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Hawkesbury–Nepean



DRAFT SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 20
— HAWKESBURY–NEPEAN RIVER 1996

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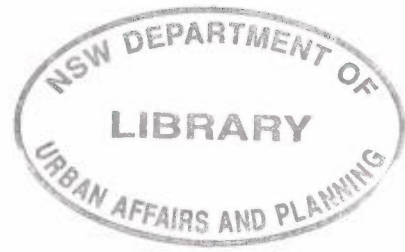
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Foreword

Craig Knowles MP

Minister for Urban Affairs and Planning
and Minister for Housing



The Hawkesbury-Nepean River system needs our care and attention. As residents of Sydney we make many demands on the Hawkesbury-Nepean. We expect it to provide our drinking water, safe swimming and a diverse ecosystem while taking away storm and waste water from large parts of the metropolitan area. Many issues need to be understood and dealt with in an integrated way if we are to manage the Hawkesbury-Nepean to protect it as a natural ecosystem and an important resource for the community.

The package developed for the Hawkesbury-Nepean through the review of Regional Environmental Plan No. 20 includes a more comprehensive REP and an Environmental Planning Strategy. It is a fresh response to these complex issues and integrates the planning process with catchment management.

I commend the draft REP 20 — 1996 and the Draft Hawkesbury-Nepean Environmental Planning Strategy as a comprehensive and innovative package aimed at improving the quality of this important river system. I invite members of the community to comment and assist in developing this work for the Hawkesbury-Nepean.

A handwritten signature in black ink, appearing to read "Craig Knowles".

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**DRAFT SYDNEY REGIONAL
ENVIRONMENTAL PLAN No. 20
HAWKESBURY-NEPEAN RIVER 1996**

**DEPARTMENT OF URBAN AFFAIRS AND PLANNING
SYDNEY**

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THE DRAFT REPORT

1. INTRODUCTION

This draft plan repeals and replaces the original Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (REP 20) and amendments to that plan. It also incorporates amendments to REP 20 exhibited in 1995 as draft Amendment No. 2. The current draft plan is the result of a comprehensive review aimed at improving the protection of the Hawkesbury-Nepean River environment.

The review has been carried out with the assistance of the Hawkesbury-Nepean River Advisory Committee, the Hawkesbury-Nepean Catchment Management Trust, government agencies, and local councils. It is now on exhibition for comment by the public.

2. HOW TO USE THIS PLAN

This draft plan is structured differently from the previous REP 20. Changes have been made so that the plan is easier to use and understand.

The new draft REP 20 is comprised of the following:

- a) the draft Planning Report - what you are reading is the Planning Report. The Planning Report provides background information for the legal instrument.
- b) the draft Plan - this follows the Planning Report. It provides legal controls for the assessment of development applications, and guidelines for the preparation of environmental planning instruments and proposals which do not require consent. It also contains a map showing the area covered by the plan.
- c) the draft Maps - there are 42 maps which form part of the Plan. Due to their size they are bound as a separate map atlas. The maps in the map atlas are at a scale of 1:25000. They show the boundary of the plan, regionally significant wetlands, riverine scenic areas, and sub-catchments.

To use the new draft REP 20 effectively you should also have a copy of the draft *Hawkesbury-Nepean Environmental Planning Strategy*. It contains information on the environmental planning issues addressed by the plan; and lists the strategies and actions which are necessary to address these issues. REP 20 is a tool of the Strategy. It contains only those actions which require a legal instrument to implement them.

There are also a number of published studies which provide background information to the plan. These are:

- * Department of Planning (1994) *Significant Wetlands of the Hawkesbury-Nepean River Valley*.
- * Department of Urban Affairs and Planning (1996) *Hawkesbury-Nepean River Scenic Quality Study*.
- * Department of Urban Affairs and Planning (1996) *Resource Guide for Best Management Practices to Control Diffuse Source Water Pollution*.

Structure of the plan

Part 1 - Introduction

Part 2 - Policies and Considerations

This part of the plan applies to all rezoning and development proposals in the area covered by the plan, even if consent is not required under this plan or any other plan.

The Specific Policies describe the outcomes expected from all rezoning and development proposals. This includes:

- proposals to rezone land or prepare development guidelines (i.e. the preparation of local environmental plans and development control plans),
- the preparation and assessment of development applications, and
- proposals to carry out activities which do not require development consent under Part IV of the Act

Recommended strategies so that all proposals will achieve these policies, and studies which should be carried out, are also listed.

Part 3 - Development Controls

This contains the development controls which are imposed by the plan. It lists types of development (in alphabetical order) and indicates which require council consent, which are prohibited, development which requires the concurrence of a public authority and development which must be referred to a public authority for comment.

Matters which must be considered in addition to the principles in Part 2 of the plan, and studies which should be prepared, are also listed.

Part 4 - Miscellaneous

This part lists the other plans which this plan relates to (the detail of their relationship is in Schedule 3). It explains that terms used throughout the plan are described in the dictionary at the end. It also includes a savings clause which means that the plan does not apply to applications lodged with a consent authority prior to this plan being made.

