

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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New South Wales

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State Environmental Planning Policy (Biodiversity and Conservation) 2021



New South Wales

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State Environmental Planning Policy (Biodiversity and Conservation) 2021



New South Wales

Chapter 1 Preliminary

1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

1.2 Commencement

This Policy commences on 1 March 2022 and is required to be published on the NSW legislation website.

1.3 Definitions

In this Policy—

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

1.4 Transferred provisions

The *Interpretation Act 1987*, section 30A is taken to apply to the provisions transferred to this Policy on the commencement of this Policy in the same way as it applies to provisions transferred from a statutory rule to another statutory rule.

Note—

The *Interpretation Act 1987*, section 30A provides—

- (a) the transfer of a provision does not affect the operation or meaning of the provision, and
- (b) a transferred provision is to be construed as if it had not been transferred.

Chapter 2 Vegetation in non-rural areas

Part 2.1 Preliminary

2.1 Aims of Chapter

The aims of this Chapter are—

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

2.2 Definitions

(1) In this Chapter—

Allowable Clearing Map means the [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017 Allowable Clearing Map](#).

approval means an approval granted by the Native Vegetation Panel under Part 2.4.

biodiversity development assessment report—see section 6.12 of the [Biodiversity Conservation Act 2016](#).

biodiversity offsets scheme threshold means the biodiversity offsets scheme threshold referred to in section 7.4 of the [Biodiversity Conservation Act 2016](#), except that, for the purposes of this Chapter, the threshold is to be determined without regard to clause 7.3 (4) of the [Biodiversity Conservation Regulation 2017](#).

Note—

Section 7.3 (4) provides that the threshold is not exceeded merely because proposed development (other than subdivision) is to be carried out on a lot included on the *Biodiversity Values Map* if the lot was the result of a subdivision carried out before the commencement of that Act and the lot is within land zoned R1 to R4, RU5, B1 to B8 or IN1 to IN3.

biodiversity values—see section 1.5 of the [Biodiversity Conservation Act 2016](#).

clear vegetation, includes—

- (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or
- (b) lop or otherwise remove a substantial part of the vegetation.

landholder means a person who is the owner of land or who, whether by reason of

ownership or otherwise, is in lawful occupation or possession, or has lawful management or control, of land.

native vegetation has the same meaning as in Part 5A of the [Local Land Services Act 2013](#).

Native Vegetation Panel means the Native Vegetation Panel established under section 60ZE of the [Local Land Services Act 2013](#).

non-rural areas of the State, means the land to which this Chapter applies.

permit means a permit issued by a council under Part 2.3.

private land, for Part 2.4—see section 2.25.

the Act means the [Environmental Planning and Assessment Act 1979](#).

vegetation means a tree or other vegetation, whether or not it is native vegetation.

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Chapter.

(2) Notes included in this Chapter do not form part of this Chapter.

2.3 Land to which Chapter applies

(1) This Chapter applies to the following areas of the State (the non-rural areas of the State)—

(a) land in the following local government areas—

Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.

(b) land within the following zones under an environmental planning instrument—

Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone SP1

Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private Recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.

- (2) This Chapter does not apply to national park estate and other conservation areas, or State forestry land, referred to in section 60A (b) and (c) of the *Local Land Services Act 2013*. However, this Chapter applies to land that is any such national park estate and other conservation area only because it is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*.

Note—

Part 5A (Land management (native vegetation)) of the *Local Land Services Act 2013* does not apply to non-rural areas to which this Chapter applies.

2.4 Relationship to other planning instruments

- (1) This Chapter does not affect the provisions of any other State Environmental Planning Policy or any provisions of a local environmental plan that are mandatory provisions under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) This Chapter prevails to the extent of any inconsistency with any provisions of a local environmental plan that are not mandatory provisions under the *Standard Instrument (Local Environmental Plans) Order 2006*.

Note—

This Chapter does not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.

2.5 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace the map, and approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Chapter to the named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Chapter are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

Part 2.2 Clearing vegetation in non-rural areas

2.6 Clearing that requires permit or approval

- (1) A person must not clear vegetation in a non-rural area of the State to which Part 2.3 applies without the authority conferred by a permit granted by the council under that Part.
- (2) A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 2.4.
- (3) Subsection (2) does not apply to clearing on biodiversity certified land under the *Biodiversity Conservation Act 2016*, Part 8.
- (4) Clearing of vegetation is not authorised under this section unless the conditions to which the authorisation is subject are complied with.
- (5) Subsection (4) extends to a condition that imposes an obligation on the person who clears the vegetation that must be complied with before or after the clearing is carried out.
- (6) For the purposes of the Act, section 4.3, clearing vegetation that requires a permit or approval under this Chapter is prohibited if the clearing is not carried out in accordance with the permit or approval.

2.7 Clearing that does not require permit or approval

- (1) A permit or approval to clear vegetation is not required under this Chapter if it is clearing of a kind that is authorised under the *Local Land Services Act 2013*, section 600 or Part 5B.
- (2) Despite the *Local Land Services Act 2013*, section 600(a)(i) and (b)(i), subsection (1) does not apply to clearing that is part of or ancillary to the carrying out of exempt development or complying development.
- (3) A permit or approval is not required under this Chapter for—
 - (a) the removal of vegetation that the council is satisfied is a risk to human life or property, or
 - (b) clearing for a traditional Aboriginal cultural activity, other than a commercial cultural activity.
- (4) A permit is not required under this Chapter for the removal of vegetation that the council is satisfied—
 - (a) is dying or dead, and

(b) is not required as the habitat of native animals.

(5) An approval is not required under this Chapter for the removal of vegetation that the Native Vegetation Panel is satisfied—

(a) is dying or dead, and

(b) is not required as the habitat of native animals.

Note—

See also Part 2.5, which sets out certain clearing that does not require a permit or approval under this Chapter if the clearing—

(a) is carried out on certain primary production land in Zone R5, E2, E3 or E4, and

(b) complies with the requirements of Part 2.5.

2.8 Clearing permitted without development consent

Clearing of vegetation in a non-rural area of the State is permitted without development consent if—

(a) the clearing—

(i) is not ancillary to the carrying out of other development, and

(ii) does not require a permit or approval, and

(b) the vegetation is not—

(i) a heritage item or an Aboriginal object, or

(ii) located in a heritage conservation area or Aboriginal place of heritage significance.

Part 2.3 Council permits for clearing of vegetation in non-rural areas

2.9 Vegetation to which Part applies

(1) This Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.

(2) A development control plan may make the declaration in any manner, including by reference to any of the following—

(a) the species of vegetation,

(b) the size of vegetation,

(c) the location of vegetation (including by reference to any vegetation in an area shown on a map or in any specified zone),

- (d) the presence of vegetation in an ecological community or in the habitat of a threatened species.

2.10 Council may issue permit for clearing of vegetation

- (1) A council may issue a permit to a landholder to clear vegetation to which this Part applies in any non-rural area of the State.
- (2) A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.
- (3) A permit under this Part cannot allow the clearing of vegetation—
 - (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
 - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,unless the council is satisfied that the proposed activity—
 - (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
 - (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
- (4) A permit may be granted under this Part subject to any conditions specified in the permit.

2.11 Miscellaneous provisions relating to permits

- (1) An application for a permit—
 - (a) is to be made in the form and manner required by the council, and
 - (b) is to be accompanied by the application fee (if any) determined by the council.
- (2) The council may request an applicant for a permit to provide the council with such further information about the proposed clearing as the council considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).
- (3) The council may deal with the application if the applicant notifies the council that the information will not be provided or if the information has not been provided within the period specified by the council or within such further period as the council may allow.
- (4) The council is to determine an application for a permit within 28 days after the date

on which the application was duly made.

- (5) Any period after the applicant is requested by the council to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the council the information will not be provided) is not to be counted in calculating that 28-day period.
- (6) An application for a permit that has not been determined is taken to have been refused after the expiration of that 28-day period.
- (7) The council may grant or refuse to grant a permit even if the application is taken to have been refused under this section.

2.12 Appeal to Land and Environment Court

- (1) An applicant for a permit may appeal to the Land and Environment Court against the refusal by a council to grant the permit.
- (2) Any such appeal is to be made within 3 months after the date on which the applicant is notified of the decision or within 3 months after the council is taken to have refused the application (whichever is the later).

Part 2.4 Approval of Native Vegetation Panel for clearing native vegetation in non-rural areas

2.13 Provisions relating to exercise of functions of Panel under this Chapter

- (1) This section applies in relation to the exercise of the functions of the Native Vegetation Panel under this Chapter.
- (2) The Native Vegetation Panel has the function of determining applications under this Part for approval to clear native vegetation in non-rural areas of the State.
- (3) The Native Vegetation Panel is not subject to the direction or control of the Minister or of any council or other body under the Act.
- (4) The Native Vegetation Panel may delegate the exercise of its functions under this Chapter in relation to any non-rural area of the State to the council of the non-rural area (other than this power of delegation).
- (5) The Minister may, for the purposes of this Chapter, make arrangements for the provision to the Native Vegetation Panel of staff and facilities of (and information relating to the administration of this Chapter held by) a Public Service agency responsible to the Minister or a council.

2.14 Obtaining approval of Panel for clearing of native vegetation

- (1) An application may be made to the Native Vegetation Panel by or on behalf of the

landholder for approval to clear native vegetation in any non-rural area of the State.

- (2) The Native Vegetation Panel may, in accordance with this Part, grant an approval to clear the native vegetation under this Part or refuse the application.
- (3) An application for approval for the clearing of native vegetation may only be dealt with under this Part if the clearing exceeds the biodiversity offsets scheme threshold.
- (4) An approval may only be granted under this Part if the land is being cleared for a purpose specified in the application for approval and—
 - (a) the land can be used for that purpose without—
 - (i) development consent, other than a complying development certificate, or
 - (ii) State significant infrastructure approval under the Act, and
 - (b) the clearing of the land is not part of an activity that is carried out by, or that requires the approval of, a determining authority within the meaning of Part 5 of the Act.
- (5) In determining an application for approval under this Part, the Native Vegetation Panel is to take into consideration the environmental, social and economic impacts of the proposed clearing (in accordance with the principles of ecologically sustainable development) having regard to the purpose for which the land is to be used after it is cleared. In relation to the environmental impacts, the Native Vegetation Panel is to take into consideration (without limitation) the following—
 - (a) the likely impact of the proposed clearing on biodiversity values as set out in a biodiversity development assessment report that has been submitted by the applicant for the approval in accordance with this Part,
 - (b) whether the clearing of the native vegetation is likely to cause or increase soil erosion, salination, acidification, land slip, flooding, pollution or other adverse land or water impacts,
 - (c) any future clearing of native vegetation on the land that has been duly authorised or notified but not yet carried out.

The Native Vegetation Panel is also to take into consideration any biodiversity or heritage matter that an applicable environmental planning instrument or development control plan requires the Panel to take into consideration in relation to the impact of the proposed clearing.

- (6) The Native Vegetation Panel must refuse to grant approval under this Part if the Panel is of the opinion that the proposed clearing of native vegetation is likely to have serious and irreversible impacts on biodiversity values. ***Serious and irreversible impacts on biodiversity values*** means serious and irreversible impacts on

biodiversity values as determined under section 6.5 of the *Biodiversity Conservation Act 2016* that would remain after the measures proposed to be taken to avoid or minimise the impact of the proposed clearing on biodiversity values.

- (7) An approval under this Part may be granted subject to such conditions relating to the clearing as are specified in the approval (including in relation to any matter referred to in subsection (5)). However, an approval cannot be granted subject to conditions relating to the use of the land after it has been cleared.
- (8) An approval under this Part may be granted even if part of the clearing is otherwise authorised under section 2.7.
- (9) An approval under this Part may not be granted to carry out forestry operations within the meaning of Part 5B of the *Local Land Services Act 2013*.
- (10) An approval under this Part may be granted subject to a condition that any development consent that authorises the clearing of native vegetation on the land is surrendered under the Act. Any such development consent may be granted subject to a condition that any approval under this Part is surrendered.
- (11) An application for approval under this Part may be made jointly by or on behalf of a group of landholders. In that case, the application is to be assessed and determined under this Part having regard to the whole area that is the subject of the application.

2.15 Biodiversity development assessment report and retirement of biodiversity credits

- (1) An approval may only be granted under this Part if a biodiversity development assessment report in respect of the proposed clearing has been obtained by the applicant for that approval and provided to the Native Vegetation Panel.
- (2) The Native Vegetation Panel is to provide the Environment Agency Head under the *Biodiversity Conservation Act 2016* with a copy of any biodiversity development assessment report that is submitted to the Native Vegetation Panel in connection with an application for approval.
- (3) If the Native Vegetation Panel decides to grant approval, the conditions of the approval must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class set out in the report (subject to subsection (4)). The residual impact is the impact after the measures that are required to be carried out by the terms or conditions of the approval to avoid or minimise the impact on biodiversity values of the proposed clearing (being measures on which the report was based).

Note—

Division 6 of Part 6 of the *Biodiversity Conservation Act 2016* enables a person who is required under this section to retire biodiversity credits to make a payment instead to the Biodiversity Conservation Fund of the value of the credits in accordance with the offsets payment calculator.

- (4) The Native Vegetation Panel may reduce or increase the number of biodiversity credits that would otherwise be required to be retired if the Panel determines that the reduction or increase is justified having regard to the environmental, social and economic impacts of the proposed clearing and the purpose for which the land is to be used after it is cleared. The Native Vegetation Panel must give reasons for a decision to reduce or increase the number of biodiversity credits.
- (5) An approval under this Part does not authorise the clearing of native vegetation until any obligation under the approval to retire biodiversity credits has been complied with.
- (6) However, an approval under this Part may provide for the staged clearing of native vegetation and for the corresponding staged retirement of the relevant number of biodiversity credits before each such stage of clearing is carried out.
- (7) For the purposes of this Part, the impact on biodiversity values of proposed clearing includes the impact of clearing or retaining dead vegetation on the land concerned, and accordingly the measures required to be carried out by the terms or conditions of an approval may include the retention of dead vegetation.
- (8) This section does not operate to limit the measures that the Native Vegetation Panel may require to avoid or minimise the impacts of proposed clearing or the power of the Native Vegetation Panel to refuse to grant approval because of those impacts.

2.16 Modification of approvals of Panel under this Part

- (1) An application may be made to the Native Vegetation Panel for the modification of an approval granted under this Part to clear native vegetation in any non-rural area of the State. The application may be made by or on behalf of the landholder concerned.
- (2) A further biodiversity development assessment report is to be provided to the Native Vegetation Panel in connection with the application unless the Native Vegetation Panel determines that the application will not increase the impact on biodiversity values.
- (3) The biodiversity development assessment report is to be made in relation to the clearing as proposed to be modified, but is to take into account any measures to avoid, minimise or offset the impacts of the proposed clearing to which the modification relates that have already been taken in connection with the approval before its modification.
- (4) The Native Vegetation Panel may—
 - (a) grant the application and modify the approval granted under this Part accordingly,
or
 - (b) refuse the application.

