

CHAPTER 5 – OVERLAY CODES

PART 2 WATERWAYS OVERLAY CODE

Division 1 Applicability of the Waterways Overlay Code

1.1 This code applies to development:-

- (1) that is located¹ in the following areas shown on *Overlay Code Map 2 - Waterways*,
 - (a) **waterway** corridors including:-
 - (i) **stream health** class a to f,
 - (ii) estuarine stream buffers,
 - (iii) unassessed streams;
 - (b) sub-catchment of **stream health** class a & b;
 - (c) **Declared Fish Habitat Areas** ;
 - (d) **Ramsar Wetlands**;
 - (e) **Coastal Wetlands**, and
- (2) referred to as “code assessable” in Tables 5.2.1 or 5.2.2 below.

Division 2 Assessment Tables for the Waterways Overlay Code

2.1 Assessment Categories for the Waterways Overlay Code

The assessment categories are identified for development in Column 2 of Tables 5.2.1 or 5.2.2, as follows:-

- (1) Table 5.2.1 - Material Change of Use and Associated Works² for uses listed in Column 1; or
- (2) Table 5.2.2 - Other Development not associated with a Material Change of Use³ listed in Column 1.

NOTE: Zones also affect assessment categories. See zone maps to determine the zone of the land. Also see Chapter 1, Part 1, Division 4, Section 4.8(3) explaining how the higher assessment category prevails.

2.2 Relevant Assessment Criteria for Development Affected by the Waterways Overlay Code

- (1) The relevant assessment criteria in the overlay code are referred to in Column 3 of Tables 5.2.1 and 5.2.2.
- (2) For development requiring code assessment, the relevant assessment criteria are applicable codes.

Table 5.2.1: Assessment Categories and Relevant Assessment Criteria for the Waterways Overlay Code – Material Change of Use and Associated Works²

COLUMN 1 Use ⁴	COLUMN 2 Assessment category	COLUMN 3 Relevant assessment criteria - applicable code for code assessable development
Detached House Associated Unit Bed & Breakfast Accommodation Display Home Duplex Dwelling Estate Sales Office Home Business Domestic Storage	Waterway Corridor	
	Exempt - if on land zoned Residential A, Residential B, Future Urban or Home Industry.	
	Code assessable – if exempt criteria are not complied with.	• Waterways Overlay Code
	Sub-catchment of Stream Health Class a & b	
	Exempt - if clearing vegetation over an area less than 2000m ² .	
	Code assessable – if clearing vegetation over an area 2000m ² or greater.	• Waterways Overlay Code
	Declared Fish Habitat Areas, Ramsar Wetlands or Coastal Wetlands	
	Code assessable	• Waterways Overlay Code
All other defined and undefined uses	Waterway Corridor	
	Code assessable	• Waterways Overlay Code
	Sub-catchment of Stream Health Class a & b	

COLUMN 1 Use ⁴	COLUMN 2 Assessment category	COLUMN 3 Relevant assessment criteria - applicable code for code assessable development
	Exempt - if clearing vegetation over an area less than 2000m ² .	
	Code assessable – if clearing vegetation over an area 2000m ² or greater.	<ul style="list-style-type: none"> Waterways Overlay Code
	Declared Fish Habitat Areas, Ramsar Wetlands or Coastal Wetlands	
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code

Note: Development made exempt under the Waterways Overlay Code may still require the approval of the State Government under the *Water Act 2000* and the *Vegetation Management Act 1999*.