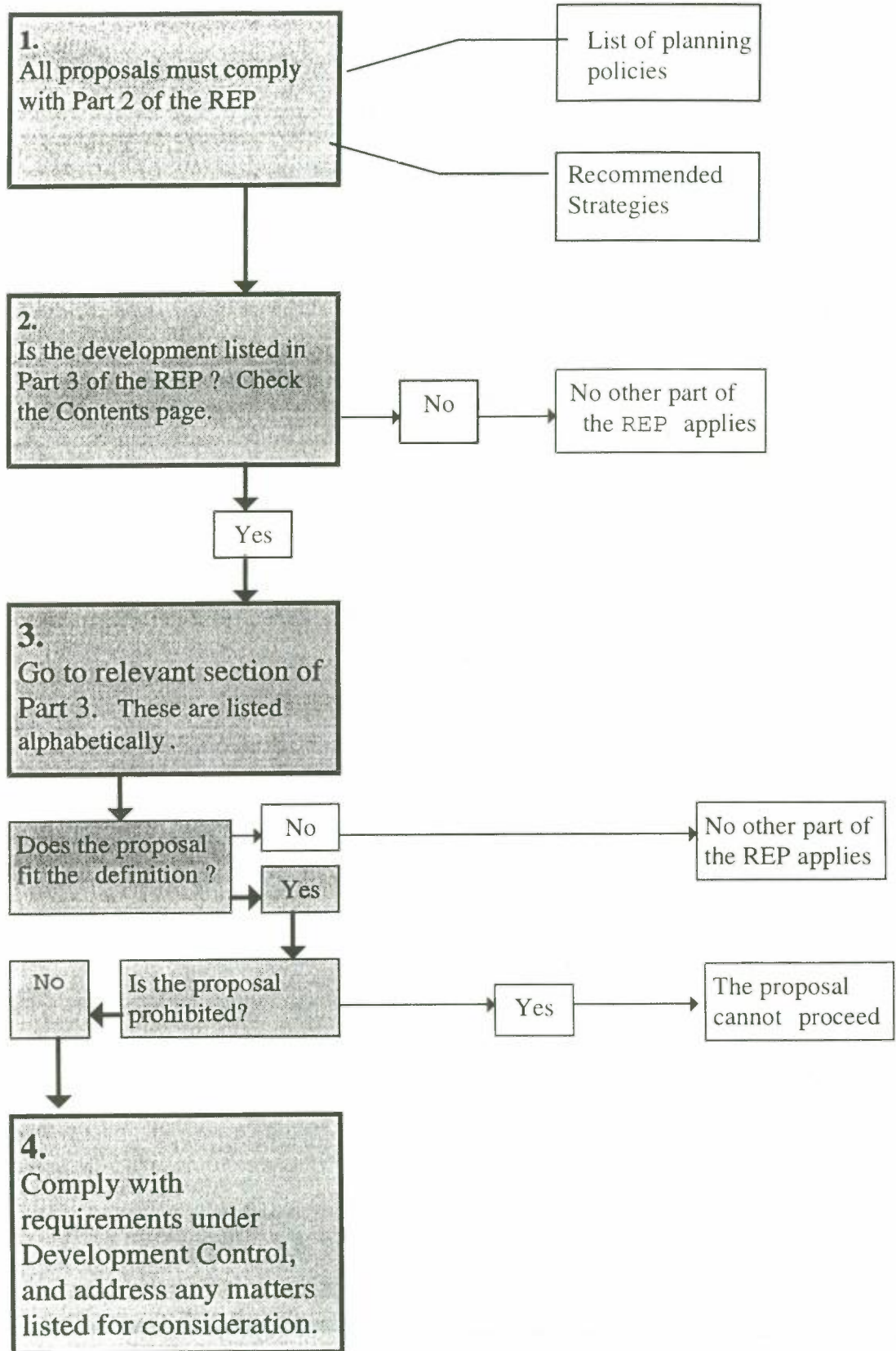
Schedule 1 - Places Where Extractive Industry Is Prohibited

Schedule 2 - Heritage Items

Schedule 3 - Amendment of Environmental Planning Instruments

Dictionary

Key To The Use Of Rep 20



3. AIMS AND OBJECTIVES OF THE PLAN

The **aim** of REP 20 is to protect the environment of the Hawkesbury-Nepean River system by providing a regional framework for controlling the impacts of future land use. This supports the Vision of the Hawkesbury-Nepean Environmental Planning Strategy, which is:

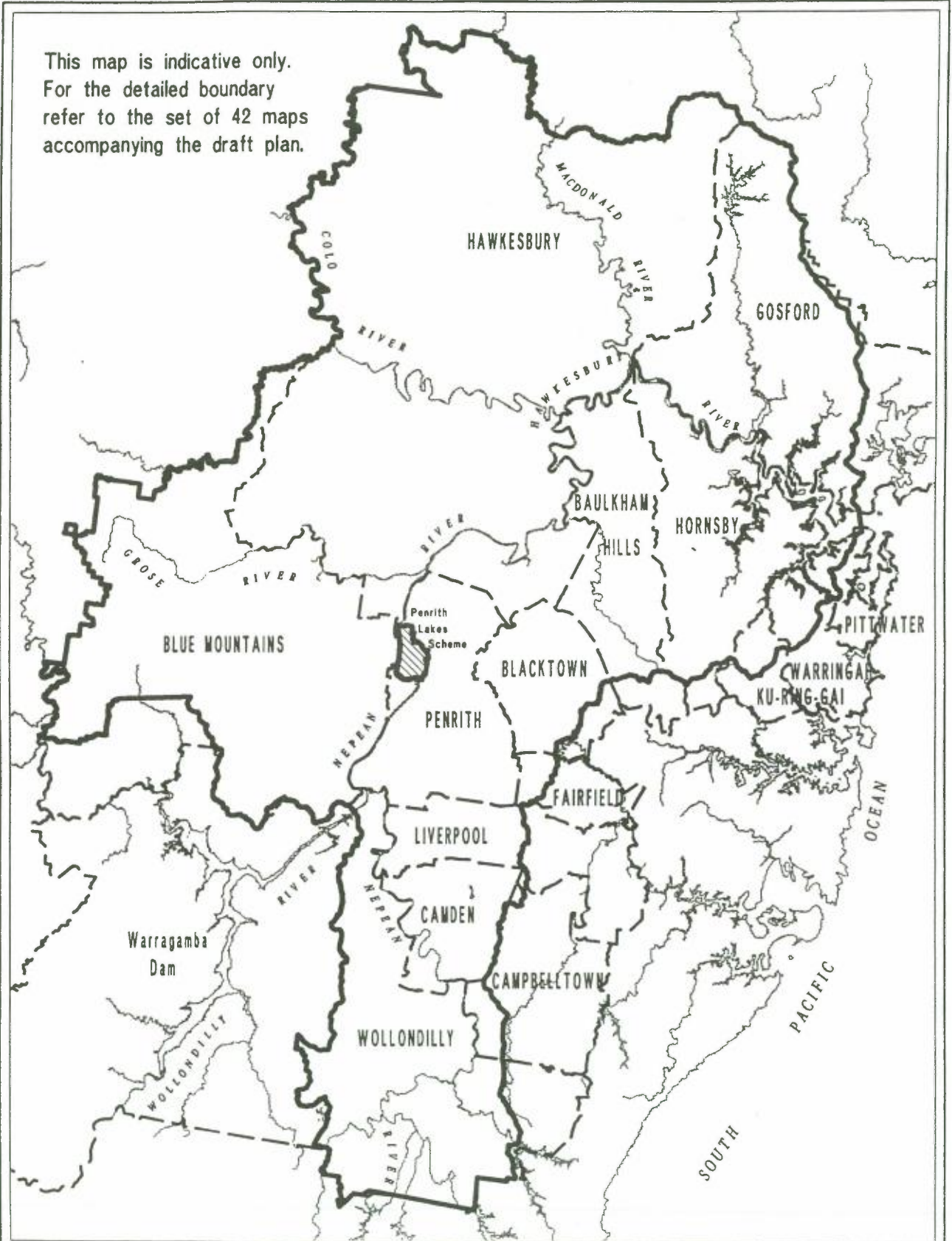
The health, integrity and diversity of the Hawkesbury-Nepean catchment must be maintained and, wherever possible, improved. The catchment and its river system must be able to meet the needs of its residents and users so that it can continue to be an area that is enjoyed and used by the people of Sydney now and in the future.

The purpose of the plan is to guide all future proposals, whether by the private or public sector, so that our vision for the Hawkesbury-Nepean can be realised.

