placed or towed on, or near, the bed of a protected waterway) should be carried out —
- (a) in a way which ensures that organisms which are not locally indigenous are not caused to be released into the waterway; and
 - (b) in accordance with best management practices.

22. Artificial structures and marina and canal developments

In determining whether any proposed artificial structure or marina or canal development protects the beneficial uses of the policy area regard shall be had to —

- (a) the physical form of the structure or development;
- (b) the materials proposed to be used in the construction of the structure or development; and
- (c) whether the degradation of the materials referred to in paragraph (b) may pollute the protected waterways.

23. Waste and ballast from vessels

- (1) In order to protect the beneficial uses of the policy area —
- (a) in a protected waterway, vessels should be operated and maintained and associated activities should be carried out —
 - (i) to ensure that potential contaminants are contained and disposed of in accordance with best management practices;
 - (ii) to ensure that litter is not deposited in the waterway;
 - (iii) to ensure that wastewater is not discharged into the waterway; and
 - (iv) in accordance with national conventions on the discharge of ballast water; and
 - (b) studies should be undertaken to determine whether introduced fauna or flora species are likely to cause ecological problems.
- (2) In subclause (1) —
- “**associated activities**” means activities associated with the operation and maintenance of vessels, including but not limited to —
- (a) the use of slipways, moorings and boatsheds;
 - (b) refuelling and anti-fouling.

24. Dredging

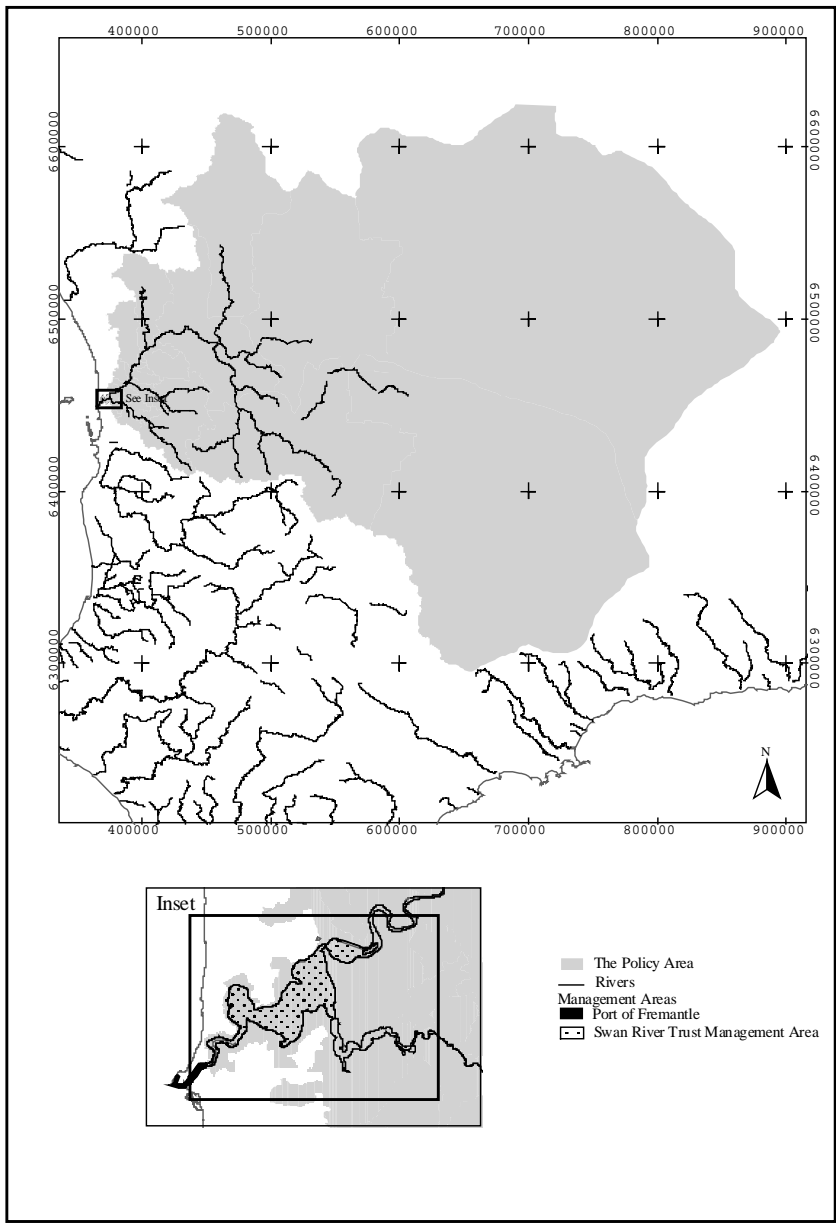
In order to protect the beneficial uses of the policy area dredging activities in a protected waterway and the disposal of spoil from such activities should be —

- (a) carried out in accordance with best management practices;
- (b) carried out for the purpose of maintaining navigation channels or port facilities within the waterway; and
- (c) incidental to, rather than for the primary purpose of, sourcing or supplying dredge spoil or fill.

Schedule 1

[Clause 4]

POLICY AREA



CHERYL EDWARDES, Minister for the Environment.



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