Table 5.2.2: Assessment Categories and Relevant Assessment Criteria for the Waterways Overlay Code – Other Development not Associated with a Material Change of Use³

COLUMN 1 Type of development	COLUMN 2 Assessment category	COLUMN 3 Relevant assessment criteria - applicable code for code assessable development
Reconfiguring a Lot	All Mapped Areas	
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code
Operational Work for Reconfiguring a Lot	All Mapped Areas	
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code
Operational Work for Clearing of Vegetation not associated with Reconfiguring a Lot	Sub-catchment of Stream Health Class a & b	
	Exempt - if clearing vegetation over an area less than 2000m ² .	
	Code assessable – if clearing vegetation over an area 2000m ² or greater.	<ul style="list-style-type: none"> Waterways Overlay Code
	Waterway Corridor, Declared Fish Habitat Areas, Ramsar Wetlands or Coastal Wetlands	
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code
Operational Work for Site Earthworks not associated with Reconfiguring a Lot	Sub-catchment of Stream Health Class a & b	
	Exempt	
	Waterway Corridor	
	Exempt - if filling or excavating 5m ³ or less.	
	Code assessable - if filling or excavating more than 5m ³ .	<ul style="list-style-type: none"> Waterways Overlay Code
	Ramsar Wetlands, Coastal Wetlands or Declared Fish Habitat Areas	
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code
Building Work (other than <i>minor building work</i>)	Sub-catchment of Stream Health Class a & b	
	Exempt	
	Waterway Corridor	
	Exempt - if	
	1. zoned Residential A, Residential B, Future Urban or Home Industry	
	OR	
	2. resulting in no net increase in the footprint .	
Code assessable - if exempt criteria are not complied with.	<ul style="list-style-type: none"> Waterways Overlay Code 	
Declared Fish Habitat Areas, Ramsar Wetlands or Coastal Wetlands		
	Code assessable	<ul style="list-style-type: none"> Waterways Overlay Code
Minor Building Work	Exempt ⁵	
All other development	Exempt	

Note: Development made exempt under the Waterways Overlay Code may still require the approval of the State Government under the *Water Act 2000* and the *Vegetation Management Act 1999*.

Division 3 Compliance with the Waterways Overlay Code

- 3.1 Assessable development that is consistent with the specific outcomes contained in Division 5, Table 5.2.3 complies with the Waterways Overlay Code.

Division 4 Overall Outcomes for the Waterways Overlay Code

- 4.1 The overall outcomes are the purpose of this code.

- 4.2 The overall outcomes sought by the Waterways Overlay Code are the following:-

(1) **Aquatic Biodiversity**

- (a) **Waterway** corridors with a **stream health** class a or b are protected from any decline in ecosystem health;
- (b) **Waterway** corridors with a **stream health** class c or d have no net worsening of ecosystem health, and in most cases ecosystem health is enhanced by development;
- (c) **Waterway** corridors with a **stream health** class of e, f or g are rehabilitated and enhanced by development; and
- (d) **Waterway** corridors are protected from degradation or loss of biodiversity values;
- (e) All feeder streams of drinking water reservoirs to be **stream health** class c or better; and
- (f) Cedar Creek, a popular recreational area, to be **stream health** class c or better.

(2) **Coastal Wetlands**

- (a) The habitats of migratory wader birds are protected;
- (b) **Tidal flats** (intertidal and supratidal) are buffered from the impacts of development; and
- (c) Coastal wetlands values are not degraded.

(3) **Riparian Vegetation**

- (a) Riparian **vegetation** is protected from all forms of development which may disturb or degrade its condition or function in any way;
- (b) The condition or ecological functions of riparian **vegetation** are managed, where practical, against threats from livestock and domestic animal access; and
- (c) Biodiversity values of riparian **vegetation** along **waterways** and corridors are not degraded further and, where practicable, enhanced.

(4) **Hydrology and Flooding**

- (a) Development retains the natural hydrological characteristics of **waterways** indicated on the *Overlay Code Map 2 - Waterways*;
- (b) The natural drainage morphology of **waterways** is maintained;
- (c) Adverse changes to runoff coefficients in sub-catchments are minimised; and
- (d) Downstream risks associated with flooding do not increase.