To achieve our vision, all proposals will need to achieve the outcomes listed in the Specific Policies and address the Recommended Strategies in Part 2 of the plan.

**BOUNDARY OF DRAFT SYDNEY REGIONAL ENVIRONMENTAL
PLAN No. 20 - HAWKESBURY NEPEAN RIVER 1996**

This map is indicative only.
For the detailed boundary
refer to the set of 42 maps
accompanying the draft plan.



- DRAFT REP 20 BOUNDARY
- EXCLUDED FROM REP 20
- - -** LOCAL GOVERNMENT AREA BOUNDARY

DRAFT SYDNEY REGIONAL ENVIRONMENTAL PLAN No 20 - HAWKESBURY-NEPEAN RIVER 1996

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SYDNEY REGIONAL ENVIRONMENTAL PLAN No 20 - HAWKESBURY-NEPEAN RIVER 1996

Part 1 Introduction

1 Name of plan

This plan is *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996*.

2 Where this plan applies

- (1) This plan applies to certain land, shown on sheet 1 of the map, that is located within the following local government areas:

Baulkham Hills, Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Gosford, Hawkesbury, Hornsby, Ku-ring-gai, Liverpool, Penrith, Pittwater, Warringah, Wollondilly.

The land is shown in more detail on sheets 2-42 of the map.

- (2) This plan does not apply to the land to which *Sydney Regional Environmental Plan No 11 - Penrith Lakes Scheme* applies.

3 Aim of this plan

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Part 2 General planning considerations, specific planning policies and recommended strategies

4 Application of general planning considerations, specific planning policies and recommended strategies

- (1) Regard must be had to the planning considerations applicable generally referred to in clause 5 and to any of the specific planning policies and recommended strategies set out in the Table to this Part applicable to the proposed development:
- (a) by a *consent authority* determining an application for consent to the carrying out of development on land to which this plan applies, and
 - (b) by a *public authority* proposing to carry out development which does not require development consent but which has the potential to adversely affect the environment of land to which this plan applies to a significant extent.
- (2) A *council*, when preparing a draft local environmental plan or development control plan, and the *Director*, when preparing a draft regional environmental plan, should have regard to the planning considerations applicable generally referred to in clause 5 and any of the specific planning policies and recommended strategies set out in the Table to this Part applicable to the development to which the draft plan relates.

5 Planning considerations applicable generally

For the purposes of this Part, planning considerations applicable generally consist of consideration of each of the following:

- (a) the aims of this plan and of the Hawkesbury-Nepean Environmental Planning Strategy,
- (b) whether there are any feasible alternatives to the proposed plan, development or proposal concerned,
- (c) the relationship between the different impacts of the proposed plan, development or proposal and the environment, and how those impacts will be monitored and (if they will be adverse) mitigated.

Table Specific Policies and Recommended Strategies

(Cl. 4)

(1) Total catchment management

Policy: Total catchment management is to be integrated with environmental planning for the catchment.

Recommended strategies:

- (a) The application, proposal or draft plan should be referred for comment to the councils of adjacent and downstream local government areas which are likely to suffer a significant adverse environmental effect from the proposal.
- (b) Consideration should be given to the impact of the development concerned on the water catchment.
- (c) Consideration should be given to the cumulative impact of development proposals on the water catchment.

(2) Environmentally sensitive areas

Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and remediation of existing uses.

Recommended strategies:

- (a) Parts of the river from which sand is extracted should be rehabilitated so that attached aquatic plant beds are replaced and water quality and faunal habitats improved.
- (b) Adverse impacts on water quality, aquatic habitats, riverine vegetation and bank stability should be minimised.
- (c) Direct and indirect adverse impacts on land reserved or dedicated under the *National Parks and Wildlife Act 1974* or the *Forestry Act 1916* and conservation area sub-catchments should be minimised, in order to protect water quality and biodiversity.
- (d) Wetlands should be protected from future development and from the impacts of land use within their catchments.
- (e) Consideration should be given to the need to include buffer zones (such as adequate fire radiation zones) for proposals on land adjacent to land reserved or dedicated under the *National Parks and Wildlife Act 1974* or the *Forestry Act 1916*.
- (f) Consideration should be given to the views of the Director-General of National Parks and Wildlife for proposals on land adjacent to land reserved or dedicated under the *National Parks and Wildlife Act 1974*.

- (g) Consideration should be given to the impact of the development concerned on the water table and the formation of acid sulphate soils.
- (h) New development in conservation area sub-catchments should be located in areas that are already cleared.

(3) Water quality

Policy: Future development must sustain the goals of primary contact recreation and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not sustain these uses, the way in which the current water quality will be maintained, or improved, so as not to jeopardise the achievement of the goals must be demonstrated.

Recommended strategies:

- (a) Consideration should be given to the need to ensure that water quality goals for primary contact recreation and aquatic ecosystem protection are achieved and monitored.
- (b) Development involving primary contact recreation or the withdrawal of water from the river for human contact (not involving water treatment), such as showers, should only be approved in locations where water quality is suitable for primary contact for most of the year.
- (c) Development involving on-site disposal of sewage effluent should not be carried out if it will adversely affect the water quality of the river. Due regard must be had to the nature and size of the site.
- (d) Development should be in accordance with the land capability of the site and not cause land degradation.
- (e) An Erosion and Sediment Control Plan should be considered where the development concerned involves the disturbance of soil.
- (f) Point source and diffuse source pollution should be minimised by the use of management practices (such as constructed wetlands, retention basins, trash racks, drains, bunds, ponds and the like).
- (g) To ensure bank stability, the development concerned should be sited and orientated appropriately, and vegetation should be planted along banks of watercourses but not so as to overshadow the water or to prevent or inhibit the growth of aquatic plants in the river.
- (h) Consideration should be given to the impact of the removal of water from the river or from groundwater sources associated with the development concerned.
- (i) Protect the colonisation and regrowth of attached aquatic plants and ensure that the light penetration, clarity and turbidity of the river are not affected.

(4) Water quantity

Policy: Aquatic ecosystems must not be adversely affected by development which changes the flow characteristics of surface or groundwater in the catchment.

Recommended strategies:

- (a) The amount of stormwater run-off from a site should not increase as a result of development.
- (b) Consideration should be given to the need for restricting or controlling development requiring the withdrawal or impoundment of water because of the effect on the total water budget of the river.
- (c) Consideration should be given to the impact of development on the water table.

(5) Cultural heritage

Policy: The importance of the river in contributing to the significance of items and places of cultural heritage significance should be recognised, and these items and places should be protected and sensitively managed.

Recommended strategies:

- (a) Development which facilitates the conservation of heritage items should be encouraged if it does not detract from the significance of the items.
- (b) Aboriginal sites and places of significance should be protected.
- (c) Where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance, an Aboriginal site survey should be considered.
- (d) Consideration should be given to the extent to which heritage items (either identified in other environmental planning instruments affecting the subject land or listed in Schedule 2) derive their heritage significance from the river.

