

New South Wales

Hawkesbury-Nepean River Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to improve the co-ordination and implementation of management strategies in relation to the health of the Hawkesbury-Nepean river system,
- (b) to improve public access to information about management strategies in relation to the health of the Hawkesbury-Nepean river system,
- (c) to provide increased opportunities for public involvement in the development of management strategies in relation to the health of the Hawkesbury-Nepean river system,
- (d) to improve the management of development in the Hawkesbury-Nepean waters (*in-stream development*).

For that purpose, this Bill establishes the Office of the Hawkesbury-Nepean (*the Office*), as a statutory corporation, and confers functions on the Office in connection with maintaining or improving the health of the Hawkesbury-Nepean river system and the management of in-stream development.

Other public authorities with functions in relation to the Hawkesbury-Nepean river system will be required to co-operate with the Office.

This Bill also amends the *Public Finance and Audit Act 1983* consequentially.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 provides for the objects of the proposed Act, as described in the Overview.

Clause 4 defines certain words and expressions used in the proposed Act.

A **management strategy**, in relation to the health of the Hawkesbury-Nepean river system, means:

- (a) any policy, program or plan of the New South Wales Government or a public authority devised, adopted or implemented for the purposes of improving or maintaining the health of the Hawkesbury-Nepean river system, or
- (b) any agreement or arrangement entered into by the New South Wales Government with the Commonwealth or a local council for the purposes of improving or maintaining the health of the Hawkesbury-Nepean river system.

The **health of the Hawkesbury-Nepean river system** includes:

- (a) the quality and quantity of the waters within the Hawkesbury-Nepean river system, and
- (b) the management of aquatic weeds in the Hawkesbury-Nepean river system, and
- (c) the health of river dependent ecosystems and their components, and
- (d) such other matters relating to the Hawkesbury-Nepean river system as may be prescribed by the regulations.

The **Hawkesbury-Nepean waters** are the waters described in Schedule 1. This is the area in which the Office may exercise its functions with respect to in-stream development.

Clause 5 enables the Governor, by order, to alter or replace the description of the Hawkesbury-Nepean waters in Schedule 1 to the proposed Act.

Part 2 Establishment of Office of Hawkesbury-Nepean

Clause 6 establishes the Office of the Hawkesbury-Nepean as a corporation.

Clause 7 provides that the Office is a NSW Government agency.

Clause 8 provides that the Office is subject to the control and direction of the Minister.

Clause 9 makes the Director of the Office responsible for the day-to-day management of the affairs of the Office.

Clause 10 establishes an Advisory Board for the Office, consisting of representatives from a number of public authorities with existing functions with respect to the Hawkesbury-Nepean river system.

Clause 11 enables the Office to delegate its functions.

Part 3 Functions of Office

Clause 12 confers on the Office the function of co-ordinating and assisting with the implementation of management strategies in relation to the health of the Hawkesbury-Nepean river system. In particular, the Office may liaise with public authorities, and establish arrangements or procedures, for the purposes of co-ordinating works to manage aquatic weeds in the Hawkesbury-Nepean river system and managing the implementation of any arrangements agreed between the State and the Commonwealth or a local council for the recovery of the Hawkesbury-Nepean river system.

Clause 13 confers on the Office the function of acting as a single point of public access to information and advice about management strategies in relation to the health of the Hawkesbury-Nepean river system. For that purpose, the Office may provide information and advice to the public in relation to management strategies.

Clause 14 requires the Office to provide opportunities to the public to be involved in the development of management strategies in relation to the health of the Hawkesbury-Nepean river system. For that purpose, the Office may consult with the public about management strategies and report or provide advice to the Minister or any public authority about the results of its public consultation.

Clause 15 requires the Office to promote the effective management of in-stream development. For that purpose, the Office may liaise with planning authorities for the purpose of ensuring that they exercise their functions with respect to in-stream development in an integrated and efficient manner and provide information or assistance to the public in connection with in-stream development.

Clause 16 provides for supplementary functions of the Office.

Part 4 Interaction with other public authorities

Clause 17 requires other public authorities to co-operate with the Office in the exercise of its functions.

Clause 18 enables the Office to enter into agreements or other arrangements with other public authorities for the purpose of achieving the objects of the proposed Act.

Part 5 Miscellaneous

Clause 19 confers a protection from personal liability on persons who exercise functions under the proposed Act.

Clause 20 requires the annual report of the Office to be included in the annual report to Parliament of the Department of Water and Energy.

Clause 21 enables the Office to make special reports (in addition to annual reports).