(5) **Stream Stability and Stream Geomorphology**

- (a) The risk of downstream or upstream erosion of the bed or **banks** of a **waterway** corridor through altered hydrology, development or unnatural disturbance of the bed and **banks** is not increased; and
- (b) Eroded sections of **waterway** corridors are rehabilitated where practical.

(6) **Amenity and Landscape**

- (a) The natural scenic, amenity and landscape values of waterway corridors are maintained or enhanced; and
- (b) Naturally vegetated riparian corridors occurring along **waterway** corridors indicated on the *Overlay Code Map 2 – Waterways* are made continuous to the extent practicable

(7) **Fisheries Habitat**

- (a) The condition of fisheries habitat areas are protected or enhanced.

(8) **Nutrient Inputs**

- (a) Direct or point sources of nutrients are minimised.

Division 5 Specific Outcomes for the Waterways Overlay Code

- 5.1 The specific outcomes and probable solutions for the Waterways Overlay Code are contained in Table 5.2.3. The elements covered by the specific outcomes are:-

- (1) **Waterway** Corridors and Sub-catchments
- (2) **Ramsar Wetlands** and **Coastal Wetlands**;
- (3) **Declared Fish Habitat Areas** and buffers;
- (4) Fencing of **Waterway** Corridors

Table 5.2.3: Specific Outcomes and Probable Solutions for Assessable Development

Specific Outcomes for Assessable Development	Probable Solutions
Waterway Corridors and Sub-catchments	
<p>SO 1 Water quality and ecological values of corridors and sub-catchments of waterways with stream health class a and b are retained or improved.</p>	<p>PS 1.1 The following activities:</p> <ul style="list-style-type: none"> (1) physical disturbance of stream bed and banks including diverting, channelling, filling and excavating; or (2) earthworks; or (3) construction; or (4) removal of vegetation <p>do not occur within:-</p> <ul style="list-style-type: none"> (a) 150m from the edge of the geomorphic stream channel of any waterway corridor with a stream health class a or b where the modal slope of the land within 150m of the waterway is greater than 20%; or (b) 100m from the edge of the geomorphic stream channel of any waterway corridor with stream health class a or b where the modal slope of the land within that 100m of the waterway corridor is no more than 20% <p style="text-align: center;">AND</p> <p>PS 1.2 Areas within 100m of the geomorphic stream channel of any waterway with a stream health class a or b are revegetated in accordance with <i>Planning Scheme Policy PSP31 Demonstrating Compliance with the Biodiversity and Waterways Overlay Codes</i>.</p>
<p>SO 2 The waterway corridors with stream health class c, d, e and f are managed in a way that maintains or improves the ecological values and water quality.</p>	<p>PS 2.1 The following activities do not occur within 50m of the edge of the geomorphic stream channel of any waterway with a stream health class c, d, e and f:-</p> <ul style="list-style-type: none"> (1) physical disturbance of stream bed and banks, including diverting, channelling, filling and excavating of stream bed and banks; or (2) earthworks; or (3) construction; or (4) removal of vegetation. <p style="text-align: center;">AND</p> <p>PS 2.2 Areas within 50m of the geomorphic stream channel are revegetated in accordance with <i>Planning Scheme Policy PSP31 Demonstrating Compliance with the Biodiversity and Waterways Overlay Codes</i>.</p>
<p>SO 3 Clearing of vegetation within waterway corridors and sub catchments results in no net loss of vegetation.</p>	<p>PS 3 No solution provided.</p>
Ramsar Wetlands , Coastal Wetlands and Declared Fish Habitat Areas	
<p>SO 4 The Ramsar wetlands, Coastal Wetlands and Declared Fish Habitat Areas are protected and degraded areas are revegetated.</p>	<p>PS 4.1 Revegetation and rehabilitation of the Ramsar wetlands, Coastal Wetlands and Declared Fish Habitat Areas is undertaken in accordance with <i>Planning Scheme Policy PSP31 Demonstrating Compliance with the Biodiversity and Waterways Overlay Codes</i>.</p> <p style="text-align: center;">AND</p> <p>PS 4.2 Clearing of native vegetation or filling or excavation does not occur within the Ramsar wetlands, Coastal Wetlands and Declared Fish Habitat Areas.</p>
Fencing of Waterway Corridors	
<p>SO 5 Livestock access to waterway corridors, including stream banks and bed, is controlled on allotments less than 10ha in size.</p>	<p>PS 5.1 Uncontrolled livestock access to waterways and their associated buffers is prevented through the construction and maintenance of stock-proof fencing.</p> <p style="text-align: center;">AND</p> <p>PS 5.2 Watering points for stock are located outside of the waterways and their associated buffers.</p>

