

Williams River Catchment Regional Environmental Plan 1997

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New South Wales

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Williams River Catchment Regional Environmental Plan 1997



New South Wales

1 Name of plan

This plan is *Williams River Catchment Regional Environmental Plan 1997*.

2 Explanatory notes

The table of contents and notes in this plan are explanatory notes and do not form part of this plan.

3 Aims and objectives

- (1) The aims of this plan are to protect and improve the environmental quality of the Williams River catchment through the management and use of the catchment's resources in an ecologically sustainable manner.
- (2) The objectives of this plan are:
 - (a) to promote sustainable use of land, water, vegetation and other natural resources within the Williams River catchment, and
 - (b) to promote the protection and improvement of the environmental quality of the catchment, and
 - (c) to establish a co-ordinated and consistent approach to the planning and management of the natural and built environment on a catchment-wide basis by linking the environmental planning system and total catchment management policies, programs and activities within the Williams River catchment through an endorsed catchment-wide regional planning strategy, and
 - (d) to provide for changes to occur in the use of land in a manner which protects the quality of the catchment's water resources.

4 Land to which this plan applies

This plan applies to land declared by the Minister to be a region under section 4 (6) of the *Environmental Planning and Assessment Act 1979*, being land that comprises the Williams

River catchment within the local government areas of Port Stephens and Dungog, as shown on the map marked “*Williams River Catchment Regional Environmental Plan 1997*” (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council).

Note—

This plan applies only to the parts of the Dungog and Port Stephens local government areas which are within the Williams River catchment as shown on a deposited map.

5 Relationship to other environmental planning instruments

- (1) **Amendment of SEPP 4** This plan amends *State Environmental Planning Policy No 4—Development Without Consent* by inserting after clause 4 (6) the following subclause:
 - (7) Clause 10 does not apply to land to which *Williams River Catchment Regional Environmental Plan 1997* applies so as to allow a person to carry out, without development consent, works on or a use of land within 30 metres of the Williams River for the purposes of chemical, fuel or fertiliser storage, milking sheds, stables, chicken sheds, pig sties or the keeping of any other animal or organic materials.
- (2) **Amendment of SEPP 36** This plan amends *State Environmental Planning Policy No 36—Manufactured Home Estates* by inserting after item 9 of Schedule 2 (Categories of Excluded Land) the following item:

10 Land comprising the Williams River catchment upstream of the Seaham Weir.

In this item, **Williams River catchment** means the land shown on the map marked “*Williams River Catchment Regional Environmental Plan 1997*” (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council) being the land from which surface water run-off resulting from rainfall flows directly or indirectly into the Williams River.

- (3) **Amendment of Dungog LEP 1990** This plan amends *Dungog Local Environmental Plan 1990* as set out in Schedule 1.
- (4) **Amendment of Port Stephens LEP 1987** This plan amends *Port Stephens Local Environmental Plan 1987* as set out in Schedule 2.

6 Guidelines for public authorities

- (1) The aims and objectives of this plan (as set out in clause 3) and the *Williams River Catchment Regional Planning Strategy* must be taken into account when:

- (a) a consent authority determines a development application for land in the Williams River catchment, or
 - (b) a public authority proposes to carry out development which does not require development consent but has the potential to adversely affect the environmental quality of land, water, vegetation or other natural resources within the Williams River catchment.
- (2) Those aims and objectives, and that Strategy, should be taken into account in the preparation of each environmental planning instrument and development control plan that applies to land in the Williams River catchment.
- (3) In this clause:
- Williams River Catchment Regional Planning Strategy*** means the Regional Planning Strategy of the Department of Urban Affairs and Planning for the Williams River catchment (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council).
- (4) This clause is not intended to create an offence against the Act.

Note—

The *Williams River Catchment Regional Planning Strategy* must be taken into account when clause 6 of this plan applies, in addition to the aims and objectives of this plan. Sections 4.1 and 4.2 of the Strategy provide specific considerations for applicants, councils and other public authorities to guide the assessment and determination of development applications, the preparation of local environmental plans and development control plans, and consideration of the impact of development proposed by public authorities that does not require development consent.