The Native Vegetation Panel may vary the terms of the modification sought by the applicant.

2.17 Application form

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel)—

- (a) is to be made in the form and manner required by the Panel, and
- (b) is to include any information or documentation required by that form.

2.18 Fees for applications

- (1) The Native Vegetation Panel may charge a fee for an application for approval under this Part, but not exceeding—
 - (a) \$3,000 if the area proposed to be cleared is less than 5 hectares, or
 - (b) \$9,000 if the area proposed to be cleared is 5 hectares or more.
- (2) The Native Vegetation Panel may also charge a fee for an application for the modification of an approval under this Part, but not exceeding the fee that may be charged under Part 5A of the [Local Land Services Act 2013](#) in connection with a similar application under Division 6 of that Part.

2.19 Information required in application for approval by Panel or modification of approval

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel) under this Part that seeks to vary like-for-like credit retirement obligations specified in the biodiversity development assessment report is to include information about the reasonable steps that the applicant has taken to secure the like-for-like biodiversity credits.

2.20 Panel may request further information about an application for approval or modification of approval

- (1) The Native Vegetation Panel may request an applicant for approval to clear native vegetation, or for the modification of an approval of the Panel, under this Part to provide the Panel with such further information about the proposed clearing or the proposed modification as the Panel considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).
- (2) The request—
 - (a) must be writing, and
 - (b) may specify a reasonable period within which the information must be provided to

the Native Vegetation Panel, and

(c) must include notice of the effect of a failure to provide the information on the determination of the application and on the applicant's rights of appeal with respect to the application.

(3) The Native Vegetation Panel may deal with the application if the applicant notifies the Panel in writing that the information will not be provided or if the information has not been provided within the period specified by the Panel or within such further period as the Panel may allow.

2.21 Time for dealing with applications for approval or modification of approval

(1) The Native Vegetation Panel is to determine an application for approval to clear native vegetation (or to modify an approval of the Panel) under this Part within 90 days after the date on which the application was duly made.

(2) Any period after the applicant is requested by the Native Vegetation Panel to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the Panel the information will not be provided) is not to be counted in calculating that 90-day period.

(3) An application for approval (or the modification of an approval) that has not been determined is taken to have been refused after the expiration of that 90-day period.

(4) The Native Vegetation Panel may grant or refuse to grant an application even if the application is taken to have been refused under this section.

2.22 Appeal against approval decisions of Panel

(1) A landholder may appeal to the Land and Environment Court against a decision to refuse an application by the landholder for approval under this Part or for the modification of any such approval or against a decision to impose a condition of any such approval.

(2) Any such appeal is to be made within 6 months after the date on which the applicant is notified of the decision or within 6 months after the Panel is taken to have refused the application (whichever is the later).

(3) In this section, a reference to a landholder includes a reference to a person who makes a relevant application on behalf of the landholder.

2.23 Lapsing of approval

(1) An approval of the Native Vegetation Panel to clear native vegetation lapses 5 years after the date from which it operates.

(2) Any such approval does not lapse if the clearing is commenced before the date on

which the approval would otherwise lapse.

- (3) The Native Vegetation Panel may set out, in any such approval, circumstances in which clearing is or is not taken to be commenced for the purposes of this section.

2.24 Miscellaneous provisions relating to approvals of Panel

- (1) An approval under this Part applies to the clearing of native vegetation by or on behalf of the landholder to whom it was granted and by or on behalf of any other person who becomes a landholder of the land concerned after the approval was granted.
- (2) If an application for approval (or for the modification of an approval) under this Part is refused by the Native Vegetation Panel, the applicant is to be given the reasons for the decision.
- (3) An approval of the Native Vegetation Panel to clear native vegetation operates from the date the approval is granted or, if a later date is specified in the approval, from that later date. If an application for approval is refused and the Land and Environment Court decides to grant approval on appeal, the decision is taken to be an approval granted by the Native Vegetation Panel and operates from the date of that decision.
- (4) To avoid doubt, the Native Vegetation Panel is not a determining authority for the purposes of Part 5 of the Act when granting or modifying an approval under this Part.

Part 2.5 Clearing of native vegetation on primary production land in Zones R5, E2, E3 and E4 that does not require permit or approval

Division 1 Preliminary

2.25 Definitions

- (1) In this Part—

private land has the same meaning as in the [Local Land Services Act 2013](#).

- (2) In this Part, a reference to land in Zone R5, E2, E3 or E4 is a reference to the following zones under an environmental planning instrument that applies to the land—
 - (a) Zone R5 Large Lot Residential,
 - (b) Zone E2 Environmental Conservation,
 - (c) Zone E3 Environmental Management,
 - (d) Zone E4 Environmental Living.

2.26 General requirements

- (1) This Part sets out the clearing of native vegetation that does not require a permit or

approval under this Chapter.

- (2) A permit or approval is not required to clear native vegetation under this Chapter only if the requirements of this Part that apply to the clearing are complied with.
- (3) The clearing must be carried out by or on behalf of the landholder, unless otherwise provided.
- (4) The clearing must be carried out in a way that minimises the risk of soil erosion.
- (5) The clearing must be carried out only to the minimum extent necessary for the purpose for which the clearing is carried out.
- (6) This Part does not authorise the clearing of native vegetation on land that is subject to an order under the *Biodiversity Conservation Act 2016*, Part 11.

2.27 Measurement of maximum distances for clearing

- (1) In this Part, the maximum distance of clearing of native vegetation means—
 - (a) for linear infrastructure—the total width of the clearing, or
 - (b) for fixed point infrastructure—the maximum distance of the clearing measured from the perimeter of the infrastructure.
- (2) The maximum distance of clearing for fixed point infrastructure includes the area on which the infrastructure is located in addition to the maximum distance of the clearing from the perimeter of the infrastructure.
- (3) The maximum distances of clearing of native vegetation are not cumulative.
- (4) If the maximum distance for an item of infrastructure overlaps with the maximum distance for another item of infrastructure, the distances are not to be combined.
- (5) A maximum distance of clearing specified in this Part in relation to an item of infrastructure on a landholding applies even if part of the clearing within the maximum distance is carried out on an adjoining landholding.

2.28 Separate items of infrastructure to be constructed to reduce overall distance of clearing

This Part does not apply to clearing for an item of infrastructure constructed by a landholder on the same landholding as another item of infrastructure for which clearing may be carried out without a permit or approval under this Part if—

- (a) the item of infrastructure could have been constructed closer to the other item of infrastructure to reduce the overall distance of the clearing for both items of infrastructure to the smallest overall distance, and

- (b) the landholder does not provide a reasonable justification for the location of the item of infrastructure constructed by the landholder.

Division 2 Clearing in Zones R5, E2, E3 and E4

2.29 Land to which Division applies

This Division applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

- (a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and
- (b) in Zone R5, E2, E3 or E4.

2.30 Clearing for construction and maintenance of fences and farm tracks

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for—
 - (a) the construction of a permanent boundary fence, or
 - (b) the maintenance of—
 - (i) an existing permanent boundary fence, or
 - (ii) an existing permanent internal fence, or
 - (iii) an existing farm track.

Note—

See section 2.36 in relation to clearing for the construction of a farm track on land in Zones R5, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

2.31 Clearing for maintenance of water supply and gas infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of an existing public utility associated with water supply infrastructure or gas supply infrastructure.
- (2) The clearing must be carried out by or on behalf of—
 - (a) the owner of the infrastructure, or
 - (b) the landholder.

2.32 Clearing for maintenance of telecommunications infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of existing telecommunications infrastructure.

- (2) The clearing must be carried out by or on behalf of—
 - (a) the owner of the infrastructure, or
 - (b) the landholder.

2.33 Clearing for maintenance of electricity transmission infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of an existing public utility associated with the transmission of electricity (an **electricity utility**).
- (2) Maintenance of an electricity utility includes the following activities only if the activity is carried out by or at the written direction of a relevant person—
 - (a) maintaining the necessary safety clearance—
 - (i) under power lines, conductors and structures, and
 - (ii) around communication sites associated with the supply of electricity,
 - (b) minimising fuel loads under power lines to minimise the chance of smoke from a fire resulting in a line trip,
 - (c) maintaining existing access roads and tracks.
- (3) Maintenance of an electricity utility does not include the following—
 - (a) the construction of a new access road or track,
 - (b) the removal of low growing groundcover,
 - (c) maintaining a safety clearance from power lines that exceeds either of—
 - (i) the maximum clearing distance, or
 - (ii) the minimum distance that will ensure reliability of supply under all loading and environmental conditions and minimise the risk of arcing.
- (4) In this section—

maximum clearing distance means the distance specified in the following table for the voltage of the power line—

Nominal operating voltage of power line	Maximum clearing distance
Not more than 11 kV	20 metres
Above 11 kV up to and including 33 kV	25 metres
Above 33 kV up to and including 66 kV	30 metres

Above 66 kV up to and including 132 kV	45 metres
Above 132 kV up to and including 330 kV	60 metres
Above 330 kV	70 metres

relevant person means the person or body—

- (a) in which the electricity utility is vested, or
- (b) that has the responsibility for the electricity utility's safe operation.

2.34 Clearing for maintenance and operation of private power lines

A permit or approval to clear native vegetation is not required under this Chapter if the clearing is reasonably necessary for the maintenance or operation of existing privately owned power lines on private land.

Note—

See section 2.39 in relation to clearing for the construction of privately owned power lines on private land in Zones R5, E3 and E4.

Division 3 Clearing in Zones R5, E3 and E4

2.35 Land to which Division applies

This Part applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

- (a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and
- (b) in Zone R5, E3 or E4.

2.36 Clearing for construction of farm tracks

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the construction of a farm track if—
 - (a) the farm track is reasonably required to access sites within or on the other side of the land, and
 - (b) the route of the farm track minimises the clearing that is required to be carried out.

Note—

See section 2.30 in relation to clearing for the maintenance of an existing farm track on land in Zones R5, E2, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

2.37 Clearing of planted native vegetation

- (1) A permit or approval to clear native vegetation that has been planted is not required under this Chapter if the clearing complies with the requirements of this section.
- (2) If the clearing is carried out on land to which a private native forestry plan applies and native vegetation has been planted as part of stocking or regeneration requirements, the stocking or regeneration requirements must be met.
- (3) The clearing must not be carried out on land within a buffer distance from a water body, within the meaning of the [Land Management \(Native Vegetation\) Code 2018](#), clause 15.
- (4) This section does not apply if the native vegetation was planted with the assistance of public funds granted for a purpose other than for forestry purposes.
- (5) In this section—

Land Management (Native Vegetation) Code 2018 means the [Land Management \(Native Vegetation\) Code 2018](#) under the [Local Land Services Act 2013](#), Part 5A, Division 5 as in force on 5 December 2019.

private native forestry plan has the same meaning as in the [Local Land Services Act 2013](#), Part 5B.

stocking or regeneration requirements means stocking or regeneration requirements that apply under—

- (a) a private native forestry code of practice, within the meaning of the [Local Land Services Act 2013](#), Part 5B, or
- (b) a direction given or requirement made by the Environment Protection Authority.

2.38 Clearing for environmental protection works

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the purpose of environmental protection works.
- (2) For the purposes of this section, **environmental protection works** are—
 - (a) works associated with the rehabilitation of land towards its natural state, and
 - (b) works to protect land from environmental degradation.
- (3) Environmental protection works include the following—
 - (a) re-vegetation or bush regeneration works,
 - (b) wetland protection works,

(c) erosion protection works,

(d) dune restoration work.

(4) Environmental protection works do not include coastal protection works, within the meaning of the *Coastal Management Act 2016*.

2.39 Clearing for construction of private power lines

A permit or approval to clear native vegetation is not required under this Chapter if the clearing is reasonably necessary for the construction of privately owned power lines on private land.

Note—

See section 2.34 in relation to the maintenance and operation of existing privately owned power lines on private land in Zones R5, E2, E3 and E4.

Chapter 3 Koala habitat protection 2020

Part 3.1 Preliminary

3.1 Aims of Chapter

This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

3.2 Definitions

In this Chapter—

core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population.

guidelines means the guidelines, as in force from time to time, made for the purposes of this Chapter by the Planning Secretary.

Planning for Bush Fire Protection means the document referred to in clause 272 of the *Environmental Planning and Assessment Regulation 2000*.

potential koala habitat means areas of native vegetation where trees of the types listed in Schedule 1 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

3.3 Land to which Chapter applies

(1) This Chapter applies to land in the following land use zones, or an equivalent land use zone, in a local government area specified in Schedule 1 of *State Environmental Planning Policy (Koala Habitat Protection) 2021*, but not if the local government area is marked with an * in that Schedule—

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry.

(2) In this section—

equivalent land use zone has the same meaning as it has in *State Environmental Planning Policy (Koala Habitat Protection) 2021*.

3.4 Exempt land

(1) The objective of this section is to enable the clearing of feed tree species to create an asset protection zone as part of the replacement of a lawfully erected dwelling house that has been damaged or destroyed by a bush fire.

(2) This Chapter does not apply to land forming part of an asset protection zone cleared for a dwelling house if—

- (a) the dwelling house is replacing a lawfully erected dwelling house damaged or destroyed by a bush fire, and
- (b) the development application for the replacement dwelling house is made to the consent authority no later than 5 years after the day the bush fire caused the damage or destruction, and
- (c) the asset protection zone is cleared in accordance with Planning for Bush Fire Protection.

Part 3.2 Development control of koala habitats

3.5 Land to which this Part applies

This Part applies to land—

- (a) that is land to which this Chapter applies, and
- (b) that is land in relation to which a development application has been made, and

- (c) that, whether or not the development application applies to the whole, or only part, of the land—
 - (i) has an area of more than 1 hectare, or
 - (ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare.

3.6 Step 1—Is the land potential koala habitat?

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.
- (2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification.
- (3) If the council is satisfied—
 - (a) that the land is not a potential koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or
 - (b) that the land is a potential koala habitat, it must comply with section 3.7.

3.7 Step 2—Is the land core koala habitat?

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself as to whether or not the land is a core koala habitat.
- (2) The council may be satisfied as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.
- (3) If the council is satisfied—
 - (a) that the land is not a core koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or
 - (b) that the land is a core koala habitat, it must comply with section 3.8.

3.8 Step 3—Can development consent be granted in relation to core koala habitat?

- (1) Before granting consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.

- (2) The council's determination of the development application must not be inconsistent with the plan of management.