Schedule A to the Waterways Overlay Code – Additional Defined Terms

For purposes of this code, the following meanings apply to critical terms used in the code:-

Definitions of landform elements described in this code and related planning scheme policies are taken directly from the Australian Soil and Land Survey Handbook - Field Handbook (2nd Ed., 1990), McDonald, Isbell, Speight, Walker & Hopkins. Inkata Press, Melbourne.

Detailed explanations of **Stream Health** Classes definitions described in this code and related planning scheme policies are found in *The Stream Health Manual* (2004), U. Nolte & P. Loose. Pine Rivers Shire Council.

Defined terms are shown in the text of this code in **bold italics**.

(1) **Clearing**

Damaging or destroying **vegetation** by ring barking, topping, lopping, poisoning, burning, flooding, draining, or otherwise injuring **vegetation** including cutting down or pushing over. In addition to this, damage to the root zone by compaction, excavation or filling within the drip zone or 10xDBH* (whichever is greater) of the **vegetation** that may destroy or seriously affect the **vegetation**. Partial clearing such as the removal of understorey or thinning of native **vegetation** or the removal of dead habitat trees is classed as clearing for the purpose of this code.

This does not include:-

- (a) maintaining existing open pastures, lawns or created gardens; and
- (b) grazing of native pasture by stock.

* DBH = Diameter of the tree when measured at breast height (1300mm above ground level)

(2) **Coastal Wetlands**

Tidal **wetlands**, estuaries, salt marshes, melaleuca swamps (and other coastal swamps), mangrove areas, marshes, lakes or minor coastal streams regardless of whether they are of a saline, freshwater or brackish nature (s 10 *Coastal Protection and Management Act 1995*). The mapped area on *Overlay Code Map 2 - Waterways* includes a 100m buffer.

(3) **Declared Fish Habitat Areas**

An area declared under a regulation to be a Fish Habitat Area. Fish Habitat Areas are declared to protect critical wetland habitats that sustain fisheries – Sections 120 and 121, *Fisheries Act 1994* giving statutory protection to key habitats to ensure long term fisheries production. The mapped area on *Overlay Code Map 2 - Waterways* includes a 100m buffer.

(4) **Drainage Depression**

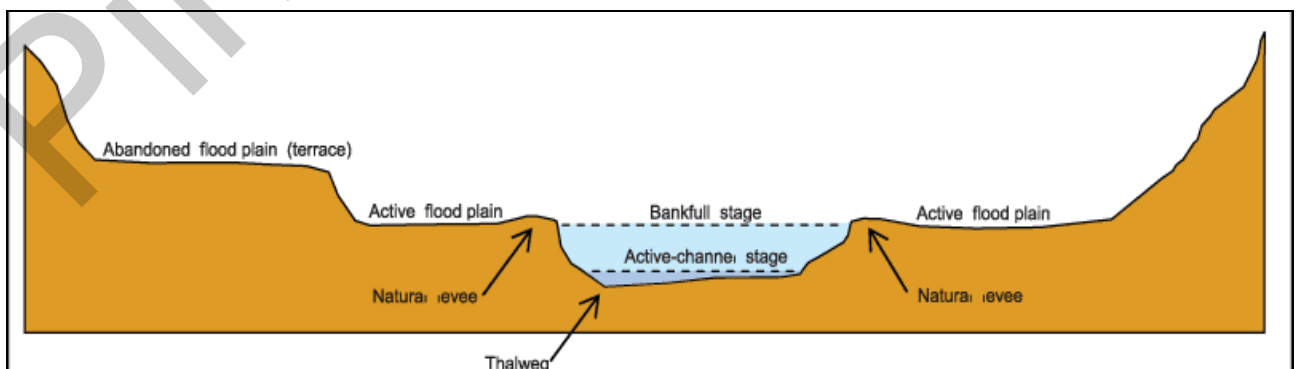
Level to gently inclined, long, narrow, shallow open depression with smoothly concave cross-section, rising to moderately inclined side slopes, eroded or aggraded by sheet wash. (McDonald et. al. 1990, Pg. 30)