(6) Flora and fauna

Policy: The ecological processes of the catchment must be managed so that the diversity of flora and fauna communities, species and genetics is conserved and enhanced.

Recommended strategies, generally:

- (a) Flora and fauna communities should be conserved as much as possible, particularly threatened species, populations and ecological communities, aquatic habitats, wetland flora, rare flora and fauna, riverine flora, flora with heritage value, habitats for indigenous and migratory species of fauna, and existing or potential fauna corridors.
- (b) Where possible, structures should be located in areas which are already cleared instead of clearing further land.
- (c) Environmental impacts should be minimised and habitat values restored by the use of management practices such as constructed wetlands.
- (d) Consideration should be given to the impact on ecological processes, such as waste assimilation and nutrient cycling.
- (e) Consideration should be given to the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and to the impact on the survival of threatened species, populations and ecological communities.
- (f) Consideration should be given to the need for buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas.
- (g) Consideration should be given to the need to control access to flora and fauna habitat areas.

Recommended strategies for wetlands:

- (a) Maintain the ability of wetlands to improve the quality of water entering the river through the filtering of sediments and the absorption of nutrients.
- (b) Maintain the ability of wetlands to stabilise soils and reduce bank erosion.
- (c) Maintain the ability of wetlands to reduce the impact of flooding downstream through the retention of floodwaters.

- (d) Maintain a variety of wetland flora and fauna species in the region and give consideration to the scarcity of particular species on a national basis.
- (e) Encourage the appropriate management of wetlands.
- (f) Provide opportunities for recreation, scientific research and education, where they are compatible with the conservation of wetlands.
- (g) Give consideration to the need to protect and improve the quality and quantity of surface water and groundwater entering wetlands by controlling development in the catchment of wetlands.
- (h) Give consideration to the desirability of protecting any wetlands of local significance which are not included on the map.
- (i) Give consideration to the desirability of protecting artificially constructed wetlands if they have significant conservation values or make a significant contribution to improvements in water quality.

(7) Riverine scenic quality

Policy: The scenic quality of the riverine corridor must be protected.

Recommended strategies:

- (a) Areas of extensive, prominent or significant vegetation should be maintained to protect the character of the river.
- (b) Proposed development should be consistent with the character of the region, as described in the Scenic Quality Study.
- (c) Consideration should be given to siting, setback, orientation, size, bulk, scale and the use of unobtrusive, non-reflective materials, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, particularly local native trees.
- (d) Consideration should be given to the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (also being scenic areas of significance for the region) or as being of regional significance.
- (e) Consideration should be given to the need for controls or conditions to protect those scenic areas.
- (f) Consideration should be given to opportunities to improve riverine scenic quality.

(8) Agriculture/aquaculture and fishing

Policy: Agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development.

Recommended strategies:

- (a) Priority should be given to agricultural production in rural zones.
- (b) Zones and minimum lot sizes should support the continued agricultural use of Class 1, 2 and 3 Agricultural Land (as defined in the Department of Agriculture's Agricultural Land Classification Atlas) and of any other rural land that is currently sustaining agricultural production.
- (c) Effective separation should be incorporated between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts.

- (d) Agricultural activity should be protected from the adverse impacts of other forms of proposed development.
- (e) The ability of the site to sustain over the long term the development concerned should be considered.
- (f) The likely effect of the development concerned on fish breeding grounds, commercial and recreational fishing areas and oyster farming should be considered.

(9) Rural residential development

Policy: Rural residential development should not reduce agricultural viability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).

Recommended strategies:

- (a) Where the development concerned will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) and effluent equivalent to that produced by more than 20 people will be generated, a Total Water Cycle Management Study should be considered.
- (b) Appropriate separation between rural residential use and agricultural use should be maintained or introduced on the land that is proposed for development.
- (c) Development should not be located in areas identified for future urban purposes in Cities for the 21st Century.
- (d) Consideration should be given to the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation.
- (e) Consideration should be given to the ability of the land to accommodate on-site effluent disposal in the long term.
- (f) Consideration should be given to any adverse environmental impacts of infrastructure associated with the development concerned.

(10) Urban development

Policy: All potential adverse environmental impacts of urban development must be assessed and controlled.

Recommended strategies:

- (a) Where the development concerned will increase the intensity of development of land (for example, by increasing cleared or hard surface areas) and effluent equivalent to that produced by more than 2,500 people will be generated, a Total Water Cycle Management Study should be considered.
- (b) Consideration should be given to urban design options to reduce environmental impacts (such as variable lot sizes and shapes, and the clustering of development).

(11) Recreation and tourism

Policy: The value of the riverine corridor as a significant recreational and tourist asset must be protected.

Recommended strategies:

- (a) A wide range of recreational opportunities should be provided along the river.
- (b) Access points, cycleways and footpaths should be planned and managed so as to minimise any adverse environmental impacts on the river. They should be located

where river banks are stable, away from river shallows and major beds of attached aquatic plants, away from fish breeding areas, where proposed activities do not conflict with surrounding recreational activities and where significant flora and fauna habitats will not be adversely affected. The upgrading of existing public access to the river is to be preferred over the development of new access points.

- (c) Conflicts between recreational uses should be minimised.
- (d) Consideration should be given to the availability of, or need for, providing land for vehicle parking and for suitable access (including access for cars and buses), for boat service areas and for water, electricity and sewage disposal.
- (e) Consideration should be given to the environmental impact of ancillary services for recreation and tourist developments, such as amenities blocks and vehicle parking.

Part 3 Development controls

6 Development controls

- (1) **Prohibited development** Development for the purpose of a building, work, place or land use defined in the Table to this Part that is prohibited is indicated in the Table by the word *Prohibited*.
- (2) **Development requiring consent** Any such development that may be carried out only with development consent is indicated in the Table by the words *Consent required*. The council of the area in which development is proposed to be carried out is the consent authority for that development for the purposes of this plan.
- (3) **Development requiring concurrence** Any such development that may be carried out only with development consent granted with the concurrence of the Director is indicated in the Table by the word *Concurrence*, together with a reference to the Director.
- (4) **Development requiring consultation** Any such development for which development consent may be granted only after consultation with a particular person has been undertaken is indicated in the Table by the word *Consultation*, together with a reference to the relevant person.
- (5) **Development requiring certain matters to be considered** The consent authority must not grant consent to the carrying out of any such development that is indicated in the Table by the words *Additional matters for consideration by the consent authority* until it has considered those matters in addition to the matters specified in section 90 of the Act.

[**Note.** The matters required to be taken into consideration by Part 2 and any relevant matters listed in any other environmental planning instrument must also be taken into consideration by the consent authority.]

Matters that must be considered by the Director if the Director's concurrence to a grant of consent is required by this plan, in determining whether to grant that concurrence are indicated in the Table by the words *Matters for consideration by the concurrence authority*.