3.9 Guidelines—matters for consideration

Without limiting section 3.15, a council must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.

Part 3.3 Plans of management

3.10 Preparation of plan of management

- (1) A plan of management may be prepared for—
 - (a) all land to which this Chapter applies in a local government area,
 - (b) a part of that land, including an area of land that is the subject of a development application.
- (2) Anyone, including a council, may prepare a plan of management.
- (3) A plan of management is to be prepared in accordance with the guidelines.

3.11 Approval of plan of management

- (1) A plan of management prepared by a council has no effect unless it is approved by the Planning Secretary.
- (2) A plan of management prepared by a person other than a council has no effect unless it is approved by the council for the relevant local government area and by the Planning Secretary.
- (3) A plan of management takes effect on the day it is approved by the Planning Secretary or on a later day specified in it for the purpose.

3.12 Amendment or repeal of plan of management

A plan of management may be amended or repealed by another plan of management prepared and approved in accordance with this Part.

Part 3.4 Other environmental planning measures

3.13 Surveys, environment protection zones and development control plans

- (1) In order to give effect to the aims of this Chapter, a council of a local government area in which there is land to which this Chapter applies must—
 - (a) survey the land so as to identify areas of potential koala habitat and core koala habitat, and

- (b) consider making or amending a local environmental plan—
 - (i) to include land identified as a core koala habitat within an environment protection zone, or
 - (ii) to identify land that is a core koala habitat and apply special provisions to control the development of that land, and
- (c) consider preparing an appropriate development control plan for land that is or adjoins a core koala habitat.

- (2) Subsection (1)(a) does not apply to a council that has, before the commencement of this section, carried out a survey to identify areas of potential koala habitat and core koala habitat in relation to the whole of its local government area.

3.14 Preparation of local environmental studies

- (1) If, under a planning proposal, a council proposes to zone or rezone land that is a potential koala habitat or a core koala habitat otherwise than as an environment protection zone, the Minister may require the council to prepare an environmental study of the land.
- (2) The council must prepare the environmental study in accordance with the specifications, if any, relating to the form, content and preparation of the study as have been notified to the council by the Minister.
- (3) The environmental study must be prepared with regard to the matters, relating to the environment of the land, as determined by the council, subject to the specifications.
- (4) The council must have regard to an environmental study prepared under this section in preparing the proposed instrument to which the planning proposal relates.
- (5) Subsection (1) does not apply if a council has, before the commencement of the subsection, prepared an environmental study of the land.

3.15 Guidelines—generally

- (1) In exercising a function under this Chapter, a council must take into consideration the guidelines that are relevant to the exercise of the function.
- (2) Anyone may inspect the guidelines free of charge at an office of the Department during the hours when the office is open to the public.

Part 3.5 Savings and repeal provisions

3.16 Savings provision relating to plans of management

The following are taken to be plans of management made under this Chapter—

- (a) a plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that was kept in force by clause 16 of *State Environmental Planning Policy (Koala Habitat Protection) 2019*,
- (b) a koala plan of management approved under *State Environmental Planning Policy (Koala Habitat Protection) 2019* and in force immediately before the repeal of that Policy.

Chapter 4 Koala habitat protection 2021

Part 4.1 Preliminary

4.1 Aim of Chapter

This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Editorial note—

Guidelines are being made by the Planning Secretary with the agreement of the Secretary of Regional NSW for the purposes of Parts 4.2 and 4.3 of this Chapter. When the Guidelines are made this Chapter is to be amended to incorporate references to the Guidelines.

4.2 Definitions

(1) In this Chapter—

approved koala plan of management, for land, means a koala plan of management for the land approved in accordance with section 4.14.

core koala habitat means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

equivalent land use zone—see section 4.3.

former Koala SEPP, in relation to land to which this Chapter applies, means the following—

- (a) *State Environmental Planning Policy No 44—Koala Habitat Protection*,
- (b) *State Environmental Planning Policy (Koala Habitat Protection) 2019*,

(c) *State Environmental Planning Policy (Koala Habitat Protection) 2020*.

koala habitat means koala habitat however described in a plan of management under this Chapter or a former Koala SEPP and includes core koala habitat.

Planning for Bush Fire Protection means the document referred to in clause 272 of the *Environmental Planning and Assessment Regulation 2000*.

suitably qualified and experienced person means a person who has—

- (a) a tertiary qualification in ecology, environmental management, forestry or other equivalent qualifications, and
- (b) experience in flora and fauna identification, survey and management, including experience in conducting koala surveys.

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Chapter.

(2) Notes included in this Chapter do not form part of this Chapter.

4.3 Equivalent land use zones

(1) A non-standard zone is an **equivalent land use zone** to 1 of the following land use zones (a **standard zone**) if the land uses specified for the standard zone are permitted in the non-standard zone—

Land use zone	Permitted land uses
RU1 Primary Production	Primary production, including agriculture and a diverse range of primary industry enterprises
RU2 Rural Landscape	Compatible rural land uses, including extensive agriculture
RU3 Forestry	Forestry land uses and other development compatible with forestry land uses

(2) The Planning Secretary may declare, by order published in the Gazette, that a non-standard zone is equivalent to a standard zone.

(3) The order is conclusive that the non-standard zone is an equivalent land use zone to the standard zone.

(4) In this section—

non-standard zone means a land use zone in a local environmental planning

instrument that was not made in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.

4.4 Land to which Chapter applies

- (1) This Chapter applies to each local government area listed in Schedule 2.
- (2) The whole of each local government area is—
 - (a) in the koala management area specified in Schedule 2 opposite the local government area, or
 - (b) if more than 1 koala management area is specified, in each of those koala management areas.
- (3) Despite subsection (1), this Chapter does not apply to—
 - (a) land dedicated or reserved under the *National Parks and Wildlife Act 1974*, or acquired under Part 11 of that Act, or
 - (b) land dedicated under the *Forestry Act 2012* as a State forest or a flora reserve, or
 - (c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the *Biodiversity Conservation Act 2016*, or
 - (d) land in the following land use zones, or an equivalent land use zone, unless the zone is in a local government area marked with an * in Schedule 2—
 - (i) Zone RU1 Primary Production,
 - (ii) Zone RU2 Rural Landscape,
 - (iii) Zone RU3 Forestry.

4.5 Relationship with other environmental planning instruments

In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before or after the commencement of this Chapter, this Chapter prevails to the extent of the inconsistency.

4.6 Exempt land

- (1) The objective of this section is to enable the clearing of koala use tree species to create an asset protection zone as part of the replacement of a lawfully erected dwelling house that has been damaged or destroyed by a bush fire.
- (2) This Chapter does not apply to land forming part of an asset protection zone cleared for a dwelling house if—
 - (a) the dwelling house is replacing a lawfully erected dwelling house damaged or

destroyed by a bush fire, and

- (b) the development application for the replacement dwelling house is made to the consent authority no later than 5 years after the day the bush fire caused the damage or destruction, and
- (c) the asset protection zone is cleared in accordance with Planning for Bush Fire Protection.

4.7 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Chapter to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Chapter, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note—

The maps adopted by this Chapter are to be deposited in the head office of the Department of Planning, Industry and Environment and made available for public access.

Part 4.2 Development control of koala habitats

4.8 Development assessment process—approved koala plan of management for land

- (1) This section applies to land to which this Chapter applies and to which an approved koala plan of management applies.
- (2) The council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.

4.9 Development assessment process—no approved koala plan of management for land

- (1) This section applies to land to which this Chapter applies if the land—
 - (a) has an area of at least 1 hectare (including adjoining land within the same

ownership), and

(b) does not have an approved koala plan of management applying to the land.

- (2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.
- (3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.
- (4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.
- (5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—
 - (a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—
 - (i) does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area, or
 - (ii) is not core koala habitat, or
 - (b) information the council is satisfied demonstrates that the land subject of the development application—
 - (i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or
 - (ii) includes only horticultural or agricultural plantations.
- (6) In this section—

koala assessment report, for development, means a report prepared by a suitably qualified and experienced person about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts.

4.10 Development assessment process—other land

A council is not prevented from granting consent to a development application for consent to carry out development on land if—

- (a) the land does not have an approved koala plan of management applying to the land, or

- (b) the council is satisfied that the land is not core koala habitat.

Part 4.3 Koala plans of management

4.11 Preparation of koala plans of management

- (1) A koala plan of management may be prepared for—
 - (a) the whole of a local government area listed in Schedule 2, or
 - (b) a part of a local government area listed in Schedule 2.
- (2) A koala plan of management must be prepared—
 - (a) on behalf of a council by a suitably qualified and experienced person, and
 - (b) having regard to a survey of the land for core koala habitat conducted by a suitably qualified and experienced person.
- (3) A koala plan of management may—
 - (a) be a separate document or be part of another document, and
 - (b) provide for additional matters, whether or not the matters are directly related to the assessment of a development application by the council.
- (4) Land may be identified in a koala plan of management if—
 - (a) the land is identified on the *Site Investigation Area for Koala Plans of Management Map* as an area where this Chapter applies, and
 - (b) the land is core koala habitat.
- (5) In this section—

Site Investigation Area for Koala Plans of Management Map means the *State Environmental Planning Policy (Koala Habitat Protection) 2021—Site Investigation Area for Koala Plans of Management Map*.

4.12 Consultation on koala plans of management

In preparing a koala plan of management, a council, on behalf of which the plan of management has been prepared, must consult the Chief Executive Officer of Local Land Services and a Public Service employee designated by the Minister for Energy and Environment.

4.13 Public exhibition of draft koala plans of management

Following the preparation of a draft koala plan of management, the council—

- (a) must publicly exhibit the draft koala plan of management for a minimum period of 90

days, and

- (b) must give public notice on the council's website and in a local newspaper of the places, dates and times for inspection of the draft koala plan of management, and
- (c) must publicly exhibit a copy of the draft koala plan of management at the places, on the dates and during the times set out in the notice, and
- (d) must serve notice of the places, dates and times for inspection of the draft koala plan of management on landholders whose land is identified under clause 12(4) in the draft koala plan of management—
 - (i) by post, or
 - (ii) by email to an email address specified by the landholder for the service of notices by the council, and
- (e) must specify, in the notices referred to in paragraphs (b) and (d), the period during which submissions about the draft koala plan of management may be made to the council (which must include the period during which the draft koala plan of management is being publicly exhibited).

4.14 Approval of koala plans of management

- (1) A koala plan of management prepared in accordance with section 4.11 has no effect unless it is approved by the Planning Secretary.
- (2) The council on behalf of which the koala plan of management has been prepared must provide the following to the Planning Secretary—
 - (a) a report on submissions received as a result of the public consultation under section 4.13,
 - (b) a report on the survey of the land made under section 4.11(2)(b),
 - (c) any other documents that informed the preparation of the koala plan of management.
- (3) Before approving a koala plan of management, the Planning Secretary must provide the following to the Chief Executive Officer of Local Land Services and a Public Service employee designated by the Minister for Energy and Environment for comment—
 - (a) a copy of the draft koala plan of management,
 - (b) a copy of the report on submissions,
 - (c) a copy of the report on the survey of the land made under section 4.11(2)(b),
 - (d) any other documents that informed the preparation of the koala plan of

management.

- (4) Before approving a koala plan of management, the Planning Secretary must obtain the concurrence of the Secretary of Regional NSW.
- (5) Before approving a koala plan of management submitted for approval under this section, the Planning Secretary may—
 - (a) request that amendments be made to the koala plan of management, and
 - (b) approve the koala plan of management conditional on the making of those amendments.
- (6) To avoid doubt, a koala plan of management conditionally approved under subsection (5)(b) is taken to be approved by the Planning Secretary on the making of those amendments.
- (7) A koala plan of management takes effect on—
 - (a) the day it is approved by the Planning Secretary, or
 - (b) if a later day is specified in the plan of management—the later day.

4.15 Subsequent koala plans of management

- (1) An approved koala plan of management may be amended or replaced by a subsequent koala plan of management prepared and approved in accordance with this Part.
- (2) The subsequent koala plan of management must be exhibited in accordance with this Part if the council is directed to do so by the Planning Secretary.

Part 4.4 Savings and transitional provisions

4.16 Existing development applications

A development application made in relation to land, but not finally determined before this Chapter applied to the land, must be determined as if this Chapter had not commenced in its application to the land.

4.17 Documents taken to be koala plans of management

- (1) A plan of management approved under a former Koala SEPP in relation to the whole of a local government area or a part of a local government area and in force immediately before this Chapter is taken to be an approved koala plan of management.
- (2) The following documents published on the NSW planning portal are taken to be approved koala plans of management and may be renamed accordingly—
 - (a) *Byron Shire Draft koala plan of management*,

(b) *Tweed Shire Draft koala plan of management.*

- (3) An approved koala plan of management under this section applies to the land specified in the koala plan of management and accordingly section 4.8 extends to apply to that land.

4.18 Documents submitted as plans of management

- (1) This section applies to a document submitted to the Planning Secretary—
- (a) for approval as a koala plan of management in relation to the whole of a local government area or a part of a local government area, and
 - (b) before this Chapter applied to the local government area.
- (2) Before approving a koala plan of management submitted for approval under this section, the Planning Secretary may—
- (a) request that amendments be made to the koala plan of management, and
 - (b) approve the koala plan of management conditional on the making of those amendments.
- (3) To avoid doubt, a koala plan of management conditionally approved under subsection (2)(b) is taken to be approved by the Planning Secretary on the making of those amendments.
- (4) Despite sections 4.11–4.14, the Planning Secretary may approve the document as a koala plan of management for the local government area or part of the local government area.
- (5) To avoid doubt, the Planning Secretary may approve the document as a koala plan of management despite the document not having been prepared in accordance with the provisions of a former Koala SEPP.
- (6) On approval, the document is taken to be an approved koala plan of management.

Chapter 5 River Murray lands

Part 5.1 Introduction

5.1 Aims of this Chapter

The aims of this Chapter are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

5.2 Objectives of this Chapter

The objectives of this Chapter are—

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and
- (b) to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and
- (c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.

Note—

Further information about the objectives of this Chapter and how it operates may be obtained from information included with the copy of this Chapter published by the Department of Planning.

5.3 Where this Chapter applies

This Chapter applies to the land shown on the map, that is the riverine land of the River Murray within the City of Albury and the areas of Balranald, Berrigan, Conargo, Corowa, Deniliquin, Hume, Murray, Wakool, Wentworth and Windouran.