(5) **Footprint**

The portion of the site covered by a building or other roofed structure.

(6) **Geomorphic Stream Channel**

A linear, generally sinuous open depression, in parts eroded, excavated, built up and aggraded by channelled stream flow and comprising a **stream bed** and a **stream bank**. In general the edge of the channel is associated with the edge of the flood plain. (McDonald et. al. 1990, Pg. 33)



(7) **Gully**

Open depression with short, precipitous walls and moderately inclined to very gently inclined floor or small stream channel, eroded by channelled stream flow and consequent collapse and water-aided mass movement. (McDonald et. al. 1990, p31)

(8) **Modal Slope**

The most common class of slope occurring within a landform pattern. (McDonald et. al. 1990, Pg. 35)

(9) **Ramsar Wetland**

International convention identifying **wetland** areas of international significance. Within Pine Rivers, areas of Bramble Bay and the mouth of the Pine River have been identified as Ramsar **wetlands**. The mapped area on *Overlay Code Map 2 - Waterways* includes a 100m buffer.

(10) **Stream Bank**

Very short, very wide slope, moderately inclined to precipitous, forming the marginal upper parts of a stream channel and resulting from erosion or aggradation by channelled stream flow. (McDonald et. al. 1990, Pg. 25)

(11) **Stream Bed**

Linear, generally sinuous open depression forming the bottom of a stream channel eroded and locally excavated, aggraded or built up by channelled stream flow. Parts that are built up include bars. (McDonald et. al. 1990, Pg. 33)

(12) **Stream health**

The ecological condition of the stream, river or creek.

(13) **Tidal Flat**

Large area subject to inundation by water that is usually salt or brackish, aggraded by tides. An intertidal flat is frequently inundated. A supratidal flat is seldom inundated. (McDonald et al 1990 Pg. 34)

(14) **Vegetation**

All shrubs, trees, herbs and grasses.

(15) **Waterway**

A tidal or non-tidal channel or water body, whether natural, artificially improved or artificial, in which water flows permanently or intermittently, including a watercourse, canal or estuary. This term does not include a closed conduit conveying stormwater.

(16) **Wetland (viz., Swamp in McDonald et al. 1990)**

Almost level closed or almost closed depression with a seasonal or permanent water table at or above the surface, commonly aggraded by overland stream flow and sometimes biological (peat) accumulation. (McDonald et. al. 1990, Pg. 33)

¹ This overlay code does not apply if the proposed development is outside the mapped areas.

² Table 5.2.1 refers to material change of use and associated works undertaken at the same time as the material change of use. Also, see **planning scheme** explanatory notes giving examples that explain the type of development involved in different proposals.

³ Table 5.2.2 refers to other development including works not undertaken at the same time as the material change use. Also, see **planning scheme** explanatory notes giving examples that explain the type of development involved in different proposals.

⁴ For defined uses see Chapter 7, Part 2, Use Definitions Schedule.

⁵ Exempt building work may still require a building development approval from a building certifier under the Building Act.



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Historic Version
PineRiversPlan