- (6) **Development for which consent may be granted in special circumstances** Circumstances in which consent may be granted to the carrying out of particular development even though the development is not in accordance with the other

provisions of this plan are indicated in the Table by the words *Special circumstances*.

- (7) **Designated development** Development declared to be designated development for the purposes of the Act is indicated in the Table by the words *Designated development*.

7 How is consultation carried out?

- (1) When a consent authority is required by this plan to carry out consultation, the consent authority must send a copy of the development application and of any documentation subsequently required by the consent authority for the purpose of determining the application to each of the persons to be consulted within 7 days after the applicant for consent has lodged the application or subsequent documentation.
- (2) The requirement for consultation with a person is complied with when the consent authority has taken into consideration any written comments made by the person received by the consent authority within 28 days after the copy was sent to the person.
- (3) The purpose of consultation with the Hawkesbury-Nepean Catchment Management Trust is to obtain advice on the matters for consideration listed in the Table to this Part for the type of development proposed.

8 Excepted land

This Part does not apply to land reserved or dedicated under the *National Parks and Wildlife Act 1974* or dedicated under the *Forestry Act 1916*.

Table Development Controls

(Cl. 6)

(1) Caravan parks or camping grounds

Definition:

Use of land for caravans or other moveable dwellings requiring an approval under Part 1 of Chapter 7 of the *Local Government Act 1993*.

Consent required.

(2) Buildings, works or land uses within conservation area sub-catchments

Definition:

Any building, work or land use, including clearing, in the sub-catchments of Glenbrook and Erskine Creek, Webbs Creek, the Colo River, the Grose River and the Macdonald River, as shown on the map, except for buildings, works or land uses:

- (a) that the consent authority considers to be minor and do not involve clearing or on-site effluent disposal, or
- (b) that are on land reserved or dedicated under the *National Parks and Wildlife Act 1974*.

Consent required.

(3) Rehabilitation of contaminated land

Definition:

Removing soil or other deposits from, or otherwise rehabilitating, contaminated land. For the purposes of this definition, "*contaminated land*" means land on which hazardous substances occur at concentration levels above background levels and where an assessment has indicated the substances pose, or are likely to pose, an immediate or long-term hazard to human health or to the environment.

Consent required.

(4) Extractive industries

Definition:

Extractive industry carried out on land described in Schedule 1, except for development described in item (5).

Prohibited.

(5) Extractive industries - maintenance dredging and extractive operations

Definition:

- (a) Dredging operations to ensure that the river is navigable from Broken Bay to Windsor Bridge, if those operations do not create a channel that did not previously exist, or
- (b) Dredging operations carried out in the river downstream of the Wallacia Bridge as a consequence of, and ancillary to, works for flood mitigation, bank stabilisation, the construction of bridges or other instream structures (such as marinas) or the withdrawal of water (whether or not the withdrawal is licensed), where extraction is necessary to carry out the works.

Consent required.

Concurrence:

The Director.

[NOTE: If the land concerned is identified as critical habitat under the Threatened Species Conservation Act 1995, the Director-General of National Parks and Wildlife is the concurrence authority.]

Matters for consideration by the concurrence authority:

Reports on the following:

- (a) whether sufficient attention has been given by the consent authority to the effect of extraction on river dynamics, instream structures and, in particular, the effect on water clarity and turbidity, water velocity, river enlargement and light penetration,
- (b) the desirability of maintaining river shallows to protect and support the aquatic habitat,
- (c) the likely effect of extraction on recreational opportunities available in the region,
- (d) the advantages of using cutter-suction methods as against drag-line methods in carrying out the extraction,
- (e) the likely effect of the proposed development on attached aquatic plant colonisation and, in particular, the desirability of:

- confining extractive operations to small sections of the Hawkesbury-Nepean River which do not contain those colonies, and
 - not permitting extractive operations in large sections of those rivers, and
 - the need to re-establish attached aquatic plants if destroyed by the development,
- (f) the need to protect fish breeding grounds, commercial and recreational fishing areas and oyster farming,
 - (g) whether the proposed development is appropriate to mitigate the problem necessitating the development without creating a similar problem elsewhere in the Hawkesbury or Nepean River,
 - (h) any alternative means of undertaking the works which would reduce the need for extraction,
 - (i) the necessity to permanently remove materials from those rivers rather than relocating them within those rivers, especially for the purpose of rehabilitating areas of former extractive operations,
 - (j) the potential for dredging to bring to the surface pollutants or anoxic sediment that may result in the formation of acid sulphate soils,
 - (k) whether, in the circumstances, sufficient understanding exists of the likely impact of the works on the river,
 - (l) any representations made by a public authority.

Consultation:

Hawkesbury-Nepean Catchment Management Trust,
The Director (if the land concerned is critical habitat)

(6) Filling

Definition:

Filling of land by raising the ground level through disposal of spoil from any landfill method (such as mining, dredging or refuse dumping), whether or not to enable the construction of a road or the erection of buildings or pylons or any other structure.

Consent required.

(7) Hazardous or offensive industries

Definition:

Use of land for the purpose of:

- (a) a hazardous industry, or
- (b) a hazardous storage establishment, or
- (c) an offensive industry, or
- (d) an offensive storage establishment,

(as defined in *State Environmental Planning Policy No 33 - Hazardous and Offensive Development*) which is situated on flood liable land, and where the consent authority considers that the hazards or polluting discharges are likely to have significant adverse impact on the quality of surface or groundwater, or on aquatic ecosystems.

Prohibited.

(8) Heritage items

Definition:

The following, when carried out in relation to anything listed in Schedule 2 as a heritage item:

- (a) demolishing or altering a building or work,
- (b) damaging or moving a relic, including excavation for the purpose of exposing or moving a relic,
- (c) damaging or despoiling a place,
- (d) erecting a building on, or subdividing, land on which a building, work or relic is situated or that comprises a place.

Consent required.

Consultation:

Director of the Department of Urban Affairs and Planning (but only for demolition).

Additional matters for consideration by the consent authority:

- (a) the heritage significance of the item,
- (b) the relationship of the item to the river and the surrounding areas.

Special circumstances:

Consent may be granted to use a building that is a heritage item, or the land on which it is erected, for any purpose, if the consent authority is satisfied that the use would have little or no adverse effect on the amenity of the locality, and the conservation of the building depends on granting consent.

(9) Intensive horticultural establishments

Definition:

A place at which plants are grown, whether under cover or in the open, where the application of water and fertiliser is significantly above that naturally occurring and the activity occupies more than 1 hectare, which may consist of or include any such place at which mushrooms, turf, vegetables, flowers, and ornamental plants are grown or which is used for orcharding (but is not a place at which produce is grown for personal household consumption or enjoyment).

Consent required.