5.4 How this Chapter affects other plans

- (1) This Chapter—
 - (a) replaces *Murray Regional Environmental Plan No 1—Murray River Riparian Land* (which is accordingly repealed).
- (2) The application of this Chapter to land to which *State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas* applies is modified by clause 5 of that Policy which provides that the Policy prevails to the extent of any inconsistency with this Chapter and that, to remove any doubt—
 - (a) Part 5.2 of this Chapter applies—
 - (i) when a consent authority determines a development application required by that Policy for land to which this Chapter applies, and
 - (ii) when a public authority or person proposes to carry out (on land to which this Chapter applies) development which does not require consent because of that Policy but which has the potential to adversely affect the riverine environment of the River Murray, and
 - (b) such of the provisions of Part 5.3 as provide for consultation by a consent authority apply when development defined in the Planning Control and Consultation Table in that Part is required to be carried out with consent because of that Policy.
- (3) If this Chapter is inconsistent with another regional environmental plan or a local environmental plan, then this Chapter prevails to the extent of the inconsistency.

- (4) However, this Chapter does not permit development which is prohibited by another environmental planning instrument.
- (5) This Chapter contains planning principles to help councils prepare local environmental plans that apply to the riverine land of the River Murray.

5.5 Definitions

- (1) The Dictionary at the end of this Chapter defines words and expressions used in this Chapter.
- (2) In this Chapter—

development means both development requiring consent and development not requiring consent.

Murray River means the waters of the main channel of the Murray River and its bed and banks.

River Murray means the Murray River, the waters and the bed and banks of its tributaries and associated water bodies (including related anabranches, creeks, lagoons, lakes, billabongs and wetlands), as shown on the map.

5.6 Notes

Notes in this Chapter do not form part of this Chapter but are included to assist in the understanding of this Chapter.

Part 5.2 Planning principles

5.7 When planning principles should be applied

This Part applies when—

- (a) a consent authority determines a development application, or
- (b) a public authority or person proposes to carry out development which does not require development consent but which has the potential to adversely affect the riverine environment of the River Murray.

5.8 General principles

When this Part applies, the following must be taken into account—

- (a) the aims, objectives and planning principles of this Chapter,
- (b) any relevant River Management Plan,
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,

(d) the cumulative impact of the proposed development on the River Murray.

5.9 Specific principles

When this Part applies, the following must be taken into account—

Access

- * The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.
- * Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.
- * Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.

Bank disturbance

- * Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.

Flooding

- * Where land is subject to inundation by floodwater—
 - (a) the benefits to riverine ecosystems of periodic flooding,
 - (b) the hazard risks involved in developing that land,
 - (c) the redistributive effect of the proposed development on floodwater,
 - (d) the availability of other suitable land in the locality not liable to flooding,
 - (e) the availability of flood free access for essential facilities and services,
 - (f) the pollution threat represented by any development in the event of a flood,
 - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and
 - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.
- * Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.

Land degradation

- * Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.

Landscape

- * Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.

River related uses

- * Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.
- * Development which would intensify the use of riverside land should provide public access to the foreshore.

Settlement

- * New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located—
 - (a) on flood free land,
 - (b) close to existing services and facilities, and
 - (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.

Water quality

- * All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.

Wetlands

- * Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.

Land use and management decisions affecting wetlands should—

- (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,

- (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,
- (c) control human and animal access, and
- (d) conserve native plants and animals.

Note—

The above principles will also be relevant for determining authorities when they carry out their environmental assessment functions under Part 5 of the Act for activities which may impact on the River Murray.

Part 5.3 Planning requirements and consultation

5.10 Consultation—who consults and procedure for consultation

- (1) Consultation required by this Part must be carried out—
 - (a) if development consent is required—by the consent authority before determining the development application, or
 - (b) if development consent is not required—by the public authority or person carrying out the development, before carrying out the development.
- (2) Consultation by an authority or person with a listed agency must be carried out as follows—
 - (a) the authority or person must write to the listed agency giving a description of the proposed development,
 - (b) the authority or person must request the listed agency to comment on the proposed development within 21 days from the date the agency receives the notice,
 - (c) the authority or person must consider any comments made on the proposed development by the listed agency within those 21 days.

5.11 General provisions for consultation

- (1) Consultation is required for development in the circumstances set out in this section. Further consultation requirements are included in the Planning Control and Consultation Table (section 5.12).
 - (a) Where development is contrary to the aims, objectives or principles of this Chapter and may have a significant environmental effect along the Murray River—the P&D (Vic), C&NR (Vic) and the adjacent local Council in Victoria must be consulted.
 - (b) Where development may affect boating safety—Transport for NSW must be

consulted.

- (2) Nothing in this Chapter prevents consultation with any other relevant agencies or groups appropriate to the circumstances.
- (3) Consultation is not required under this Chapter where a River Management Plan identifies work as being of a minor or routine nature.

Note—

River Management Plan is defined in the Dictionary.

Clause 46 of the *Murray-Darling Basin Agreement 1992* requires matters, which may significantly affect the flow, use and control of water in the River Murray, to be referred to the Murray-Darling Basin Commission. The Commission should be notified when consents or approvals are granted for development where any consultation has taken place under this Chapter.

5.12 Planning Control and Consultation Table

- (1) The Planning Control and Consultation Table at the end of this section deals with development defined in that Table.

- (2) Under **Planning control—**

- (a) **Council consent** means that the development may only be carried out with the consent of the relevant council.

Note—

This paragraph does not allow consent to be granted to development prohibited by another environmental planning instrument, see section 5.4(4).

- (b) **Prohibited** means the development must not be carried out (either generally or only in the circumstances specified).

- (c) **Designated development** means that the development is declared to be designated development for the purposes of the Act.

- (3) Under **Consultation**, the names of the agencies to be consulted are listed.

- (4) Under **Specific matters for consideration**, matters are listed for consideration by the consent authority when determining a development application or (if consent is not required) by the public authority or person concerned before carrying out the development.

- (5) In this section—

flood planning area has the same meaning as it has in the Floodplain Development Manual.

Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

Planning Control and Consultation Table

1 ARTIFICIAL LAKE

Definition—

A constructed water body such as an artificial wetland, but does not include dams of less than 1 hectare in surface area used for agricultural purposes or land flood irrigated for agriculture.

Planning control—

* Council consent.

Specific matters for consideration—

Potential for artificial water bodies to have an effect on the watertable.

2 AQUACULTURE

Definition—

The farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants for commercial purposes and which requires intervention in the rearing process to enhance production, whether or not undertaken in a natural or an artificially created body of water.

Planning control—

* Council consent.

Note—

Applications for development consent for aquaculture may need to be accompanied by detailed information about different aspects of the proposal. To avoid delays, applicants should contact each of the agencies to be consulted by the council before submitting a development application to the council.

3 BANK AND/OR BED WORK

Definition—

Works which relate to the excavation, dredging or alteration to the alignment or shape of the bank or bed of the River Murray (including construction of weirs and floodgates, boat ramps and bank stabilisation works).

Planning control—

* Council consent (except work by or for DWR or RWC (Vic)).

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

4 BOAT INDUSTRY FACILITY

Definition—

Buildings, structures or facilities used for the construction, maintenance, repair, temporary storage or sale of boats and other vessels, but does not include a large or small marina.

Planning control—

- * Council consent.

Consultation—

Department of Planning, Industry and Environment.

5 CANAL DEVELOPMENT

Definition—

The construction of an artificial navigable waterway.

Planning control—

- * Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

Note—

A direction under section 101 of the Act requires applications for consent to private canal development to be referred to the Minister for Planning for determination.

6 CARAVAN PARK/CAMPING GROUND

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*.

Planning control—

- * Council consent.

Consultation—

Department of Planning, Industry and Environment.

Specific matters for consideration—

- * Permanent facilities, such as rigid caravan annexes, amenity blocks and long term sites, should not be on flood liable land.
- * In riverfront locations, pedestrian access to the River Murray should be restricted to constructed pathways and a vegetated strip of river frontage should be retained as a buffer between the River and camping/caravan sites and amenities.
- * Vehicular access to the River Murray should be at boat launching ramps only.

7 CHEMICAL, FUEL OR FERTILISER STORAGE ON FLOOD LIABLE LAND

Definition—

Flood liable land used for chemical, fuel or fertiliser storage.

Planning control—

Council consent.

8 DESNAGGING OPERATIONS (INCLUDING SNAG MAINTENANCE)

Definition—

Any work to move or remove either trees or woody debris from the water of the River Murray, other than work which is part of an MDBC approved program.

Planning control—

Note—

Refer to local planning instrument for any planning controls.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

Note—

An MDBC approved program is a component of broader management plans of the MDBC to fulfil its responsibility for the conservation and protection of the aquatic and riverine environment of the River Murray. Such a program is developed and approved through an interstate committee convened by the MDBC and comprised of representatives from relevant agencies in each State, including consultation with fisheries agencies.

9 DESTRUCTION OF NATIVE VEGETATION

Definition—

The clearing, logging, removal or damaging of any species of trees and shrubs that are indigenous to the River Murray floodplain and that are on land shown on the map as native vegetation.

Planning control—

Council consent, unless it constitutes any of the following forms of vegetation destruction—

- (a) destruction of native vegetation on protected land as defined under the *Soil Conservation Act 1938*,
- (b) destruction of native vegetation in the Western Division (i.e. where Schedule 3 to the *Crown Land Management Act 2016* applies),
- (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
- (d) destruction of vegetation in accordance with forestry operations duly authorised by the Forestry Commission,
- (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

Note—

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed does not involve disturbance of the soil,
- (g) destruction of native vegetation for the purpose of maintenance of access tracks, fences, domestic and farm buildings, and corridors for existing utilities,
- (h) lopping or pruning of native vegetation for use as fodder in times of declared drought or after flood or fire,
- (i) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (j) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

Consultation—

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

Specific matters for consideration—

- * whether the development would contribute to soil erosion or other land degradation processes, including rising watertables.
- * the effect of the development on the landscape.
- * the potential loss of wildlife habitat.
- * whether the development would endanger the species of vegetation, either locally or across its range.

Note—

Although the destruction of vegetation on protected land (*Soil Conservation Act 1938*), Crown timber land (*Forestry Act 1916*) or in the Western Division (*Western Lands Act 1901*) is exempt from the requirement to obtain development consent, approval may still be required from the organisation administering the relevant legislation for the damage or destruction of ANY vegetation.

For protected land and land within the Western Division, approval may be needed from the Department of Planning, Industry and Environment. The destruction of vegetation on Crown timber land may require an approval from the Forestry Commission.

For controls on destruction of native vegetation in wetlands, see item 30 of this Table.

10 FLOOD CONTROL WORKS

Definition—

Works which change the natural or existing condition or topography of land (such as the construction or alteration of levees, channels and mounds) and which are likely to affect the hydrology of the River Murray system.

Planning control—

- * Council consent (except work by or for DWR or RWC (Vic)).

Consultation—

Department of Planning, Industry and Environment.

11 HAZARDOUS OR OFFENSIVE, OR POTENTIALLY HAZARDOUS OR OFFENSIVE, INDUSTRIES

Definition—

Use of land for a hazardous or offensive (or a potentially hazardous or offensive)

industry.

Planning control—

- * Prohibited on flood liable land.
- * Council consent elsewhere.

Consultation—

Department of Planning, Industry and Environment.

12 HAZARDOUS OR OFFENSIVE STORAGE ESTABLISHMENT

Definition—

Use of land for a hazardous or offensive storage establishment.

Planning control—

- * Prohibited on flood liable land.
- * Council consent elsewhere.

Consultation—

Department of Planning, Industry and Environment.

13 HOUSEBOAT OPERATIONS

Definition—

Commercial operation of a vessel for use as a residence.

Planning control—

- * Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

Specific matters for consideration—

- * Development for houseboat operations must have adequate shore based pump-out facilities available to it.
- * Private and commercial houseboat related development should be located in waterways not comprising the main channel of the Murray River.

14 INDUSTRY

Definition—

The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes (other than development referred to elsewhere in this Table).

Planning control—

* Council consent.

15 INTENSIVE LIVESTOCK KEEPING

Definition—

Use of land for holding cattle, sheep, goats, poultry or other livestock for the purposes of nurturing by a feeding method other than natural grazing, including—

- (a) feed lots,
- (b) piggeries, and
- (c) poultry farms,

but not an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or intensive hand feeding of livestock as a result of drought, flood, bushfire or other natural disaster.

Planning control—

- * Prohibited on flood liable land.
- * Council consent elsewhere.

Consultation—

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2.

Note—

Schedule 3 of the EPA Regulation 1980 requires the preparation of an environmental impact statement for some forms of intensive livestock keeping. Refer also to [State Environmental Planning Policy No 30—Cattle Feedlots](#) and to DoP Circular No 23.

16 LANDFILL

Definition—

Sites used for the collection and disposal of industrial, trade or human waste (other than development referred to elsewhere in this Table).

Planning control—

- * Prohibited on flood liable land.
- * Council consent elsewhere.

Consultation—

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

17 MAINTENANCE DREDGING

Definition—

The winning or removal of extractive material from the bed of the River Murray by or for a public authority for the purpose of obtaining sufficient width and depth in the waterway to enable the waterway to continue to function—

- (a) as a channel for the escape or passage of water, or
- (b) as a safe navigation route for travel or transport by water,

but does not include bank or bed works.

Planning control—

Note—

Refer to local planning instrument for any planning controls.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

18 MANUFACTURED HOME ESTATES

Definition—

Use of land for manufactured homes requiring an approval under Part 1 of Chapter 7 of the *Local Government Act 1993*.

Planning control—

- * Prohibited on flood liable land.

* Council consent elsewhere.

Note—

Refer to *State Environmental Planning Policy No 36—Manufactured Home Estates*.

Consultation—

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

19 MARINA (LARGE)

Definition—

A pontoon, jetty, pier or the like, capable of providing berths for 10 or more boats used for pleasure or recreation, and extends to any support facilities such as—

- (a) any associated slipways or facilities for the repair, maintenance and fuelling of, or the provision of accessories and parts for, boats, and
- (b) any associated facilities for the storage or provision of food.

Planning control—

- * Council consent.
- * Designated development.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

20 MARINA (SMALL)

Definition—

A pontoon, jetty, pier or other structure or apparatus used or intended to be used to provide berths for boats, and extends to any support facilities on the adjoining area of land, but not development defined as a marina (large).

Planning control—

- * Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

21 PUBLIC UTILITY UNDERTAKING

Definition—

Any of the following undertakings carried on by or for a public authority that is likely to significantly affect the environment—

rail, road or water transport,

wharfs,

telecommunications,

supply of water, electricity or gas or provision of sewerage or drainage services.

Planning Control—

Note—

Refer to local planning instrument for any planning controls.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

22 RECREATION FACILITY ADJOINING RIVER MURRAY OR ON FLOOD LIABLE LAND

Definition—

A building, work or place, adjoining the River Murray or on flood liable land, used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but not a building, work or place referred to elsewhere in this Table.

Planning control—

* Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

Specific matters for consideration—

Recreational facilities should not obstruct, alienate or pollute the river.