Schedules 1 and 2 apply new definitions for intensive agricultural land uses in the Williams River catchment within both the Dungog and Port Stephens local government areas to ensure a consistent approach to land uses which may have potential to impact adversely on the catchment.

Schedule 1 Amendment of **Dungog Local Environmental Plan 1990**

(Clause 5 (3))

[1] Clause 5 Definitions

Insert “(except in relation to land in the Williams River catchment)” after the defined terms quoted in the definitions of ***agriculture***, ***intensive agricultural pursuit*** and ***intensive animal husbandry*** in clause 5 (1).

[2] Clause 5 (1)

Insert in alphabetical order:

agriculture (in relation to land in the Williams River catchment) means the cultivation

of crops, and the keeping and breeding of livestock, bees or poultry and other birds, for commercial purposes, but does not include an intensive agricultural pursuit.

intensive agricultural pursuit (in relation to land in the Williams River catchment) means the use of land for agricultural purposes which include market gardening, mushroom growing, fruit growing, flower growing, viticulture, milking in a shed designed for that purpose, aquaculture or intensive animal husbandry, but does not include the use of an animal boarding or training establishment or any cultivation or husbandry carried out mainly for the personal enjoyment or consumption of its produce by the owner or occupier of the land.

intensive animal husbandry (in relation to land in the Williams River catchment) means a building or place used for the commercial breeding, boarding or nurturing, by a feeding method other than natural grazing, of cattle, pigs, sheep, goats, poultry or other livestock and includes:

- (a) feed lots containing more than 5 cattle, and
- (b) piggeries containing more than 5 pigs, and
- (c) poultry farming establishments containing more than 20 birds.

reticulated water and sewerage means water and sewerage services which are part of a system provided or operated (or both) by the responsible water or sewerage authority for the particular area (being Dungog Shire Council or Hunter Water Corporation Limited).

Williams River means the Williams River and its tributaries (including any creek, stream or land along which water flows permanently or intermittently and which is so shown in respect of the land to which this plan applies on a 1: 25 000 topographic map issued by the Department of Land and Water Conservation).

Williams River catchment means the land shown on the map marked "*Williams River Catchment Regional Environmental Plan 1997*" (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council) being the land from which surface water run-off resulting from rainfall flows directly or indirectly into the Williams River.

[3] **Clause 9 Zone objectives and development control table**

After clause 9 (7), insert:

- (8) The Council may decline to grant consent for development until after it has considered an environmental management plan, if the proposed development is likely to result in increased stormwater run-off, erosion or sedimentation or other significant pollution within the Williams River catchment.

- (9) Except as otherwise provided by this plan, the Council must not grant consent to the carrying out of development on land within the Williams River catchment unless the Council is of the opinion that the carrying out of the development will not have a significant adverse effect on water quality in the Williams River.
- (10) The Council, when determining a development application for a site area consisting of land in the Williams River catchment, must consider:
- (a) the aims and objectives of *Williams River Catchment Regional Environmental Plan 1997*, as set out in clause 3 of that plan, and
 - (b) the *Williams River Catchment Regional Planning Strategy*.
- (11) In this clause:

environmental management plan means a plan addressing potential environmental aspects of proposed development (to the extent relevant, in the opinion of the Council, to the particular proposal), including management of potential vegetation, erosion and sedimentation impacts and assessment of land and water capability (adopting a total water cycle management approach to water use and wastewater management).

Note—

Refer to section 4.2.1 of the *Williams River Catchment Regional Planning Strategy* relating to General Strategies for Making Plans and Controlling Development.

Williams River Catchment Regional Planning Strategy means the Regional Planning Strategy of the Department of Urban Affairs and Planning for the Williams River catchment (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council).

Note—

Clause 9 (8) enables Dungog Shire Council to decline granting consent to development applications until after the council has considered an environmental management plan, where considered necessary. Clause 9 (9) requires the council to refuse consent where development within the Williams River catchment is likely to have a significant adverse effect on river water quality. Clause 9 (10) requires assessment of development applications relating to land within the Williams River catchment against the aims and objectives of this regional plan and the regional planning strategy.

[4] Clause 9, Table

Insert in item 3 (Only with development consent) of the matter relating to Zones Nos 1 (c) and 1 (d) in alphabetical order the words “intensive agricultural pursuits within the Williams River catchment;”.