(10) Intensive livestock keeping

Definition:

A building or place in or on which goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing which, without limiting the generality of the above, may consist of or include:

- (a) a poultry farm, or
- (b) a feedlot, or
- (c) a dairy farm, or
- (d) a building or place used for fish farming (which may consist of or include farming of crustaceans), or
- (e) a horse training and boarding establishment, or
- (f) a piggery,

but is not a building or place used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

Development control:

Prohibited if carried out on flood liable land.

Consent required in all other cases.

(11) Manufactured home estates

Definition:

Placing of manufactured homes requiring an approval under Part 1 of Chapter 7 of the *Local Government Act 1993*, except where they will be located on land which is zoned for residential purposes.

Consent required.

(12) Marinas

Definition:

A pontoon, jetty, pier or other structure or apparatus providing berths for boats, and adjoining land used for any support facilities, but not including a marina or another related land and water shoreline facility which is defined elsewhere in this Table.

Consent required.

Consultation:

Hawkesbury-Nepean Catchment Management Trust.

Additional matters for consideration by the consent authority:

- (a) The need for a condition of consent requiring centralised pumping stations.
- (b) Whether the proposed development will have an adverse effect on drainage patterns or cause shoreline erosion or accretion.
- (c) Whether the proposed development will have an adverse effect on any natural wetlands or flora and fauna habitats.
- (d) Whether there are satisfactory arrangements for the collection, storage, treatment and subsequent disposal of sewage, liquid wastes and bilge water.
- (e) Whether the proposed development incorporates measures to prevent the escape into the waterway of fuels, oils, grease, anti-fouling chemicals and other chemicals.
- (f) Whether the water depth adjacent to any proposed marina or other related land and water shoreline facility is adequate, and if not, the adequacy of the proposed means by which water depth will be maintained.

(13) Recreational facilities

Definition:

A building, work or place used (whether or not for commercial gain) for sporting activities, recreation or leisure activities, being a building, work or place that is situated on or consists of an area of more than 2 hectares of land:

- (a) that adjoins the river or a tributary of the river, or
- (b) that is flood liable land.

Consent required.

(14) Land uses in or near the river

Definition:

All land uses, including clearing, within 40 metres of the high water mark of the river or a tributary of the river in tidal areas and within 40 metres of the bank in non-tidal areas. This includes the construction and use of piers, wharves, boat sheds or other structures which have direct structural connection to the bank or bed of the river or a tributary of the river.

Consent required.

Additional matters for consideration by the consent authority:

- (a) The need to locate access points where riverbanks are stable, away from river shallows and major beds of attached aquatic plants, away from fishing grounds and fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities, and where significant fauna and wetland habitats will not be adversely affected.
- (b) The need to require remedial works, such as the re-establishment of flora and fauna habitats.
- (c) The potential for use of the land as a buffer to filter water entering the river.
- (d) The need for an Erosion and Sediment Control Plan.
- (e) The need for a Vegetation Management Plan.

(15) Land uses in riverine scenic areas

Definition:

The following land uses (and subdivision) in scenic areas of the riverine corridor shown on the map as being of significance beyond the region (being also scenic areas of significance for the region) or as being of regional significance - clearing; erection of a dwelling-house; works for the purpose of stabilising the riverbank.

Consent required.

Additional matters for consideration by the consent authority:

- (a) The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping.)
- (b) Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.
- (c) Whether the development will damage the banks of the river or creeks.
- (d) Whether the development is adequately set back from the river.
- (e) Whether it is necessary and appropriate to increase public recreational and visual access to the river.
- (f) The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.
- (g) Whether any proposed works will improve scenic quality by repairing degradation.

(16) Sewerage systems or works

Definition:

Any sewerage system or work which stores, treats or disposes of sewage, including domestic on-site disposal systems which are ancillary to development which requires consent, but not including a public utility undertaking as defined in the *Environmental Planning and Assessment Model Provisions 1980*.

Consent required.

Consultation:

Hawkesbury-Nepean Catchment Management Trust.

Additional matters for consideration by the consent authority:

- (a) Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future.
- (b) The suitability of the site for on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effects on adjoining property.
- (c) The likely effect of any on-site disposal area on:
 - any water bodies in the vicinity (including dams, streams and rivers)
 - any mapped wetlands
 - any groundwater
 - the floodplain.
- (d) The scope for recycling and reusing effluent or sludge on the site.
- (e) The adequacy of the wet weather storage capacity of the proposed sewerage systems or works.
- (f) Downstream effects of direct discharge of effluent to watercourses.

(17) Waste management facilities or works

Definition:

Waste management facilities or works described in Schedule 3 (Designated Development) to the *Environmental Planning and Assessment Regulation 1994* which are taken to include mushroom composting.

Consent required.

Consultation:

Hawkesbury-Nepean Catchment Management Trust.

Additional matters for consideration by the consent authority:

- (a) Any potential for groundwater contamination.
- (b) The adequacy of the proposed leachate management system and surface water controls.
- (c) The long-term stability of the final landform and the adequacy of the site management plan.
- (d) If extraction of material is involved in the creation or other development of the waste management site, whether the extractive operation will have an adverse impact on the river system.

(18) Development in mapped wetlands

Definition:

The following within wetlands shown on the map:

- (a) clearing,
- (b) constructing a levee or carrying out, building, enlarging or extending an earthwork, bund wall or similar structure so as to change or impede surface drainage or tidal action,
- (c) draining, constructing, deepening, extending, opening, installing or laying any canal, drain or pipe,
- (d) filling by raising the ground level through disposal of spoil from any landfill method (such as mining, dredging or refuse dumping), whether or not to enable the construction of a road or the erection of buildings or pylons or any other structure,
- (e) subdivision of land.

Designated development unless carried out on land in a non-permanent/ephemeral wetland shown on the map or carried out for the purpose of restoring or rehabilitating a mapped wetland.

Consent required.

Concurrence:

The Director.

[NOTE: If the land concerned is identified as critical habitat under the Threatened Species Conservation Act 1995, the Director-General of National Parks and Wildlife is the concurrence authority.]

Consultation:

Director-General of National Parks and Wildlife,
Hawkesbury-Nepean Catchment Management Trust,
The Director (if the land concerned is critical habitat).

Additional matters for consideration by the consent authority:

- (a) Whether the development is likely to contaminate the soil resulting in a likely adverse impact on water quality when the wetland floods.
- (b) A Vegetation Management Plan for restoration or rehabilitation of wetland and for any development in ephemeral wetland.
- (c) Whether a Vegetation Management Plan should also be required for any development other than restoration or rehabilitation in wetland that is not ephemeral wetland.
- (d) Any written comments from the National Parks and Wildlife Service (if the land concerned is not critical habitat) or from the Department of Urban Affairs and Planning (if the land concerned is critical habitat).