Clause 22 provides for the seal of the Office.

Clause 23 enables regulations to be made under the proposed Act.

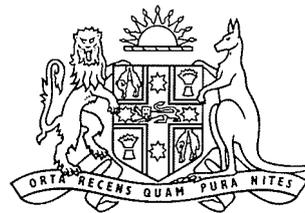
Clause 24 provides for a review of the proposed Act after it has been in operation for 5 years.

Schedule 1 Hawkesbury-Nepean waters

Schedule 1 contains a geographical description of the Hawkesbury-Nepean waters.

Schedule 2 Amendment of Public Finance and Audit Act 1983 No 152

Schedule 2 makes a consequential amendment to the *Public Finance and Audit Act 1983*.



New South Wales

Hawkesbury-Nepean River Bill 2009

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New South Wales

Hawkesbury-Nepean River Bill 2009

No. , 2009

A Bill for

An Act to establish an Office of the Hawkesbury-Nepean, to provide for its functions and to make other provision for the purposes of improving or maintaining the health of the Hawkesbury-Nepean river system.

Clause 1 Hawkesbury-Nepean River Bill 2009

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Hawkesbury-Nepean River Act 2009*. 4

2 Commencement 5

This Act commences on a day or days to be appointed by proclamation. 6

3 Objects of Act 7

The objects of this Act are as follows: 8

(a) to improve the co-ordination and implementation of management strategies in relation to the health of the Hawkesbury-Nepean river system, 9
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(b) to improve public access to information about management strategies in relation to the health of the Hawkesbury-Nepean river system, 12
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(c) to provide increased opportunities for public involvement in the development of management strategies in relation to the health of the Hawkesbury-Nepean river system, 15
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(d) to improve the management of development in the Hawkesbury-Nepean waters. 18
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4 Definitions 20

(1) In this Act: 21

Advisory Board means the Advisory Board of the Office established by this Act. 22
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Director means the Director of the Office holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*. 24
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exercise a function includes perform a duty. 27

function includes a power, authority or duty. 28

Hawkesbury-Nepean river system means the Hawkesbury and Nepean Rivers, and their tributaries. 29
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Hawkesbury-Nepean waters has the meaning given by Schedule 1. 31

in-stream development means development (within the meaning of the *Environmental Planning and Assessment Act 1979*), a project (within the meaning of Part 3A of that Act) or an activity (within the meaning of Part 5 of that Act) that is carried out or proposed to be carried out in the Hawkesbury-Nepean waters. 32
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<i>management strategy</i> , in relation to the health of the Hawkesbury-Nepean river system, means:	1
(a) any policy, program or plan of the New South Wales Government or a public authority devised, adopted or implemented for the purposes of improving or maintaining the health of the Hawkesbury-Nepean river system, or	2
(b) any agreement or arrangement entered into by the New South Wales Government with the Commonwealth or a local council for the purposes of improving or maintaining the health of the Hawkesbury-Nepean river system.	3
<i>Office</i> means the Office of the Hawkesbury-Nepean established by this Act.	4
<i>planning authority</i> means a person or body having functions under the <i>Environmental Planning and Assessment Act 1979</i> with respect to consent to or the approval of in-stream development.	5
<i>public authority</i> means:	6
(a) a Division of the Government Service, or	7
(b) a NSW Government agency, or	8
(c) a State owned corporation, or	9
(d) a local council, or	10
(e) any other public or local authority constituted by or under an Act.	11
(2) In this Act, the <i>health of the Hawkesbury-Nepean river system</i> includes:	12
(a) the quality and quantity of the waters within the Hawkesbury-Nepean river system, and	13
(b) the management of aquatic weeds in the Hawkesbury-Nepean river system, and	14
(c) the health of river dependent ecosystems and their components, and	15
(d) such other matters relating to the Hawkesbury-Nepean river system as the regulations may prescribe.	16
(3) Notes included in this Act do not form part of this Act.	17
5 Amendment of description of Hawkesbury-Nepean waters	18
(1) The Governor may, by order published on the NSW legislation website, amend Schedule 1 to alter or replace the description of the Hawkesbury-Nepean waters.	19
(2) The order may also omit, insert or replace a map that illustrates those waters.	20