[5] Clause 9, Table

Omit the word “Open” from item 3 (Only with development consent) of the matter relating

to Zone No 7 (a).

Insert instead the words “Intensive agricultural pursuits within the Williams River catchment; open”.

[6] Clause 12 General considerations for development within rural zones

Insert after clause 12 (3):

- (4) The Council may grant consent for a subdivision that will create an allotment of land within the Williams River catchment in a rural zone that the Council is satisfied will be used for the purpose of erecting a dwelling only if:
 - (a) the allotment has an adequate area of suitable soils available for on-site septic effluent disposal located away from drainage lines and shallow or impervious soils, or
 - (b) arrangements that the Council considers adequate have been made for the land to be connected to reticulated water and sewerage services.

Note—

Clause 12 (4) should be considered in the context of the provisions of sections 4.1 and 4.2 of the *Williams River Catchment Regional Planning Strategy* relating to closer rural settlement and rural buildings. Those provisions establish guidelines for effluent disposal standards, site selection and assessment criteria.

[7] Clause 12A

After clause 12, insert:

12A Development near river banks

- (1) Despite any other provision of this plan, a person must not, except with the consent of the Council, on land within 30 metres of a bank of the Williams River and within the Williams River catchment:
 - (a) erect a building (or alter or add to a building so as to enlarge or extend it), or
 - (b) destroy any tree (whether or not a native tree) that has a diameter of 15 centimetres or more at a height of 1.5 metres above the ground or that has crown spreads of 3 metres or more, unless the tree is dying or dead or has become dangerous, or
 - (c) construct dams, drainage works, levee banks or water storage areas, or
 - (d) carry out any other development.
- (2) Despite any other provision of this plan, a person must not, except with the

consent of the Council, subdivide land within 30 metres of a bank of the Williams River and within the Williams River catchment.

- (3) The Council must not grant consent as referred to in subclause (1) or (2) unless, in the opinion of the Council, the destruction of any trees, or the subdivision or other development of the land, will be carried out in a manner which, in respect of that land and the adjacent land, does not result in a significantly increased risk of:
- (a) soil erosion or other environmental degradation, or
 - (b) loss of vegetation or habitat, or
 - (c) disturbance of sodic or dispersive soils, or
 - (d) degradation of water quality or the quality of groundwater supplies.
- (4) This clause does not apply to development for the purpose of fencing, revegetation or river management works.
- (5) In this clause, **river management works** means works carried out for the purpose of improving the river corridor of the Williams River in accordance with:
- (a) the conditions subject to which funding has been provided for the works by the Department of Land and Water Conservation, or
 - (b) a permit or other approval granted by the Director-General of that Department, or
 - (c) a Rivercare or Landcare plan or the like administered by the Hunter Catchment Management Trust.

[8] Clause 32 Subdivision of land within Zone No 2 (a)

At the end of clause 32 (2), insert:

This subclause does not apply to land within the Williams River catchment.

[9] Clause 32 (2A)

After clause 32 (2), insert:

- (2A) Despite any other provision of this plan, the Council may grant consent for a subdivision that will create an allotment of land within Zone No 2 (a) and the Williams River catchment that the Council is satisfied will be used for the purpose of erecting a dwelling only if:
- (a) the allotment will have an area of not less than 600 square metres and a

frontage to a public road of not less than 20 metres, and

- (b) arrangements that the Council considers adequate have been made for the land to be connected to reticulated water and sewerage services.

[10] Clause 33 Dwelling-houses within Zone No 2 (a)

Insert “and the land is not within the Williams River catchment” in clause 33 (1) (b) after the words “to the land”.

[11] Clause 33 (1) (b)

At the end of the paragraph, insert:

, or

- (c) where no reticulated sewerage service is available to the land and the land is within the Williams River catchment—the land has an adequate area of suitable soils available for on-site septic effluent disposal located away from drainage lines and shallow or impervious soils.

[12] Clause 33 (2)

Omit the subclause. Insert instead:

- (2) Subclause (1) does not apply to an allotment of land in existence as a separate allotment at the appointed day unless the allotment is within the Williams River catchment.