23 RURAL INDUSTRY

Definition—

A business development involving—

- (a) the handling, treating, processing or packing of primary products, or
- (b) the regular servicing or repairing of plant or equipment used for the purpose of agriculture or aquaculture or for the purpose referred to in paragraph (a).

Planning control—

* Council consent.

24 SEWAGE TREATMENT WORKS

Definition—

Works or land used for the collection, treatment and disposal of sewage by or for a public authority.

Planning control—

Note—

Refer to local planning instrument for any planning controls.

Consultation—

Department of Planning, Industry and Environment.

Specific matters for consideration—

Disposal of treated sewage on land is desirable.

Note—

Sewage treatment works have a potential to significantly affect the environment. The need for an environmental impact statement under Part 5 of the Act should therefore be carefully considered.

25 SINGLE MOORING

Definition—

A berth or apparatus located on or in the River Murray (but not in a grouped mooring area identified in a River Management Plan) which may be used for the purpose of storing only one vessel.

Planning control—

- * Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

Note—

This development may require an occupation licence issued by the MSB and may also require a lease issued by the Department of Planning, Industry and Environment.

26 STORMWATER DRAINAGE SCHEME

Definition—

Works designed to collect, channel, store, treat or disperse stormwater runoff from areas of urban development or from development adjacent to the River Murray. Untreated stormwater is water which has not been subjected to measures designed to reduce litter, suspended solids, nutrients or other substances which contribute to a decline in the quality of water in the River Murray system.

Planning control—

- * Disposal of untreated stormwater into the River Murray system is prohibited.
- * Council consent otherwise.

Consultation—

Department of Planning, Industry and Environment.

Specific matters for consideration—

- * Wherever practical, the disposal of treated stormwater into the River Murray system should be avoided.
- * Stormwater disposal should not contribute to a decline in the quality of any receiving waters.

Note—

The suitability of treatment measures will depend on the characteristics of the individual catchments but may include one or more of the following—

- artificial wetlands,
- detention basins,
- grassed drainage lines and table drains,
- trash racks,
- booms.

Early contact with EPA should help identify the stormwater measures appropriate to the circumstances.

27 TOURIST RELATED FACILITY

Definition—

An establishment, place or vessel which provides for either accommodation or entertainment or food or beverage and which is permanently fixed in or on the River Murray or is on land adjacent to the River Murray.

Planning control—

- * Prohibited if in or on the River Murray.
- * Council consent elsewhere.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

Specific matters for consideration—

- * Tourist facilities should not obstruct, alienate or pollute the River Murray.
- * Development catering for recreational needs is to be designed with adequate environmental protection safeguards, including—
 - (a) rehabilitation of degraded land,
 - (b) provision of infrastructure such as water supply, sewerage, and stormwater drainage, and
 - (c) provision of appropriate landscaping.

28 WASTE DISPOSAL FACILITY

Definition—

Any plant, equipment, apparatus, device, machine, mechanism or land used for the collection and disposal of industrial, trade or human waste, including a pump ashore facility, package sewage treatment works, waste transfer depot or junk yard. A dry toilet, septic tank, sewage treatment works or development referred to elsewhere in this Table is excluded.

Planning control—

* Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

29 WATER RECREATION FACILITY

Definition—

Piers, wharves, boat sheds or other structures which have a direct structural connection between the bank or the bed of the River Murray and which are used primarily for public recreational purposes.

Planning control—

* Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

30 WETLAND FILLING, DREDGING, DRAINING OR CLEARING

Definition—

Filling, dredging, draining or destruction of native vegetation on land shown on the map as “wetlands”.

Note—

The land forms a shallow water body when inundated cyclically, intermittently or permanently. The type of inundation determines the type and productivity of soils, plant and animal communities.

Planning control—

- * Council consent. Consent is not required to the following forms of destruction of native vegetation—
 - (a) destruction of native vegetation on protected land as defined under the *Soil Conservation Act 1938*,
 - (b) destruction of native vegetation in the Western Division (i.e. where Schedule 3 to the *Crown Land Management Act 2016* applies),
 - (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
 - (d) destruction of vegetation in accordance with forestry operations duly authorised by the Forestry Commission,
 - (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

Note—

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed does not involve disturbance of the soil,
- (g) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (h) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

Note—

For information about clearing other than on wetlands, see item 9 of this Table.

31 WETLAND SUBDIVISION

Definition—

Subdivision of land shown on the map as “wetlands”.

Planning control—

* Council consent.

Consultation—

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

Specific matters for consideration—

- * The intended use of the land and its likely effect on the wetland.
- * The need to impose conditions relating to—
 - subdivision design; effluent disposal; the retention or planting of a vegetated buffer; and fencing to exclude stock or vermin.

Note—

Management of wetland is an important issue for consent. Subdivision which increases the number of owners of a wetland may make management more difficult. For additional information about clearing, see item 9 of this Table.

5.13 Building setbacks—special provisions

- (1) **Application** This section deals with matters which are to be taken into consideration when—
 - (a) a consent authority determines a development application, or
 - (b) a public authority or person proposes to carry out development for which development consent is not required but which has the potential to adversely affect the riverine environment of the River Murray.
- (2) **Building setback** All buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River Murray. The

only exceptions are buildings dependent on a location adjacent to the River Murray.

(3) **Objectives of building setback** The objectives of siting buildings away from the River Murray are to—

- maintain and improve water quality,
- minimise hazard risk and the redistributive effect on floodwater associated with the erection of buildings on the floodplain,
- protect the scenic landscape of the riverine corridor,
- improve bank stability, and
- conserve wildlife habitat.

(4) **Matters to be considered** When determining the location of a building in relation to the River Murray, in addition to the planning principles the following specific matters should also be considered—

(a) **Effluent disposal**

(i) it is generally unsuitable to locate septic tanks—

- on flood liable land,
- where the watertable is within 2 metres of the surface,
- in close proximity to a sensitive natural environment,
- if seasonably low evapotranspiration is common, or
- on soils of low permeability,

(ii) septic tanks should only be installed on suitable (ie permeable) soils with absorption areas located as far as possible from the River Murray or other drainage lines,

(iii) in circumstances where septic tanks are unsuitable, package sewage treatment plants or humus closet (dry toilet) systems should be preferred,

(iv) excess stormwater should, where possible, be disposed of on-site away from any septic absorption area.

(b) **Landscaping**

The visual impact of buildings in the riverine landscape can be lessened by the planting of a variety of appropriate vegetation species. This practice has other advantages in stabilising unstable or eroding banks and providing both habitat for wildlife and a trap for silt, nutrients and other substances which may otherwise

enter the river and lead to a deterioration of water quality.

Chapter 6 Bushland in urban areas

6.1 Aims, objectives etc

- (1) The general aim of this Chapter is to protect and preserve bushland within the urban areas referred to in Schedule 5 because of—
 - (a) its value to the community as part of the natural heritage,
 - (b) its aesthetic value, and
 - (c) its value as a recreational, educational and scientific resource.
- (2) The specific aims of this Chapter are—
 - (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
 - (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
 - (c) to protect rare and endangered flora and fauna species,
 - (d) to protect habitats for native flora and fauna,
 - (e) to protect wildlife corridors and vegetation links with other nearby bushland,
 - (f) to protect bushland as a natural stabiliser of the soil surface,
 - (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
 - (h) to protect significant geological features,
 - (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
 - (j) to protect archaeological relics,
 - (k) to protect the recreational potential of bushland,
 - (l) to protect the educational potential of bushland,
 - (m) to maintain bushland in locations which are readily accessible to the community, and
 - (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the

bushland compatible with its conservation.

6.2 Application of Chapter

- (1) Subject to subsection (2), this Chapter applies to the areas and parts of areas specified in Schedule 5.
- (2) This Chapter does not apply to—
 - (a) land reserved or dedicated under the *National Parks and Wildlife Act 1974*, as an Aboriginal area, historic site, national park, nature reserve, state game reserve or state recreational area, or
 - (b) land within a State forest, flora reserve or timber reserve under the *Forestry Act 1916*, or
 - (c) land to which *State Environmental Planning Policy (Western Sydney Parklands) 2009* applies.

6.3 Interpretation

- (1) In this Chapter, except in so far as the context or subject-matter otherwise indicates or requires—

bushland means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation.

council, in relation to the carrying out of any proposed development, means the council of the area in which the development is proposed to be carried out.

main road means a main road within the meaning of the *Main Roads Act 1924*.

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

- (2) A reference in this Chapter to bushland zoned or reserved for public open space purposes is a reference to bushland within an area or zone identified by an environmental planning instrument as open space (other than for private recreation).
- (3) A reference in this Chapter to disturbing bushland is a reference to removing vegetation from the bushland or causing a change in the natural ecology of the bushland resulting in the destruction or degradation of that bushland.

6.4 Relationship with other environmental planning instruments

- (1) Subject to section 74(1) of the Act and subsection (2), in the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before, on, or after the date on which this Chapter is made, this Chapter shall prevail to the extent of the inconsistency.

- (2) Nothing in this Chapter affects the operation of clause 10 of *State Environmental Planning Policy (Coastal Management) 2018*.

6.5 Consent to disturb bushland zoned or reserved for public open space

- (1) A person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the council.
- (2) Nothing in subsection (1) requires development consent for the disturbance of bushland where it is being disturbed—
- (a) for the purposes of bushfire hazard reduction,
 - (b) for the purpose of facilitating recreational use of the bushland in accordance with a plan of management referred to in section 6.7 of this Chapter,
 - (c) for the purpose of constructing, operating or maintaining—
 - (i) lines for electricity or telecommunication purposes, or
 - (ii) pipelines to carry water, sewerage or gas or pipelines licensed under the *Pipelines Act 1967*, or
 - (d) for the purpose of constructing or maintaining main roads.
- (3) Pursuant to section 30(4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development referred to in subsection (1) in the same way as those provisions apply to and in respect of designated development.
- (4) A consent authority shall not consent to the carrying out of development referred to in subsection (1) unless—
- (a) it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Chapter,
 - (b) it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and
 - (c) it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.

6.6 Public authorities

- (1) This section applies to bushland zoned or reserved for public open space purposes.
- (2) A public authority shall not disturb bushland for a purpose referred to in section 6.5(2)

unless it has first had regard to the aims of this Chapter.

6.7 Plans of management

- (1) This section applies to bushland zoned or reserved for public open space purposes.
- (2) Where the council considers it necessary or desirable to provide more detailed provisions than are contained in this Chapter, it may prepare or cause to be prepared a plan of management in respect of bushland to which this section applies.
- (3) The format, structure and procedures for the preparation, public exhibition, approval, amendment and repeal of any such plan of management shall be in accordance with Part 3 of the *Environmental Planning and Assessment Regulation 1980*, which shall, for the purpose of its application under this subsection, be construed as if—
 - (a) each reference to a development control plan were a reference to a plan of management prepared under this section, and
 - (b) the reference to a local environmental plan in clause 19(2) of that Regulation were a reference to this Chapter.
- (4) The plan of management shall not be inconsistent with the aims of this Chapter and, in respect of bushland to which it applies, it shall—
 - (a) identify the bushland to which the plan applies,
 - (b) describe and analyse the bushland taking into consideration the matters listed in section 6.1(2)(a)-(m), and
 - (c) specify measures to be taken—
 - (i) to implement the specific aims of this Chapter,
 - (ii) to enable recreational use of the bushland,
 - (iii) to reduce hazard from bushfire,
 - (iv) to prevent degradation of bushland, including degradation through alteration of drainage patterns, rubbish dumping, infestation with weeds and exotic plants or the intrusion of vehicles, and
 - (v) to restore and regenerate degraded areas of bushland.
- (5) A plan of management prepared in accordance with this section shall be available for public inspection, without charge at—
 - (a) the office of the council during ordinary office hours, and
 - (b) such other premises operated or controlled by the council and at such times as are determined by the council.

6.8 Land adjoining land zoned or reserved for public open space

- (1) This section applies to land which adjoins bushland zoned or reserved for public open space purposes.
- (2) Where a public authority—
 - (a) proposes to carry out development on land to which this section applies, or
 - (b) proposes to grant approval or development consent in relation to development on land to which this section applies,the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account—
 - (c) the need to retain any bushland on the land,
 - (d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and
 - (e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

6.9 Preparation of local environmental plans

When preparing draft local environmental plans for any land to which this Chapter applies, other than rural land, the council shall—

- (a) have regard to the general and specific aims of this Chapter, and
- (b) give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.

Chapter 7 Canal estate development

7.1 Aims, objectives etc

This Chapter aims to prohibit canal estate development as described in this Chapter in order to ensure that the environment is not adversely affected by the creation of new developments of this kind.

7.2 Definition

In this Chapter, **canal estate development** means development that—

- (a) incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface

water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and

- (b) includes the construction of dwellings (which may include tourist accommodation) of a kind other than, or in addition to—
 - (i) dwellings that are permitted on rural land, and
 - (ii) dwellings that are used for caretaker or staff purposes, and
- (c) requires or includes—
 - (i) the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land, or
 - (ii) excavation to create waterways primarily for the purposes of providing water access to dwellings,or both.

7.3 Land to which this Chapter applies

This Chapter applies to the whole of the State, except the land to which [Penrith Local Environmental Plan 1998 \(Lakes Environs\)](#) applies and the land to which [State Environmental Planning Policy \(Penrith Lakes Scheme\) 1989](#) applies.

7.4 Canal estate development prohibited

A person must not carry out canal estate development.

7.5 Development to which this Chapter does not apply

This Chapter does not apply to—

- (a) development of any kind, whether or not development consent is necessary in order to enable it to be carried out—
 - (i) that is required to complete a canal estate development in accordance with a development consent that was granted before the date of commencement of this Chapter and that has not lapsed, and
 - (ii) that does not change the size or shape of the canals, or
- (b) canal estate development—
 - (i) that could be carried out with development consent under an environmental planning instrument in force immediately before the date of commencement of

this Chapter, and

- (ii) that is the subject of a development application made, but not finally determined, before that date, and
- (iii) for which development consent is granted after that date.

7.6 Relationship to other environmental planning instruments

In the event of an inconsistency between this Chapter and another environmental planning instrument made before or after this Chapter, this Chapter prevails to the extent of the inconsistency unless, in the case of an environmental planning instrument made after this Chapter, a contrary intention is stated in the instrument.

Chapter 8 Sydney drinking water catchment

Part 8.1 Preliminary

8.1 Aims of Chapter

The aims of this Chapter are—

- (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and
- (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and
- (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

8.2 Definitions

(1) In this Chapter—

activity has the same meaning as in Part 5 of the Act.

determining authority has the same meaning as in Part 5 of the Act.