Part 2	Establishment of Office of Hawkesbury-Nepean	1
6	Constitution of Office	2
	There is constituted by this Act a corporation with the corporate name of the Office of the Hawkesbury-Nepean.	3 4
7	Status of Office	5
	The Office is a NSW Government agency.	6
8	Ministerial control	7
	The Office is subject to the control and direction of the Minister in the exercise of its functions.	8 9
9	Director	10
	(1) The Director is responsible for the day-to-day management of the affairs of the Office.	11 12
	(2) Any act, matter or thing done in the name of, or on behalf of, the Director is taken to have been done by the Office.	13 14
10	Advisory Board	15
	(1) There is to be an Advisory Board of the Office.	16
	(2) The principal function of the Advisory Board is to provide advice to the Director on the following:	17 18
	(a) any matter referred to the Advisory Board by the Director,	19
	(b) any matter referred to the Advisory Board by a member of the Advisory Board,	20 21
	(c) the overall planning and implementation of management strategies in relation to the health of the Hawkesbury-Nepean river system and the overall management of in-stream development.	22 23 24 25
	(3) The Advisory Board is to consist of the following members:	26
	(a) the Director-General of the Department of Water and Energy or a member of staff of that Department nominated by the Director-General (who is to be Chairperson of the Advisory Board),	27 28 29 30
	(b) the Director-General of the Department of Environment and Climate Change or a member of staff of that Department nominated by the Director-General,	31 32 33

(c)	the Director-General of the Department of Primary Industries or a member of staff of that Department nominated by the Director-General,	1 2 3
(d)	the Director-General of the Department of Premier and Cabinet or a member of staff of that Department nominated by the Director-General,	4 5 6
(e)	the Director-General of the Department of Planning or a member of staff of that Department nominated by the Director-General,	7 8
(f)	the General Manager of the Hawkesbury-Nepean Catchment Management Authority or a member of staff of that Authority nominated by the General Manager,	9 10 11
(g)	the Chief Executive of the Sydney Catchment Authority or a member of staff of that Authority nominated by the Chief Executive,	12 13 14
(h)	the Chief Executive Officer of the Sydney Water Corporation or a member of staff of that Corporation nominated by the Chief Executive Officer.	15 16 17
(4)	Subject to the regulations, the procedure for calling meetings of the Advisory Board and the conduct of business at those meetings are to be determined by the Minister.	18 19 20
11	Delegation of Office's functions	21
(1)	The Office may delegate to an authorised person the exercise of any of its functions other than this power of delegation.	22 23
(2)	A delegate may sub-delegate to an authorised person any function delegated by the Office if the delegate is authorised in writing to do so by the Office.	24 25 26
(3)	In this section: <i>authorised person</i> means:	27 28
(a)	a member of staff of the Office, or	29
(b)	a member of the Advisory Board, or	30
(c)	a public authority or member of staff of a public authority, or	31
(d)	a person or body of a class prescribed by the regulations.	32

Part 3	Functions of Office	1
12	Co-ordination and implementation of management strategies	2
(1)	The Office is to co-ordinate and assist with the implementation of management strategies in relation to the health of the Hawkesbury-Nepean river system.	3 4 5
(2)	In particular, the Office may liaise with public authorities, and establish arrangements or procedures, for the purposes of:	6 7
(a)	co-ordinating works and other activities to manage aquatic weeds in the Hawkesbury-Nepean river system, and	8 9
(b)	managing the implementation of any agreed arrangements between the State and the Commonwealth or local councils for the recovery of the Hawkesbury-Nepean river system.	10 11 12
13	Provision of information about management strategies	13
(1)	The Office is to act as a single point of public access to information and advice about management strategies in relation to the health of the Hawkesbury-Nepean river system.	14 15 16
(2)	For that purpose, the Office may:	17
(a)	respond to, and provide advice or other assistance in connection with, inquiries by members of the public about management strategies in relation to the health of the Hawkesbury-Nepean river system, and	18 19 20 21
(b)	compile information about management strategies in relation to the health of the Hawkesbury-Nepean river system and provide that information to the public.	22 23 24
14	Public involvement in development of management strategies	25
(1)	The Office is to provide opportunities to the public to be involved in the development of management strategies in relation to the health of the Hawkesbury-Nepean river system.	26 27 28
(2)	For that purpose, the Office may:	29
(a)	engage in public consultation activities for the purpose of ascertaining the views of the public or particular stakeholders about management strategies in relation to the health of the Hawkesbury-Nepean river system, and	30 31 32 33
(b)	report or provide advice to the Minister or to any public authority about the results of any of its public consultation.	34 35