[13] Clause 34A

After clause 34, insert:

34A Dwellings in Clarence Town

Despite any other provision of this plan, the Council must not consent to development for the purpose of two or more dwellings (whether attached or detached) on a single allotment of land within Zone No 2 (a) located within the township of Clarence Town and the Williams River catchment unless arrangements have been made that the Council considers adequate for the land to be connected to reticulated water and sewerage services.

Note—

Multiple dwellings (such as residential flat buildings and dual occupancy buildings) on single residentially-zoned lots in Clarence Town will not be consented to unless adequate reticulated water and sewerage services can be arranged.

Schedule 2 Amendment of Port Stephens Local Environmental Plan 1987

(Clause 5 (4))

[1] Clause 5 Definitions

Insert “(except in relation to land in the Williams River catchment)” after the defined terms quoted in the definitions of **agriculture** and **intensive animal husbandry** in clause 5 (1).

[2] Clause 5 (1)

Insert in alphabetical order:

agriculture (in relation to land in the Williams River catchment) means the cultivation of crops, and the keeping and breeding of livestock, bees or poultry and other birds, for commercial purposes, but does not include an intensive agricultural pursuit.

intensive agricultural pursuit (in relation to land in the Williams River catchment) means the use of land for agricultural purposes which include market gardening, mushroom growing, fruit growing, flower growing, viticulture, milking in a shed designed for that purpose, aquaculture or intensive animal husbandry, but does not include the use of an animal boarding or training establishment or any cultivation or husbandry carried out mainly for the personal enjoyment or consumption of its produce by the owner or occupier of the land.

intensive animal husbandry (in relation to land in the Williams River catchment) means a building or place used for the commercial breeding, boarding or nurturing, by a feeding method other than natural grazing, of cattle, pigs, sheep, goats, poultry or other livestock and includes:

- (a) feed lots containing more than 5 cattle, and
- (b) piggeries containing more than 5 pigs, and
- (c) poultry farming establishments containing more than 20 birds.

reticulated water and sewerage means water and sewerage services which are part of a system provided or operated (or both) by the responsible water or sewerage authority for the particular area (being Hunter Water Corporation Limited).

Williams River means the Williams River and its tributaries (including any creek, stream or land along which water flows permanently or intermittently and which is so shown in respect of the land to which this plan applies on a 1: 25 000 topographic map issued by the Department of Land and Water Conservation).

Williams River catchment means the land shown on the map marked “*Williams River Catchment Regional Environmental Plan 1997*” (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council) being the land from which surface water run-off resulting from rainfall flows directly or indirectly into the Williams River.

[3] Clause 9 Zone objectives and development control table

After clause 9 (3), insert:

- (4) The council may decline to grant consent for development until after it has considered an environmental management plan, if the proposed development is likely to result in increased stormwater run-off, erosion or sedimentation or other significant pollution within the Williams River catchment.
- (5) Except as otherwise provided by this plan, the council must not grant consent to the carrying out of development on land within the Williams River catchment unless the council is of the opinion that the carrying out of the development will not have a significant adverse effect on water quality in the Williams River.
- (6) The council, when determining a development application for a site area consisting of land in the Williams River catchment, must consider:
 - (a) the aims and objectives of *Williams River Catchment Regional Environmental Plan 1997*, as set out in clause 3 of that plan, and
 - (b) the *Williams River Catchment Regional Planning Strategy*.
- (7) In this clause:

environmental management plan means a plan addressing potential environmental aspects of proposed development (to the extent relevant, in the opinion of the council, to the particular proposal), including management of potential vegetation, erosion and sedimentation impacts and assessment of land and water capability (adopting a total water cycle management approach to water use and wastewater management).

Note—

Refer to section 4.2.1 of the *Williams River Catchment Regional Planning Strategy* relating to General Strategies for Making Plans and Controlling Development.

Williams River Catchment Regional Planning Strategy means the Regional Planning Strategy of the Department of Urban Affairs and Planning for the Williams River catchment (kept in the Newcastle office of the Department of Urban Affairs and Planning, and copies of which are kept in the offices of Dungog Shire Council and Port Stephens Council).