Matters for consideration by the concurrence authority:

- (a) Whether any feasible alternatives exist on the site to the carrying out of the proposed development.
- (b) Any representations made by a public authority to the concurrence authority within the period referred to in section 80 of the Act.
- (c) The environmental effects of the proposed development, including the effect on:
 - the growth of native plant communities, and
 - survival of native faunal populations, and

- the provision and quality of habitats for indigenous and migratory species of fauna, and
 - the surface and groundwater characteristics (including salinity and water quality) of the mapped wetland site on which the development is proposed to be carried out, and of the surrounding land.
- (d) Whether adequate safeguards and rehabilitation measures have been, or will be, made or taken to protect the environment.
 - (e) Whether the development is likely to disturb acid sulphate soils either as a direct or indirect result of excavation or as a result of lowering the water table, or for a combination of those reasons, and the consequences of the disturbance.
 - (f) Whether any other wetlands are in the vicinity of the mapped wetland site to which the development application relates and the appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those other wetlands.

Part 4 Miscellaneous

9 Relationship to other environmental planning instruments

- (1) This plan:
 - (a) repeals *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River*, and
 - (b) does not apply to land to which *Sydney Regional Environmental Plan No 11 - Penrith Lakes Scheme* applies, and
 - (c) amends the following environmental planning instruments as set out in Schedule 3:
 - State Environmental Planning Policy No 4 - Development Without Consent,*
 - State Environmental Planning Policy No 46 - Protection and Management of Native Vegetation,*
 - Sydney Regional Environmental Plan No 9 - Extractive Industry (No 2).*
- (2) This plan applies in addition to any other environmental planning instrument that applies to land to which this plan applies.
- (3) If there is an inconsistency between this plan and another environmental planning instrument made before this plan, this plan prevails to the extent of the inconsistency.
- (4) However, this plan does not permit development which is prohibited by another environmental planning instrument or remove or reduce any development standard or other restriction imposed by another such instrument that affects how, when or where development is to be carried out.

10 Definitions

Terms used in this plan that are defined in the dictionary at the end of this plan have the meanings set out in the dictionary.

11 Saving

The provisions of this plan do not apply to a development application that was lodged with a consent authority, but was not finally determined, before the commencement of this plan.

Schedule 1 Places Where Extractive Industry is Prohibited

(Item (4) of Table to Part 3)

1. The Macdonald River from its confluence with the Hawkesbury River and for its entire length within the City of Hawkesbury, being land comprising the bank or bed of the river and the land within 40 metres of the river (being 40 metres measured horizontally from the top of the bank of that river).
2. The Colo River from its confluence with the Hawkesbury River and for its entire length within the City of Hawkesbury, being land comprising the bank or bed of the river and the land within 40 metres of the river (being 40 metres measured horizontally from the top of the bank of that river).
3. The Hawkesbury-Nepean River, downstream of the Wallacia Bridge, comprising the bank or bed of the river and the land within 10 metres of the river (being 10 metres measured horizontally from the top of the bank of that river), but excluding:
 - (a) land identified in Division 5 of Schedule 1 to *Sydney Regional Environmental Plan No 9 - Extractive Industry (No 2)*; and
 - (b) land to which *Sydney Regional Environmental Plan No 11 - Penrith Lakes Scheme* applies.

Schedule 2 Heritage Items

(Item (5) of Table to Part 2 and item (8) of Table to Part 3)

Area of Wollondilly

- Nepean River Weir, Maldon
- Camden Park Estate, Elizabeth Macarthur Avenue, Camden

City of Campbelltown

- Menangle Weir, Menangle
- Menangle Railway Bridge, Menangle
- Camden Park Estate Central Cemetery, Menangle Park
- Menangle Park Racecourse, Menangle Park

Area of Camden

- Thurns Weir, between Camden and Menangle
- Galvin Cottage, corner of Galvin and Macarthur Roads, Elderslie
- Brownlow Hill Weir, near Cobbity

City of Penrith

- Wallacia Weir, Wallacia
- Victoria Bridge, Great Western Highway, Penrith

City of Hawkesbury

- Farm building and fence, part D.P. 62095, Edwards Road, corner of Powells Lane, Richmond Lowlands
- Slab barn, Lot 1, D.P. 615840, corner of Liverpool and Buckingham Streets, Pitt Town
- Two storey farmhouse, Laws Farm Road, Lower Portland
- Cable Ferry, Webbs Creek
- Cable Ferry, Sackville
- Cable Ferry, Lower Portland

City of Gosford

- Cable Ferry, Wisemans Ferry
- Wesleyan Chapel, Lot 4, D.P. 599807, Portion 118, Parish of Popran, Wisemans Ferry Road, Gunderman
- Ruins of Greengrove Wharf, Portion 10, Parish of Popran, Mangrove Creek (mouth of Bedlam Creek)
- Wharf and house (formerly The Greenman Inn), Portion 36, Parish of Cowan, Marlows Creek
- House, Lot 4, D.P. 377437, Collington Road, Spencer
- Holy Trinity Church, graveyard and wharf, part Portion 31, Parish of Spencer, Wisemans Ferry Road, Spencer
- Woodbury House, part Portion 113, Parish of Spencer, Tarby Creek near Spencer
- H.M.A.S. Parramatta wreck, mouth of Cascade Gully, Hawkesbury River near Milson Island
- Site of George Peat's Inn and grave of Frances Peat, Part Portion 2 and public reserve, Parish of Cowan, Mooney Mooney Point

Schedule 3 Amendment of Environmental Planning Instruments

(Cl. 9)

(1) *State Environmental Planning Policy No 4 - Development Without Consent* is amended:

- (a) by inserting in clause 2 (6) (b) after the words "a conservation area" the words "(not being a conservation area sub-catchment within the meaning of *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996*)";

[**Note.** This means that SEPP 4 will permit certain development (such as development of minor environmental significance) without consent in conservation area sub-catchments under this plan.]

- (b) by inserting at the end of clause 10 (3) (g) the following word and paragraph:
; or

(h) to land shown as a wetland on the map marked "*Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996*" or to land consisting of a scenic area shown on that map as being of significance beyond the region to part of which *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996* applies or shown on that map as being of regional significance. (That map is deposited in the Parramatta office of the Department of Urban Affairs and Planning, and copies are deposited in the Department's offices at Sydney, Newcastle and Wollongong, and in the office of each consent authority referred to in that plan.)

[**Note.** This means that clause 10 of SEPP 4 will not allow ancillary or incidental development on land to which this plan applies without development consent.]

- (2) *State Environmental Planning Policy No 46 - Protection and Management of Native Vegetation* is amended by inserting after clause 3 (g) the following paragraph:
- (h) land shown as a wetland on the map marked "*Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996*" deposited in the Parramatta office of the Department of Urban Affairs and Planning, copies of which are deposited in the Department's offices at Sydney, Newcastle and Wollongong, and in the office of each consent authority referred to in that plan.

[Note. This means that SEPP 46 will not apply to wetlands shown on the map.]