15 Assistance with in-stream development	1
(1) The Office is to promote the effective management of in-stream development.	2 3
(2) For that purpose, the Office may:	4
(a) liaise with planning authorities for the purposes of ensuring that they exercise their functions with respect to in-stream development in an integrated and efficient manner, and	5 6 7
(b) provide information and assistance to members of the public in connection with in-stream development, including by facilitating the progress of any development application relating to development in the Hawkesbury-Nepean waters.	8 9 10 11
(3) Without limiting the above, the Office may accept from any person, and forward to the relevant consent authority:	12 13
(a) a development application made by the person which relates to development in the Hawkesbury-Nepean waters, and	14 15
(b) any fee or other documentation accompanying the development application that is provided by the person for the purposes of compliance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> , or the regulations under that Act, with respect to the making of development applications.	16 17 18 19 20
(4) In this section:	21
consent authority has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i> .	22 23
development application means an application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> (including an application for a complying development certificate).	24 25 26
16 Other functions	27
(1) The Office may do all such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of its functions.	28 29
(2) The Office has any other functions conferred or imposed on it by or under this or any other Act.	30 31
(3) The Office cannot employ any staff.	32
Note. Staff may be employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> in the Government Service to enable the Office to exercise its functions.	33 34 35

Part 4	Interaction with other public authorities	1
17	Co-operation by public authorities	2
(1)	A public authority is required to co-operate with the Office in the exercise of the Office's functions, including by complying with any reasonable request for information or assistance that the Office requires to exercise its functions under this Act.	3 4 5 6
(2)	This section does not authorise or require a public authority to do anything that is inconsistent with the proper exercise of its functions under any other law.	7 8 9
18	Agreements with public authorities	10
(1)	The Office may enter into agreements and other arrangements with public authorities for the purpose of achieving the objects of this Act.	11 12
(2)	Without limiting subsection (1), any such agreement or arrangement may include provision for:	13 14
(a)	the procedures to be implemented by the public authority to assist in achieving the objects of this Act, and	15 16
(b)	information sharing between the Office and the public authority on matters relating to the health of the Hawkesbury-Nepean river system or in-stream development.	17 18 19
(3)	A public authority may, under such an agreement or arrangement, authorise the Office, as delegate of the public authority, to exercise or assist in exercising any of its functions in relation to the health of the Hawkesbury-Nepean river system or in-stream development (despite the provisions of any other Act).	20 21 22 23 24

Part 5	Miscellaneous	1
19	Personal liability	2
	A matter or thing done or omitted to be done by the Office, the Director, the Advisory Board or a member of the Advisory Board, or a person acting under the direction of the Office, the Director or the Advisory Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the Director, the member of the Advisory Board or the person so acting personally to any action, liability, claim or demand.	3 4 5 6 7 8 9
20	Annual report	10
	The annual report of the Office is to be included in the annual report to Parliament of the Department of Water and Energy.	11 12
21	Special reports	13
	The Office may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the exercise of its functions.	14 15 16
22	Seal of Office	17
	The seal of the Office is to be kept by the Director, or by a member of the staff of the Office authorised in that behalf by the Director, and may be affixed to a document only:	18 19 20
	(a) in the presence of the Director or that member of the staff, and	21
	(b) with an attestation by the signature of the Director or that member of staff of the fact of the affixing of the seal.	22 23
23	Regulations	24
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	25 26 27 28
24	Review of Act	29
	(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	30 31 32
	(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	33 34
	(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	35 36

Schedule 1	Hawkesbury-Nepean waters	1
	(Sections 4 and 5)	2
Hawkesbury-Nepean waters		3
	The <i>Hawkesbury-Nepean waters</i> means:	4
(a)	the waters of the Hawkesbury-Nepean river system, limited to that part of the Hawkesbury-Nepean river system that is downstream of the Upper Nepean Dams (the Cataract, Cordeaux, Avon and Nepean Dams) and Warragamba Dam and upstream of the Brooklyn Bridge, and	5 6 7 8 9
(b)	the bed of any river or tributary comprised in the Hawkesbury-Nepean river system (limited as referred to in paragraph (a)), together with any land lying between the bed and a line drawn parallel to, and at a distance of 40 metres inland from, each point along the bank of the river or tributary that is:	10 11 12 13 14
	(i) the highest point of the bank, or	15
	(ii) if the waters of the river or tributary are subject to tidal influence, the mean high water mark of the river or tributary.	16 17 18

Note. The following is an illustrative map of the Hawkesbury-Nepean waters:

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Schedule 2	Amendment of Public Finance and Audit Act 1983 No 152	1
		2
Schedule 2 Statutory bodies		3
Insert in alphabetical order:		4
Office of the Hawkesbury-Nepean		5