NorBE Guideline means the document titled *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015* prepared by the former Sydney Catchment Authority as published in the Gazette on the same day as [State Environmental Planning Policy \(Sydney Drinking Water Catchment\) Amendment 2015](#) was published on the NSW legislation website.

NorBE Tool means the tool titled *Neutral or Beneficial Effect on Water Quality Assessment Tool 2015* set out in Appendix 1 to the NorBE Guideline.

Regulatory Authority has the same meaning as in the [Water NSW Act 2014](#).

Sydney drinking water catchment—see section 8.5.

Sydney Drinking Water Catchment Map means the [State Environmental Planning Policy \(Sydney Drinking Water Catchment\) 2011—Sydney Drinking Water Catchment Map](#).

the Act means the [Environmental Planning and Assessment Act 1979](#).

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Chapter.

- (2) In this Chapter, a reference to **Water NSW's current recommended practices and standards** is a reference to any current recommended practices and performance standards endorsed or published by Water NSW that relate to the protection of water quality.
- (3) Notes included in this Chapter do not form part of this Chapter.

8.3 Land to which Chapter applies

This Chapter applies to land within the Sydney drinking water catchment.

8.4 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Chapter to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Chapter, a map may be in, and may be kept and made available in, electronic or paper form, or both.

8.5 Declaration of Sydney drinking water catchment

For the purposes of section 3.26(1) of the Act, the area of land identified as the Sydney

drinking water catchment on the [Sydney Drinking Water Catchment Map](#) is declared to be the Sydney drinking water catchment.

Note—

The Sydney drinking water catchment includes the following sub-catchments—

- (a) Back and Round Mountain Creeks,
- (b) Boro Creek,
- (c) Braidwood,
- (d) Bungonia Creek,
- (e) Endrick River,
- (f) Grose River,
- (g) Jerrabattagulla Creek,
- (h) Kangaroo River,
- (i) Kowmung River,
- (j) Lake Burragorang,
- (k) Little River,
- (l) Lower Coxs River,
- (m) Mid Coxs River,
- (n) Mid Shoalhaven River,
- (o) Mongarlowe River,
- (p) Mulwaree River,
- (q) Nattai River,
- (r) Nerrimunga Creek,
- (s) Reedy Creek,
- (t) Upper Coxs River,
- (u) Upper Nepean River,
- (v) Upper Shoalhaven River,
- (w) Upper Wollondilly River,
- (x) Werri Berri Creek,
- (y) Wingecarribee River,
- (z) Wollondilly River,
- (aa) Woronora River.

8.6 Relationship with other environmental planning instruments

- (1) If there is an inconsistency between this Chapter and any other environmental planning instrument, whether made before or after the commencement of this

Chapter, this Chapter prevails to the extent of the inconsistency.

- (2) *State Environmental Planning Policy No 1—Development Standards* does not apply to a development standard imposed by this Chapter.

Part 8.2 Assessment and approval of development and activities

8.7 Recommended practices and performance standards of Water NSW

- (1) Any development or activity proposed to be carried out on land to which this Chapter applies should incorporate Water NSW's current recommended practices and standards.
- (2) If any development or activity does not incorporate Water NSW's current recommended practices and standards, the development or activity should demonstrate to the satisfaction of the consent authority or determining authority how the practices and performance standards proposed to be adopted will achieve outcomes not less than those achieved by Water NSW's current recommended practices and standards.
- (3) Water NSW must ensure that—
 - (a) a list of each of Water NSW's current recommended practices and standards is published on Water NSW's website, and
 - (b) a copy of each of Water NSW's current recommended practices and standards is available for public inspection at the office of Water NSW without cost during ordinary office hours.

8.8 Development consent cannot be granted unless neutral or beneficial effect on water quality

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.
- (2) For the purposes of determining whether the carrying out of the proposed development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality, the consent authority must, if the proposed development is one to which the NorBE Tool applies, undertake an assessment using that Tool.

Note—

The NorBE Guideline provides information and guidance for consent authorities in the use of the NorBE Tool.

8.9 Development that needs concurrence of Regulatory Authority

- (1) A consent authority must not grant consent to the carrying out of development under

Part 4 of the Act on land in the Sydney drinking water catchment except with the concurrence of the Regulatory Authority.

- (2) For the purposes of section 3.18(3) of the Act, the matters that are to be taken into consideration by the Regulatory Authority in deciding whether to grant concurrence are—
 - (a) whether the development incorporates Water NSW’s current recommended practices and standards, and
 - (b) if the development does not incorporate those practices and standards, whether the alternative practices that relate to the protection of water quality that have been adopted in relation to the development will achieve outcomes not less than those achieved by Water NSW’s current recommended practices and standards, and
 - (c) whether the development would have a neutral or beneficial effect on water quality.
- (3) A consent authority must forward a copy of its determination of a development application that requires the concurrence of the Regulatory Authority to the Regulatory Authority within 10 days after the determination is made.
- (4) This section does not apply if—
 - (a) the Minister is the consent authority, or
 - (b) the consent authority is satisfied that the proposed development has no identifiable potential impact on water quality.

8.10 Neutral or beneficial effect on water quality—continuing development

- (1) This section applies for the purposes of determining under this Chapter whether the carrying out of continuing development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality.
- (2) **Continuing development** is any development (such as mining) for which development consent was limited to the carrying out of the development for a particular time or to a particular area or intensity, but which was likely to be the subject of future applications for consent for its extension or expansion.
- (3) If—
 - (a) development consent was granted for continuing development (“the existing development consent”), and
 - (b) a development application is made for consent to extend or expand the carrying out of the development (“the proposed development”), and

(c) the development application is made before the authority conferred by the existing development consent expires or is exhausted,

the carrying out of the proposed development will have a neutral or beneficial effect on water quality if it will have the same or a lesser adverse impact on water quality when compared to the adverse impact that the continuing development would have if it were extended or expanded under similar conditions as the existing development consent.

- (4) Subsection (3) extends to an existing development consent that is to be surrendered if consent is granted on the determination of the development application.
- (5) In this section, a reference to an existing development consent includes a reference to a project approved under Part 3A of the Act before its repeal (or granted after its repeal pursuant to Schedule 6A to the Act).

Part 8.3 Miscellaneous

8.11 Public authorities to consider effect on water quality

A public authority must, before it carries out any activity to which Part 5 of the Act applies, consider whether the activity would have a neutral or beneficial effect on water quality.

Chapter 9 Hawkesbury-Nepean River

Part 9.1 Introduction

9.1 Where this Chapter applies

- (1) This Chapter applies to certain land in the Greater Metropolitan Region that is 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 location of the land is shown on sheet 1 of the map and the land is shown in detail on sheets 2-42 of the map.

- (2) This Chapter does not apply to the land to which *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* applies.

9.2 Aim of this Chapter

The aim of this Chapter 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 9.2 General planning considerations, specific planning policies and recommended strategies

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

- (1) The general planning considerations set out in section 9.4, and the specific planning policies and related recommended strategies set out in section 9.5 which are applicable to the proposed development, must be taken into consideration—
 - (a) by a **consent authority** determining an application for consent to the carrying out of development on land to which this Chapter applies, and
 - (b) by a person, company, public authority or a company State owned corporation proposing to carry out development which does not require development consent.
- (2) Those considerations, policies and strategies should be taken into consideration in the preparation of each environmental planning instrument and development control plan that applies to land to which this Chapter applies.

9.4 General planning considerations

The general planning considerations relevant for this Part are—

- (a) the aim of this Chapter, and
- (b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, and
- (c) whether there are any feasible alternatives to the development or other proposal concerned, and
- (d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.

9.5 Specific planning policies and recommended strategies

The specific planning policies and recommended strategies for this Chapter are as follows—

(1) Total catchment management

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

Strategies:

- (a) Refer the application or other proposal for comment to the councils of each adjacent or downstream local government area which is likely to suffer a significant adverse environmental effect from the proposal.

- (b) Consider the impact of the development concerned on the catchment.
- (c) Consider the cumulative environmental impact of development proposals on the 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 (where necessary) remediation of existing uses.

Note—

Environmentally sensitive areas in the Hawkesbury-Nepean catchment are: the river, riparian land, escarpments and other scenic areas, conservation area subcatchments, national parks and nature reserves, wetlands, other significant floral and faunal habitats and corridors, and known and potential acid sulphate soils.

Strategies:

- (a) Rehabilitate parts of the riverine corridor from which sand, gravel or soil are extracted so that attached aquatic plant beds are replaced and water quality and faunal habitats improved.
- (b) Minimise adverse impacts on water quality, aquatic habitats, riverine vegetation and bank stability.
- (c) Minimise direct and indirect adverse impacts on land reserved or dedicated under the *National Parks and Wildlife Act 1974* or the *Forestry Act 2012* and conservation area sub-catchments in order to protect water quality and biodiversity.
- (d) Protect wetlands (including upland wetlands) from future development and from the impacts of land use within their catchments.
- (e) Consider 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 2012*.
- (f) Consideration should be given to the impact of the development concerned on the water table and the formation of acid sulphate soils.
- (g) New development in conservation area sub-catchments should be located in areas that are already cleared.

(3) Water quality

Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic

ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.

Note—

Aquatic ecosystems and **primary contact** recreation have the same meanings as in the document entitled *Australian Water Quality Guidelines for Fresh and Marine Waters*, published in 1992 by the Australian and New Zealand Environment and Conservation Council.

Strategies:

- (a) Quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters.
- (b) Consider the need to ensure that water quality goals for primary contact recreation and aquatic ecosystem protection are achieved and monitored.
- (c) Approve development involving primary contact recreation or the withdrawal of water from the river for human contact (not involving water treatment), such as showers, only in locations where water quality is suitable (regardless of water temperature).
- (d) Do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site.
- (e) Develop in accordance with the land capability of the site and do not cause land degradation.
- (f) Consider the need for an Erosion and Sediment Control Plan (to be in place at the commencement of development) where the development concerned involves the disturbance of soil.
- (g) Minimise or eliminate point source and diffuse source pollution by the use of best management practices.
- (h) Site and orientate development appropriately to ensure bank stability. Plant appropriate native vegetation along banks of the river and tributaries of the river, but not so as to prevent or inhibit the growth of aquatic plants in the river, and consider the need for a buffer of native vegetation.
- (i) Consider the impact of the removal of water from the river or from groundwater sources associated with the development concerned.
- (j) Protect the habitat of native aquatic plants.

(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.

Strategies:

- (a) Future development must be consistent with the interim or final river flow objectives that are set for the time being by the Government.
- (b) Ensure the amount of stormwater run-off from a site and the rate at which it leaves the site does not significantly increase as a result of development. Encourage on-site stormwater retention, infiltration and (if appropriate) reuse.
- (c) Consider 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.
- (d) Consider the impact of development on the level and quality of 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 and, if appropriate, enhanced.

Strategies:

- (a) Encourage development which facilitates the conservation of heritage items if it does not detract from the significance of the items.
- (b) Protect Aboriginal sites and places of significance.
- (c) Consider an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance.
- (d) Consider 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: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.

Strategies, generally:

- (a) Conserve and, where appropriate, enhance flora and fauna communities, 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) Locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land.
- (c) Minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices.
- (d) Consider the impact on ecological processes, such as waste assimilation and nutrient cycling.
- (e) Consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms.
- (f) Consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas.
- (g) Consider the need to control access to flora and fauna habitat areas.
- (h) Consider the need to maintain corridors for fish passage, and protect spawning grounds and gravel beds.

Strategies for wetlands:

- (i) Maintain the ability of wetlands to improve the quality of water entering the river through the filtering of sediments and the absorption of nutrients.
- (j) Maintain the ability of wetlands to stabilise soils and reduce bank erosion.
- (k) Maintain the ability of wetlands to reduce the impact of flooding downstream through the retention of floodwaters.
- (l) Maintain a variety of wetland flora and fauna species in the region and consider the scarcity of particular species on a national basis.
- (m) Encourage the appropriate management of wetlands, including monitoring and weed control.
- (n) Provide opportunities for recreation, scientific research and education where they are compatible with the conservation of wetlands.
- (o) Consider 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.

- (p) Consider the desirability of protecting any wetlands of local significance which are not included on the map.
- (q) Consider the desirability of protecting or, if necessary, actively managing, 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.

Strategies:

- (a) Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.
- (b) Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.
- (c) Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, 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, and shrubs, particularly locally indigenous plants.
- (d) Consider 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 (which are also scenic areas of significance for the region) or so shown as being of regional significance only.
- (e) Consider the need for controls or conditions to protect those scenic areas.
- (f) Consider 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.

Note—

Refer also to items (1)–(7) and (12) for relevant strategies.

Strategies:

- (a) Give priority to agricultural production in rural zones.

- (b) Ensure zone objectives and minimum lot sizes 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) Incorporate effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts.
- (d) Protect agricultural sustainability from the adverse impacts of other forms of proposed development.
- (e) Consider the ability of the site to sustain over the long term the development concerned.
- (f) Consider the likely effect of the development concerned on fish breeding grounds, nursery areas, commercial and recreational fishing areas and oyster farming.

(9) Rural residential development

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

Note—

Refer also to items (1)–(7) and (12) for relevant strategies.

Strategies:

- (a) Give priority to agricultural production in rural zones.
- (b) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.
- (c) Maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development.
- (d) Do not locate development in areas identified for future urban purposes in the Metropolitan Strategy.
- (e) Consider the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation.
- (f) Consider the ability of the land to accommodate on-site effluent disposal in the long term.

- (g) Consider 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.

Note—

Refer also to items (1)–(7) and (12) for relevant strategies.

Strategies:

- (a) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of that land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 2,500 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.
- (b) Consider 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.

Note—

Refer also to items (1)–(7) and (12) for relevant strategies.

Strategies:

- (a) Provide a wide range of recreational opportunities along the river which are consistent with conserving the river's natural values and character.
- (b) Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river. Locate them where river banks are stable, away from river shallows, major beds of attached aquatic plants or fish breeding areas, where the 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 creation of new access points.
- (c) Minimise conflicts between recreational uses.
- (d) Consider the availability of, or need to provide, 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) Consider the environmental impact of ancillary services for recreation and tourist developments, such as amenities blocks and vehicle parking.
- (f) Consider the visual impact of development on the surrounding area.

(12) Metropolitan strategy

Policy: Development should complement the vision, goal, key principles and action plan of the Metropolitan Strategy.

Strategies:

- (a) Consider the impacts of transport infrastructure proposals on water quality and air quality.
- (b) Consider the impacts of metropolitan waste disposal on water quality.
- (c) Consider the impacts of development on air quality.
- (d) Consider the need for waste avoidance, waste reduction, reuse and recycling measures.
- (e) Consider the implications of predicted climate change on the location of development and its effect on conservation of natural resources.

9.6 Effect of Part 9.2

This Part is not intended to create an offence against the Act.

