



Hawkesbury Local Environmental Plan 1989 (Amendment No 126)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P00/00494/PC)

DIANE BEAMER, M.P.,
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

(On 11 March 2004 the Land and Environment Court in *Hawkesbury City Council v NSW Minister for Infrastructure and Planning & Anor* [2004] NSWLEC 188 declared that “This Plan is void and of no effect”.)

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Clause 1 Hawkesbury Local Environmental Plan 1989 (Amendment No 126)

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under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Hawkesbury Local Environmental Plan 1989 (Amendment No 126)*.

2 Aims of plan

The aims of this plan are:

- (a) to provide for the better long term management of endangered ecological communities and regionally significant wetlands without increasing the allotment yield within Zone No 1 (b) (the Rural “B” Zone) and Zone No 1 (c1) (the Rural “C1” Zone) under *Hawkesbury Local Environmental Plan 1989*, and
- (b) to allow the subdivision of land into allotments with an average area of ten hectares in Zone No 1 (b) (the Rural “B” Zone) and four hectares in Zone No 1 (c1) (the Rural “C1” Zone), and
- (c) to protect, and prevent the fragmentation of, land containing endangered ecological communities or regionally significant wetlands.

3 Land to which plan applies

This plan applies to all land within the City of Hawkesbury.

4 Amendment of Hawkesbury Local Environmental Plan 1989

Hawkesbury Local Environmental Plan 1989 is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 4)

Clause 11

Omit the clause. Insert instead:

11 Subdivision

- (1) Except as provided by this clause and clause 13, the Council may consent to the subdivision of land:
 - (a) within Zone No 1 (a), if the area of each allotment to be created is not less than 40 hectares, or
 - (b) within Zone No 1 (b):
 - (i) if the area of each allotment to be created is not less than 10 hectares, or
 - (ii) if the average area of all of the allotments to be created for a dwelling-house is not less than 2.5 hectares, or
 - (iii) if the area of each allotment to be created is not less than 1 hectare and any regionally significant wetland is contained and managed in an allotment designed for large scale agriculture, or
 - (c) within Zone No 1 (c), if the area of each allotment to be created is not less than 2 hectares, or
 - (d) within Zone No 1 (c1):
 - (i) if the area of each allotment to be created is not less than 4 hectares, or
 - (ii) if the average area of all of the allotments to be created for a dwelling-house is not less than 1 hectare, or
 - (e) within Zone No 7 (a), if the area of each allotment to be created is not less than 40 hectares, or
 - (f) within Zone No 7 (d), if the area of each allotment to be created is not less than 10 hectares, or
 - (g) within Zone No 7 (d1), if the area of each allotment to be created is not less than 40 hectares.

BY AUTHORITY

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- (2) The Council may grant consent to the subdivision of land within Zone No 1 (a), 1 (b), 1 (c), 1 (c1), 7 (a), 7 (d) or 7 (d1) only if:
- (a) there is a satisfactory ratio of depth to frontage (that is, the ratio between the depth of the allotment and the frontage of the allotment is, in the opinion of the Council, satisfactory), and
 - (b) the pattern of allotments created by the proposed subdivision, and the location of any proposed buildings on those allotments, will minimise any bushfire threat and any impact on any threatened species, threatened populations or endangered ecological community, regionally significant wetland, watercourse or agriculture, and
 - (c) a geotechnical assessment has been undertaken to demonstrate that the land is adequate for the on-site disposal of effluent, and
 - (d) each of the allotments created contains areas for a dwelling-house, bushfire protection zones and effluent disposal areas.
- (3) The Council must not grant consent to the subdivision of land under clause (1) (b) (ii) or (d) (ii) (the lot averaging provisions) unless:
- (a) the number of allotments proposed to be created by the subdivision does not exceed the number of allotments capable of subdivision immediately before the commencement of *Hawkesbury Local Environmental Plan 1989 (Amendment No 126)*, and
 - (b) more than 20% of the land to be subdivided contains either an endangered ecological community or a regionally significant wetland, and
 - (c) it is demonstrated that the subdivision will lead to a better environmental outcome than using other forms of subdivision and that the long term survivability of any endangered ecological community or regionally significant wetland will be enhanced, and

- (d) either:
 - (i) any endangered ecological community is contained and managed in a community lot under the provisions of the *Community Land Development Act 1989*, or
 - (ii) any regionally significant wetland is contained and managed in an allotment designed for large scale agriculture, and
- (e) any proposed allotments intended to be used for a dwelling-house do not contain any endangered ecological community or any regionally significant wetland that is not managed in an allotment designed for large scale agriculture.
- (4) The Council must not consent to the subdivision of land within Zone No 1 (a), 1 (b), 1 (c), 1 (c1), 7 (d) or 7 (d1) unless:
 - (a) each allotment to be created has an area that is sufficient for the erection of a dwelling house, and
 - (b) all of the land to be subdivided is above the 1-in-100 year flood level.
- (5) The Council must not consent to the subdivision of land within Zone No 1 (d) unless the subdivision:
 - (a) effects a minor boundary adjustment to the boundary between allotments, and
 - (b) does not create more allotments than the number before the adjustment was made.
- (6) The Council must not grant consent to the subdivision of land within Zone No 7(e).
- (7) A reference in this clause to the number of allotments does not include any allotments created for a public purpose or any allotments created as community lots.
- (8) In this clause:

area of land means an area of land at natural surface level or an area of land that has been filled with the consent of the Council.

endangered ecological community means any endangered ecological community referred to in Part 3 of Schedule 1 to the *Threatened Species Conservation Act 1995*.

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Schedule 1 Amendment

regionally significant wetland means any wetland listed on
*Sydney Regional Environmental Plan No 20—Hawkesbury-
Nepean River.*

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