Note—

Clause 9 (4) enables Port Stephens Council to decline granting consent to development applications until after the council has considered an environmental management plan, where considered necessary. Clause 9 (5) requires the council to refuse consent where development within the Williams River catchment is likely to have a significant adverse effect on river water quality. Clause 9 (6) requires assessment of development applications relating to land within the Williams River catchment against the aims and objectives of this regional plan and the regional planning strategy.

[4] Clause 11A

After clause 11, insert:

11A Subdivision for the purpose of dwellings on land within Zone No 1 (a) or 1 (g) in Williams River catchment

Despite any other provision of this plan, the council may grant consent for a subdivision that will create an allotment of land within the Williams River catchment that the council is satisfied will be used for the purpose of erecting a dwelling only if:

- (a) the allotment has an adequate area of suitable soils available for on-site septic effluent disposal located away from drainage lines and shallow or impervious soils, or
- (b) arrangements that the council considers adequate have been made for the land to be connected to reticulated water and sewerage services.

Note—

Clause 11A enables Port Stephens Council to consent to a subdivision to create allotments for the erection of dwellings, subject to there being an area for effluent disposal or a sewerage service connection which is satisfactory to the council. The Williams River Catchment Regional Planning Strategy (sections 4.1 and 4.2) provides best practice advice and criteria for the council and guidance as to what is a satisfactory on-site disposal system.

[5] Clause 22A

After clause 22, insert:

22A Development near river banks

- (1) Despite any other provision of this plan, a person must not, except with the consent of the council, on land within 30 metres of a bank of the Williams River and within the Williams River catchment:
 - (a) erect a building (or alter or add to a building so as to enlarge or extend it), or
 - (b) construct dams, drainage works, levee banks or water storage areas, or
 - (c) carry out any other development.

- (2) Despite any other provision of this plan, a person must not, except with the consent of the council, subdivide land within 30 metres of a bank of the Williams River and within the Williams River catchment.
- (3) The council must not grant consent as referred to in subclause (1) or (2) unless, in the opinion of the council, the subdivision or other development of the land, will be carried out in a manner which, in respect of that land and the adjacent land, does not result in a significantly increased risk of:
 - (a) soil erosion or other environmental degradation, or
 - (b) loss of vegetation or habitat, or
 - (c) disturbance of sodic or dispersive soils, or
 - (d) degradation of water quality or the quality of groundwater supplies.
- (4) This clause does not apply to development for the purpose of fencing, revegetation or river management works.
- (5) In this clause, **river management works** means works carried out for the purpose of improving the river corridor of the Williams River in accordance with:
 - (a) the conditions subject to which funding has been provided for the works by the Department of Land and Water Conservation, or
 - (b) a permit or other approval granted by the Director-General of that Department, or
 - (c) a Rivercare or Landcare plan or the like administered by the Hunter Catchment Management Trust.

Note—

Clause 22A requires Port Stephens Council's consent for the erection or alteration of a building, for the construction of a dam or similar works, or for any other development within 30 metres of a bank of the Williams River (with the exception of river management works) and for the subdivision of any such land. Consent may be granted only if the council is of the opinion the development will not result in significant environmental risk or loss, or substantial water quality degradation.

[6] Clause 25A

After clause 25, insert:

25A Development in Seaham

- (1) Despite any other provision of this plan, the council may grant consent for a subdivision of land within Zone No 2 (e) located within the township of Seaham and the Williams River catchment that will create an allotment the council is

satisfied will be used for the purpose of erecting a dwelling only if arrangements the council considers adequate have been made for the land to be connected to reticulated water and sewerage services.

- (2) Despite any other provision of this plan, the council must not consent to development for the purpose of two or more dwellings (whether attached or detached) on a single allotment of land within Zone No 2 (e) located within the township of Seaham and the Williams River catchment unless arrangements have been made for the land to be connected to reticulated water and sewerage services.

Note—

Clause 25A requires any subdivision for residential purposes within the Residential Village “E” Zone at Seaham to have reticulated water and sewerage services which Port Stephens Council considers to be adequate, and prevents the council from consenting to multiple dwellings on a single allotment in Seaham, unless it is satisfied that reticulated water and sewerage services are to be available.