Note—

The intention of this section is to clarify that Part 9.2 will not create a *criminal* offence under Division 4 of Part 6 of the [Environmental Planning and Assessment Act 1979](#). The section does not affect the ability to pursue civil proceedings under Division 3 of that Part (sections 122–124 of that Act) or otherwise.

Part 9.3 Development controls

9.7 Development controls

- (1) **Prohibited development** Development defined in an item in section 9.9 that is prohibited is indicated in the item by the word *Prohibited*.
- (2) **Development requiring consent** Any such development that may be carried out only with development consent is indicated in the item 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 Chapter, except where the Act provides otherwise.
- (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 item by the word *Concurrence*, together with a reference to the Director.

- (4) **Development requiring certain matters to be considered** The consent authority must not grant consent to the carrying out of any such development if the words *Additional matters for consideration by the consent authority* appear in the item 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 9.2 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 Chapter, in determining whether to grant that concurrence are indicated in the Table by the words *Matters for consideration by the concurrence authority*.

- (5) **Development for which consent may be granted in special circumstances** Any circumstances in which consent may be granted to the carrying out of the particular development even though the development is not in accordance with the other provisions of this Chapter are indicated in the item by the words *Special circumstances*.
- (6) **Designated development** Any such development declared to be designated development for the purposes of the Act is indicated in the item by the words *Designated development*.

9.8 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](#).

9.9 Development controls

The following items set out particulars for the development controls imposed by this Part—

Note—

These controls apply in addition to those in any other relevant environmental planning instrument.

(1) Caravan parks or camping grounds

Definition:

Development for the purpose of 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) Composting facilities or works

Definition:

Development for the purpose of composting facilities or works described in Schedule 3 (Designated Development) to the *Environmental Planning and Assessment Regulation 1994*.

Consent required.

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.

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

Note—

Conservation area subcatchments are those that are subject to relatively minimal human interference and are consequently in a reasonably pristine environmental condition.

Definition:

Development for the purpose of 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 that the consent authority considers to be minor and do not involve clearing or on-site effluent disposal.

Consent required.

Additional matters for consideration by the consent authority:

The need to prevent adverse impacts on the near pristine condition of these sub-catchments.

(4) Remediation of contaminated land

Definition:

Removing soil or other deposits from, or otherwise remediating, contaminated land. For the purposes of this definition, contaminated land means land on which hazardous substances occur at concentration levels above background levels, where an assessment (carried out in accordance with guidelines circulated to councils by the Department) 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.

(5) Extractive industries

Definition:

Extractive industry carried out on land described in Schedule 7, except for development described in item (6).

Prohibited.

(6) 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.

Matters for consideration by the consent authority:

Reports on the following—

- (a) 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
 - re-establishing 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.

(7) Filling

Definition:

Filling of land, including submerged aquatic 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, where filling exceeds 1 metre in depth, or an area of 100 square metres.

Consent required.

(8) Potentially 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 a floodway.

Prohibited.

(9) Items of non-Aboriginal heritage

Definition:

The following, when carried out in relation to anything listed in Schedule 6 as a heritage item—

- (a) demolishing a building or work,
- (b) altering a building or work, except changes resulting from any maintenance necessary for its ongoing protective care which do not adversely affect its heritage significance,
- (c) damaging or moving a relic, including excavation for the purpose of exposing or moving a relic,
- (d) damaging or despoiling a place,
- (e) erecting a building on, or subdividing, land on which a building, work or relic is situated or that comprises a place.

Consent required.

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 environment or the amenity of the locality, and the conservation of the building depends on granting consent.

(10) Intensive horticultural establishments

Definition:

Use of a place to grow a commercial crop of plants or fungi, whether under cover or in the open, using intensive agricultural systems such as hydroponics or a sprinkler system (but not use of a place to grow produce for personal household consumption or enjoyment) which in the opinion of the consent authority has the potential to impact significantly on the total water cycle.

Consent required.

(11) Intensive animal industries

Definition (a):

Use of a building or place for holding goats, poultry or other livestock in a confined area to be reared or fattened (wholly or substantially) on prepared or manufactured feed which, without limiting the generality of the above, may consist of or include—

- (a) a poultry farm, or
- (b) a feedlot, or
- (c) a building or place used for fish farming (which may consist of or include farming of crustaceans), or
- (d) a piggery,

but not use of a building or place for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the building or place that is not included in this item by definition (b).

Development control:

Prohibited if carried out within a floodway.

Consent required in all other cases.

Definition (b):

Use of—

- (a) a dairy farm, or
- (b) a horse training and boarding establishment,

being a building or place used for holding animals in a confined area for rearing or fattening (wholly or substantially) on prepared or manufactured feed but not a building or place used for keeping animals intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

Development control:

Consent required.

Additional matters for consideration by the consent authority before granting a consent required by this item:

- (a) The need for farm management, including the use of appropriate best management practices, to mitigate the impact of the development on the water

quality of the river.

- (b) For development on flood prone land, the likely additional impact of that development on the river during a flood event.

(12) Manufactured home estates

Definition:

Development for the purpose of 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.

(13) Marinas

Definition:

Development for the purpose of a pontoon, jetty, pier or other structure or apparatus providing berths for boats, and adjoining land used for any support facilities.

Consent required.

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.

(14) Recreational facilities

Definition:

Development for the purpose of 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 within the river or on land—

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

Consent required.

(15) Land uses in or near the river

Definition:

All uses in the river or a tributary of the river, or within 40 metres of the high water mark of the river or a tributary of the river where it is tidal or within 40 metres of the bank where it is non-tidal. This includes clearing and 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.

(16) Land uses in riverine scenic areas

Definition:

The following in scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only—

- (a) subdivision,
- (b) clearing,

- (c) erection of a structure greater than 50 sq m in area or over 1 storey in height,
- (d) carrying out of 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 or the surrounding visual catchment. (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.

(17) Sewerage systems or works

Definition:

Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking.

Consent required.

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 required by the proposed development

on—

- any water bodies in the vicinity (including dams, streams and rivers), or
- any mapped wetlands, or
- any groundwater, or
- the floodplain.

(d) The scope for recycling and reusing effluent or sludge on the site.

(e) The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.

(f) Downstream effects of direct discharge of effluent to watercourses.

(g) The need for ongoing monitoring of the system or work.

(18) Waste management facilities or works

Definition:

Development for the purpose of waste management facilities or works described in Schedule 3 (Designated Development) to the *Environmental Planning and Assessment Regulation 1994*.

Consent required.

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.

(19) Development in mapped wetlands

Definition:

The following, when carried out within wetland 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 (including significant lowering of the water level), 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 the consent authority is satisfied that the development will be carried out on land in an ephemeral wetland shown on the map or carried out for the purpose of restoring or rehabilitating a mapped wetland.

Consent required.

Additional matters for consideration by the consent authority:

- (a) A Vegetation Management Plan is required for restoration or rehabilitation of a wetland and for any development in an ephemeral wetland.
- (b) Whether a Vegetation Management Plan should also be required for any development other than restoration or rehabilitation in a wetland that is not an ephemeral wetland.
- (c) Whether the development is likely to contaminate the soil resulting in a likely adverse impact on water quality when the wetland floods.

Part 9.4 Miscellaneous

9.10 Relationship to other environmental planning instruments

- (1) This Chapter does not apply to land to which *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* applies.
- (2) This Chapter applies in addition to any other environmental planning instrument that applies to land to which this Chapter applies.
- (3) If there is an inconsistency between this Chapter and another environmental planning instrument made before this Chapter, this Chapter prevails to the extent of the inconsistency.
- (4) However, this Chapter 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.

9.11 Definitions

- (1) This Chapter adopts the *Environmental Planning and Assessment Model Provisions 1980*. Other terms used in this Chapter are defined in the dictionary at the end of this Chapter.
- (2) The list of contents and the notes in this Chapter do not form part of this Chapter.

Chapter 10 Sydney Harbour Catchment

Part 10.1 Preliminary

10.1 Aims of Chapter

- (1) This Chapter has the following aims with respect to the Sydney Harbour Catchment—
 - (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained—
 - (i) as an outstanding natural asset, and
 - (ii) as a public asset of national and heritage significance, for existing and future generations,
 - (b) to ensure a healthy, sustainable environment on land and water,
 - (c) to achieve a high quality and ecologically sustainable urban environment,
 - (d) to ensure a prosperous working harbour and an effective transport corridor,
 - (e) to encourage a culturally rich and vibrant place for people,
 - (f) to ensure accessibility to and along Sydney Harbour and its foreshores,
 - (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,
 - (h) to provide a consolidated, simplified and updated legislative framework for future planning.
- (2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this Chapter adopts the following principles—
 - (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,

- (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,
- (c) protection of the natural assets of Sydney Harbour has precedence over all other interests.

10.2 Land to which Chapter applies

- (1) This Chapter applies to land within the Sydney Harbour Catchment, as shown edged heavy black on the Sydney Harbour Catchment Map, being part of the Sydney Region declared by order published in Gazette No 38 of 7 April 1989 at page 1841.
- (2) Within the Sydney Harbour Catchment, particular provisions of this Chapter apply to—
 - (a) the Foreshores and Waterways Area, and
 - (b) various strategic foreshore sites, as shown on the Strategic Foreshore Sites Map, and
 - (c) various heritage items, as shown on the Heritage Map, and
 - (d) the Sydney Opera House buffer zone, as shown on the Sydney Opera House Buffer Zone Map, and
 - (e) various wetlands protection areas, as shown on the Wetlands Protection Area Map.

10.3 Interpretation

- (1) Words and expressions used in this Chapter that are defined in the dictionary at the end of this Chapter have the meanings set out in that dictionary.
- (2) Notes included in the text of this Chapter do not form part of this Chapter.

10.4 Consent authority

- (1) The consent authority for land-based development and land/water interface development is the council of the local government area in which, or nearest to which, the land on which the development is proposed to be carried out, except as provided by subsections (2) and (3).
- (2) The consent authority for land-based development and land/water interface development is the Minister if—
 - (a) the land on which the development is proposed to be carried out is within a local government area, and
 - (b) another environmental planning instrument specifies the Minister as the consent authority for the same kind of development if it were to be carried out on that land.

- (3) The consent authority for land-based development and land/water interface development is the Minister if—
 - (a) the land on which the development is proposed to be carried out is not within a local government area, and
 - (b) another environmental planning instrument specifies the Minister as the consent authority for the same kind of development if it were to be carried out on the nearest land that is within a local government area.
- (4) Except to the extent to which some other environmental planning instrument provides, the consent authority for water-based development is the Minister administering the *Ports and Maritime Administration Act 1995*.
- (5) Despite any other provision of this section, the consent authority for a development application for consent to subdivision of land is—
 - (a) the Minister administering the *Ports and Maritime Administration Act 1995*, if the land is owned by the Maritime Authority of NSW, or
 - (b) the consent authority specified by this section for land-based development and land/water interface development, in any other case.

10.5 Maps

- (1) This Chapter incorporates each of the maps referred to in Schedule 9.
- (2) For the purposes of section 26(2) of the Act, the Critical Habitat Area Map referred to in Schedule 9 identifies land that is declared to be critical habitat under Part 3 of the *Threatened Species Conservation Act 1995*.
- (3) In Schedule 9, a reference to a map is a reference to a map deposited in the head office of the Department.

10.6 Relationship with other environmental planning instruments

- (1) Subject to this section, this Chapter supplements, and does not derogate from, any other environmental planning instrument applying to land to which this Chapter applies.
- (2) In the event of an inconsistency between this Chapter and any other environmental planning instrument, whether made before or after this Chapter, this Chapter applies to the extent of the inconsistency.
- (3) Clause 8 (1) of *State Environmental Planning Policy No 55—Remediation of Land* does not derogate from or affect the provisions of this Chapter concerning master plans.
- (4) *State Environmental Planning Policy (Infrastructure) 2007* (other than clause 69(2)) prevails to the extent of any inconsistency with this Policy.

- (5) Clauses 4A.11 and 4A.12 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* do not apply to development to which section 10.36 of this Chapter applies.

10.7 Public utilities

Nothing in this Chapter is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit the carrying out of development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* on land within the Foreshores and Waterways Area.

10.8 Transitional provision

- (1) This Chapter does not apply—
- (a) to an activity within the meaning of Part 5 of the Act in respect of which an application for approval made to a determining authority within the meaning of that Part has been made, but not finally determined, immediately before the commencement of this Chapter, or
 - (b) to an activity within the meaning of Part 5 of the Act which was approved by a determining authority within the meaning of that Part before the commencement of this Chapter and which commences pursuant to that approval not later than 3 years after the commencement of this Chapter.

Part 10.2 Planning principles

10.9 Objective

- (1) The objective of this Part is to provide a set of clear planning principles for land within the Sydney Harbour Catchment.
- (2) These principles are to be considered and, where possible, achieved—
- (a) in the preparation of environmental planning instruments and development control plans under Part 3 of the Act, and
 - (b) in the preparation of environmental studies and master plans for the purposes of the Act.

10.10 Sydney Harbour Catchment

The planning principles for land within the Sydney Harbour Catchment are as follows—

- (a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends,
- (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity,

- (c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment,
- (d) action is to be taken to achieve the targets set out in *Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment* (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in *Australian Water Quality Guidelines for Fresh and Marine Waters* (published in November 2000 by the Australian and New Zealand Environment and Conservation Council),
- (e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document titled *Floodplain Development Manual 2005* (published in April 2005 by the Department),
- (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour,
- (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased,
- (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water,
- (i) action is to be taken to achieve the objectives and targets set out in the *Sydney Harbour Catchment Blueprint*, as published in February 2003 by the then Department of Land and Water Conservation,
- (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment,
- (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity,
- (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the *Acid Sulfate Soil Manual*, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.

10.11 Foreshores and Waterways Area

The planning principles for land within the Foreshores and Waterways Area are as follows—

- (a) development should protect, maintain and enhance the natural assets and unique

environmental qualities of Sydney Harbour and its islands and foreshores,

- (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,
- (c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,
- (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,
- (e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,
- (f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes,
- (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes,
- (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront,
- (i) the provision and use of public boating facilities along the waterfront should be encouraged.

10.12 Heritage conservation

The planning principles for heritage conservation are as follows—

- (a) Sydney Harbour and its islands and foreshores should be recognised and protected as places of exceptional heritage significance,
- (b) the heritage significance of particular heritage items in and around Sydney Harbour should be recognised and conserved,
- (c) an appreciation of the role of Sydney Harbour in the history of Aboriginal and European settlement should be encouraged,
- (d) the natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected,
- (e) significant fabric, settings, relics and views associated with the heritage significance

of heritage items should be conserved,

- (f) archaeological sites and places of Aboriginal heritage significance should be conserved.