- (3) *Sydney Regional Environmental Plan No 9 - Extractive Industry (No 2)* is amended by omitting clause 20 (3)-(5) and by inserting instead the following subclause:
- (3) This clause does not prevent the carrying out of development described in item (5) of the Table to Part 3 of *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996* in accordance with that plan.

Dictionary

(Cl. 10)

bush fire management plan means a plan as approved or varied under section 41A of the *Bush Fires Act 1949* by the Bush Fire Co-ordinating Committee.

Cities for the 21st Century means the document of that name, prepared by the former Department of Planning.

clearing, in relation to mapped wetlands (see item (18) of the Table to Part 3), means destroying or removing flora native to New South Wales by any means. However, it does not include:

- (a) destroying or removing plants declared to be noxious weeds by an order under section 7 of the *Noxious Weeds Act 1993* by means not likely to be significantly detrimental to the native ecosystem, or
- (b) unavoidably and consequentially destroying or removing flora lying adjacent to any such noxious weeds during the process of destroying or removing those noxious weeds, or
- (c) the removal of flora which are a bush fire hazard in accordance with a bush fire management plan, or
- (d) the removal of flora in accordance with a Vegetation Management Plan approved by the council of the area concerned.

clearing, in relation to development within a conservation area sub-catchment (see item (2) of the Table to Part 3), development in or near the river (see item (14) of that Table), or development in a riverine scenic area (see item (15) of that Table), means destroying or removing by any means:

- (a) flora which is either a remainder of the natural flora of the land or, if altered, is still representative of the structure and floristics of the natural flora (this includes the destruction or removal of the surface and subsurface soils, leaf litter, the seed bed, and any rocks, stones or pebbles), or
- (b) plants which are not native to New South Wales which, in the opinion of the consent authority, contribute positively to the scenic quality or water quality of the locality.

However, it does not include:

- (a) destroying or removing plants declared to be noxious weeds by an order under section 7 of the *Noxious Weeds Act 1993* by means not likely to be significantly detrimental to the ecosystem, or

- (b) unavoidably and consequentially destroying or removing flora lying adjacent to any such noxious weeds during the process of destroying or removing those noxious weeds, or
- (c) the removal of flora which are a bush fire hazard in accordance with a bush fire management plan, or
- (d) the removal of flora in accordance with an approval under a council tree preservation order, or
- (e) the removal of flora in accordance with a Vegetation Management Plan approved by the council of the area concerned.

conservation area sub-catchment has the same meaning as in item (2) of the Table to Part 3.

cumulative impact means the combined effects of activities and resource use within an area over a period of time.

demolish means wholly or partly destroy or dismantle.

Erosion and Sediment Control Plan means a plan addressing all aspects of site disturbance, flow rate changes, erosion and sediment control and site rehabilitation for the duration of the project.

extractive industry means:

- (a) an activity involving the winning or removal of extractive material from land, or
- (b) an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land on which it is carried on.

fauna means any native animal, whether vertebrate or invertebrate, at whatever stage of development, and includes aquatic animals such as fish, amphibians, aquatic or amphibious mammals, and aquatic or amphibious reptiles.

flood liable land means land defined as flood liable land in accordance with the principles contained in the manual entitled "*Floodplain Development Manual*" dated December 1986, reference Number PWD 86010, deposited in the Parramatta office of the Department of Urban Affairs and Planning.

flora means any plants that are native to New South Wales, including trees, shrubs, ferns, creepers, vines, palms or grasses.

Flora and Fauna Study means a study which comprehensively describes and assesses the flora and fauna of a site, including the identification of threatened or endangered species known or likely to occur on the site, the existence of habitat critical to the survival of any species, and existing or potential linkages between habitats both within and outside the site.

Hawkesbury-Nepean Catchment Management Trust means the Hawkesbury-Nepean Catchment Management Trust established under the *Catchment Management Act 1989*.

Hawkesbury-Nepean Environmental Planning Strategy means the Strategy entitled "*Hawkesbury-Nepean Environmental Planning Strategy*" prepared by the Department of Urban Affairs and Planning and published in 1996.

heritage significance means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

Planning Report means the report entitled "Planning Report for Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996" prepared by the Department of Urban Affairs and Planning.

primary contact recreation means recreational activities involving direct water contact, such as swimming and waterskiing.

relic means:

- (a) any deposit, object or material evidence (which may consist of human remains) relating to the use or settlement of the land to which this plan applies, not being Aboriginal habitation, which is more than 50 years old, or
- (b) any deposit, object or material evidence (which may consist of human remains) relating to Aboriginal habitation of the land to which this plan applies, whether before or after its occupation by persons of European extraction.

river means the Hawkesbury-Nepean River.

riverine corridor means the area marked on the map as riverine corridor.

Scenic Quality Study means the report entitled "Hawkesbury-Nepean River Scenic Quality Study" (1994) prepared for the former Department of Planning by Travers Morgan and Dr Richard Lamb.

significant flora and fauna habitat areas means land shown as wetland on the map and such other land as may be identified on the map as a significant flora and fauna habitat area.

threatened species, populations and ecological communities has the same meaning as in the *Threatened Species Conservation Act 1995*.

the Act means the *Environmental Planning and Assessment Act 1979*.

the map means the map consisting of 42 sheets marked "Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River 1996" deposited in the Parramatta office of the Department of Urban Affairs and Planning, copies of which are deposited in the Department's offices at Sydney, Newcastle and Wollongong, and in the office of each consent authority referred to in this plan.

Total Water Cycle Management Study means a study which comprehensively describes and assesses all water inputs and outputs for a specific site in relation to a water catchment, and develops management options for controlling water flow and water quality impacts of a proposed change in land use on that site.

tributary of the river means (for the purposes of items (13) and (14) of the Table to Part 3) the Bargo River, Cataract River, Colo River, Grose River, Macdonald River or Berowra Creek, Calabash Creek, Cattai Creek, Coal and Candle Creek, Cowan Creek, Eastern Creek, Little Cattai Creek, Mangrove Creek, Marrs Creek, Mogo Creek, Mooney Mooney Creek, Mulgoa Creek, Mullet Creek, Patonga Creek, Popran Creek, Roberts Creek, Ropes Creek, South Creek, Webbs Creek, Wheeny Creek or Coba Bay.

Vegetation Management Plan means a plan which:

- (a) identifies the vegetation to which it applies, and
- (b) describes and analyses that vegetation, and

- (c) specifies measures to be taken to implement the policies set out in the Table to Part 2 by the strategies recommended in that Table, and
- (d) consistently with those policies and recommended strategies, specifies measures for ongoing management, including monitoring and weed control, and
- (e) addresses any other matters considered necessary by the consent authority.

waste includes any matter or thing whether solid, gaseous or liquid or a combination of any solids, gases or liquids that is discarded or is refuse from processes or uses (such as domestic, medical, industrial, mining, agricultural or commercial processes or uses).

wetland means land shown as wetland on the map.

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Dictionary