Part 10.3 Foreshores and Waterways Area

Division 1 Development control

10.13 Zones indicated on Zoning Map

- (1) For the purposes of this Chapter, land is within one of the following zones, as shown on the Zoning Map—

Zone No W1—Maritime Waters

Zone No W2—Environment Protection

Zone No W3—Naval Waters

Zone No W4—Aviation

Zone No W5—Water Recreation

Zone No W6—Scenic Waters: Active Use

Zone No W7—Scenic Waters: Casual Use

Zone No W8—Scenic Waters: Passive Use

Zone No 8 (a)—National Parks

- (2) A zone boundary that is shown on the Zoning Map as following the water's edge is taken to follow the mean high water mark.
- (3) Land within Zone No W6, W7 or W8 comprises the waters between the mean high water mark and a line running parallel to, and 30 metres to the seaward of, the mean high water mark.
- (4) This section does not affect the zoning under any other environmental planning instrument of any land within the Foreshores and Waterways Area that is not included in a zone pursuant to this section.

10.14 Zoning objectives

- (1) The objectives of a zone are set out in the Table to this section.
- (2) Except as otherwise provided by this Chapter, the consent authority must not grant development consent to any development unless satisfied that it is consistent with the aims of this Chapter and the objectives of the zone in which it is proposed to be

carried out.

Table

Zone No W1 Maritime Waters

The objectives of this zone are as follows—

- (a) to give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally,
- (b) to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations,
- (c) to promote equitable use of the waterway, including use by passive recreation craft.

Zone No W2 Environment Protection

The objectives of this zone are as follows—

- (a) to protect the natural and cultural values of waters in this zone,
- (b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,
- (c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,
- (d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.

Zone No W3 Naval Waters

The objectives of this zone are as follows—

- (a) to ensure effective implementation of the *Control of Naval Waters Act 1918* of the Commonwealth,
- (b) to restrict development incompatible with naval interests,
- (c) to allow development only where it can be demonstrated that naval interests will not be jeopardised.

Zone No W4 Aviation

The objectives of this zone are as follows—

- (a) to give preference to and protect waters required for marine aviation activities,
- (b) to ensure that marine aviation activities safely coexist with other activities and

facilities,

- (c) to allow development only where it is demonstrated that it is compatible with and will not adversely affect marine aviation activities.

Zone No W5 Water Recreation

The objectives of this zone are as follows—

- (a) to give preference to and increase public water-dependent development so that people can enjoy and freely access the waters of Sydney Harbour and its tributaries,
- (b) to allow development only where it is demonstrated that the public use of waters in this zone is enhanced and will not be compromised now or in the future,
- (c) to minimise the number, scale and extent of artificial structures consistent with their function,
- (d) to allow commercial water-dependent development, but only where it is demonstrated that it meets a justified demand, provides benefits to the general and boating public and results in a visual outcome that harmonises with the planned character of the locality,
- (e) to minimise congestion of and conflict between people using waters in this zone and the foreshore,
- (f) to protect and preserve beach environments and ensure they are free from artificial structures,
- (g) to ensure that the scale and size of development are appropriate to the locality, and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or from areas of public access.

Zone No W6 Scenic Waters: Active Use

The objectives of this zone are as follows—

- (a) to allow a range of public and private water-dependent development close to shore only where it can be demonstrated that such development minimises alienation of waters in this zone from public use and is not constrained by shallow water depth, navigational conflicts or severe wave action,
- (b) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners,
- (c) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by

development,

- (d) to minimise any adverse effect on views to and from waters in this zone and on the scenic values of the locality as a result of the size of vessels capable of being accommodated within the development.

Zone No W7 Scenic Waters: Casual Use

The objectives of this zone are as follows—

- (a) to allow certain water-dependent development close to shore to meet casual boating needs and other water access needs,
- (b) to allow such development only where it can be demonstrated that it achieves a predominantly open and unobstructed waterway and does not dominate the landscape setting,
- (c) to restrict development for permanent boat storage in locations that are unsuitable due to the adverse visual impact of such development or to physical constraints such as shallow water depth, severe wave action or unsafe navigation,
- (d) to ensure that the scale and size of development are appropriate to the location and protect and improve the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone and areas of public access,
- (e) to maintain and enhance views to and from waters in this zone,
- (f) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners,
- (g) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development.

Zone No W8 Scenic Waters: Passive Use

The objectives of this zone are as follows—

- (a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,
- (b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone,

- (c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations,
- (d) to allow water-dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality,
- (e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access.

Zone No 8 (a) National Parks

The objectives of this zone are as follows—

- (a) to identify those islands in Sydney Harbour that are reserved under the *National Parks and Wildlife Act 1974*,
- (b) to permit the use of those islands for any purpose authorised in respect of them pursuant to the *National Parks and Wildlife Act 1974*,
- (c) to facilitate public access to Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island,
- (d) to facilitate development on Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island in a manner that is compatible with the plan of management prepared under the *National Parks and Wildlife Act 1974* in respect of Sydney Harbour National Park.

10.15 Development control in the waterways

- (1) Except as otherwise provided by this Chapter, in relation to land within a zone to which a column of the Table to this section applies—
 - (a) the development (if any) that may be carried out without development consent is indicated by the letter “P”, and
 - (b) the development (if any) that may be carried out only with development consent is indicated by the letter “Y”, and
 - (c) the development (if any) that is prohibited is indicated by the letter “N”.
- (2) Despite subsection (1), development not referred to in the Table to this section may be carried out with development consent, but only if the consent authority is satisfied that the development—
 - (a) is not inconsistent with the aims of this Chapter or the objectives of the zone in which it is proposed to be carried out, and

(b) is not inconsistent with any other environmental planning instrument that applies to the land, and

(c) will not otherwise have any adverse impacts.

(3) Despite subsection (1)(c), development for the purposes of swimming pools is permitted with development consent in Brays Bay.

Table

	W1	W2	W3	W4	W5	W6	W7	W8
Advertisements	N	N	N	N	N	N	N	N
Advertising structures	N	N	N	N	N	N	N	N
Aids to navigation	P	P	P	P	P	P	P	P
Aviation facilities	Y	N	Y	Y	N	N	N	N
Boat launching ramps (Public)	Y	Y	Y	Y	Y	Y	Y	Y
Boat lifts (other than boat lifts for storage of vessels above water)	Y	N	Y	Y	Y	Y	Y	Y
Boat lifts for the storage of vessels above water	N	N	N	N	N	N	N	N
Boat repair facilities	Y	N	Y	Y	Y	Y	Y	Y
Boat sheds (private)	N	N	N	N	N	Y	N	N
Charter and tourism facilities	Y	N	Y	Y	Y	Y	N	N
Commercial marinas	Y	N	N	Y	Y	Y	N	N
Commercial port facilities	Y	N	Y	Y	N	N	N	N
Community facilities	Y	Y	Y	Y	Y	Y	Y	Y
Demolition (other than demolition of a heritage Item)	P	P	P	P	P	P	P	P
Dredging	Y	Y	Y	Y	Y	Y	Y	Y
Floating boat platforms	N	N	N	N	N	Y	Y	N
Flora and fauna enclosures	Y	Y	P	P	P	P	P	P

General restoration works	P	P	P	P	P	P	P	P
Houseboats	N	N	N	N	N	N	N	N
Intertidal dredging	N	N	N	N	N	N	N	N
Maintenance dredging	P	Y	P	P	P	P	P	P
Mooring pens	N	N	N	N	N	Y	Y	N
Naval activities	P	P	P	P	P	Y	Y	Y
Private landing facilities	N	N	N	N	N	Y	Y	N
Private landing steps	Y	Y	Y	Y	Y	Y	Y	Y
Private marinas	N	N	N	N	N	Y	N	N
Public boardwalks	Y	Y	Y	Y	Y	Y	Y	Y
Public water recreational facilities	Y	Y	Y	Y	Y	Y	Y	Y
Public water transport facilities	Y	Y	Y	Y	Y	Y	Y	Y
Reclamation works	N	N	N	N	N	N	N	N
Recreational or club facilities	Y	Y	Y	Y	Y	Y	Y	Y
Residential development	N	N	N	N	N	N	N	N
Single mooring (other than associated with a commercial marina or a boating industry facility)	P	P	P	P	P	P	P	P
Skids	Y	N	N	N	Y	Y	Y	Y
Slipways	N	N	N	N	N	Y	Y	Y
Swimming enclosures (private)	N	N	Y	Y	N	Y	Y	N
Swimming pools	N	N	N	N	N	N	N	N
Telecommunications facilities	Y	Y	Y	Y	Y	Y	Y	Y
Tourist facilities	N	N	N	N	N	N	N	N

Uses and activities prohibited under the Control of Naval Waters Act 1918 of the Commonwealth	n/a	n/a	N	n/a	n/a	n/a	n/a	n/a
Water-based restaurants and entertainment facilities	N	N	N	N	N	N	N	N
Waterfront access stairs	N	N	N	N	N	N	N	N

10.16 Subdivision in the waterways

- (1) This section applies to land in Zone No W1, W2, W3, W4, W5, W6, W7 or W8.
- (2) Subdivision of land to which this section applies is prohibited, except as provided by this section.
- (3) Land to which this section applies may be subdivided, with development consent, if the purpose of the subdivision is to enable the creation of a lot that is, or is to be, used only for the following—
 - (a) development the subject of an existing development consent or a project approval under Part 3A of the Act or an approval under Part 5.1 of the Act to carry out State significant infrastructure,
 - (a1) development the subject of a right conferred by Division 10 (Existing uses) of Part 4 of the Act,
 - (b) exempt development or development or an activity that may be carried out without development consent,
 - (c) any other development that is authorised under an Act of the Commonwealth.
- (4) Before granting consent to subdivision under this section the consent authority must consider whether, and to what extent, the subdivision is likely to result in any reduction in public access to the foreshore or waterways.

10.17 Development control within national parks

Except as otherwise provided by this Chapter, in relation to land within Zone No 8 (a)—

- (a) the following kinds of development may be carried out without development consent—
 - (i) development for the purposes of aids to navigation,
 - (ii) development for purposes for which development is authorised to be carried out in a national park under the [National Parks and Wildlife Act 1974](#),

- (b) development for any other purpose is prohibited.

Division 2 Matters for consideration

10.18 General

The matters referred to in this Division (together with any other relevant matters)—

- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and
- (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.

10.19 Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows—

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,
- (f) development should retain, rehabilitate and restore riparian land,
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,
- (h) the cumulative environmental impact of development,
- (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.

10.20 Public access to, and use of, foreshores and waterways

The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows—

- (a) development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,
- (b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,
- (c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,
- (d) the undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,
- (e) the need to minimise disturbance of contaminated sediments.

10.21 Maintenance of a working harbour

The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows—

- (a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,
- (b) consideration should be given to integrating facilities for maritime activities in any development,
- (c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,
- (d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.

10.22 Interrelationship of waterway and foreshore uses

The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows—

- (a) development should promote equitable use of the waterway, including use by passive recreation craft,

- (b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,
- (c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,
- (d) water-dependent land uses should have priority over other uses,
- (e) development should avoid conflict between the various uses in the waterways and along the foreshores,
- (f) development on foreshore land should minimise any risk to the development from rising sea levels or changing flood patterns as a result of climate change.

10.23 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows—

- (a) the scale, form, design and siting of any building should be based on an analysis of—
 - (i) the land on which it is to be erected, and
 - (ii) the adjoining land, and
 - (iii) the likely future character of the locality,
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,
- (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.

10.24 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows—

- (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,
- (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,
- (c) the cumulative impact of development on views should be minimised.

10.25 Boat storage facilities

The matters to be taken into consideration in relation to boating facilities are as follows—

- (a) development should increase the number of public boat storage facilities and

encourage the use of such facilities,

- (b) development should avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,
- (c) development should provide for the shared use of private boat storage facilities,
- (d) development should avoid the proliferation of private boat storage facilities in and over the waterways by ensuring that all such facilities satisfy a demonstrated demand,
- (e) boat storage facilities should be as visually unobtrusive as possible,
- (f) in the case of permanent boat storage, the safety and utility of the development should not be adversely affected by the wave environment, and the development should avoid adverse impacts on safe navigation and single moorings.

10.26 Floating boat platforms

- (1) In addition to the matters to be taken into consideration under section 10.25, the matters to be taken into consideration in relation to floating boat platforms are as follows—
 - (a) floating boat platforms should not reduce or adversely affect public access to and along the foreshore in the vicinity of the development,
 - (b) floating boat platforms should be compatible with the character of the locality,
 - (c) floating boat platforms should be in a location that is suitable for that purpose, having regard to water depth (without the need for dredging),
 - (d) construction, installation and use of floating boat platforms must not impact adversely on seagrass.
- (2) Without limiting subsection (1)(c), the consent authority must not grant development consent to development for the purposes of a floating boat platform unless it is satisfied that the floating boat platform will, at all times, have a minimum seabed clearance of 600mm (without the need for dredging).
- (3) In this section, **seabed clearance** means the distance to the seabed from the underside of the floating boat platform.

Note—

Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

10.27 Mooring pens

The matters to be taken into consideration in relation to mooring pens are as follows—

- (a) mooring pens should not impact adversely on safe navigation,
- (b) mooring pens should not reduce or adversely affect public access to and along the foreshore in the vicinity of the development,
- (c) mooring pens should be compatible with the character of the locality,
- (d) mooring pens should be as visually unobtrusive as possible,
- (e) mooring pens for the permanent berthing of a vessel should be in a location that is suitable for that purpose, having regard to water depth (without the need for dredging) and wave action,
- (f) construction, installation and use of mooring pens must not impact adversely on seagrass.

Note—

Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the [Fisheries Management Act 1994](#)) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

Division 3 Foreshores and Waterways Planning and Development Advisory Committee

10.28 Foreshores and Waterways Planning and Development Advisory Committee

- (1) There is constituted by this section the Foreshores and Waterways Planning and Development Advisory Committee the functions of which are as follows—
 - (a) to advise a consent authority on matters relevant to any decision required to be made by the consent authority under this Chapter or the Act,
 - (b) to advise a public authority or person carrying out certain development that does not require development consent on relevant matters before such development is carried out,
 - (c) to advise the Director-General of the Department of Environment and Conservation, at his or her request, on any matter relating to the preparation of a plan of management for land that is reserved under the [National Parks and Wildlife Act 1974](#),
 - (d) to advise the Director-General of the Department of Primary Industries on any matter relating to the preparation of a plan of management for any land whose development may have an impact on an aquatic reserve within the meaning of the

Fisheries Management Act 1994,

- (e) to exercise any other functions conferred on it by this Chapter or any other environmental planning instrument.
- (2) The Advisory Committee is to consist of 3 members appointed by the Director-General.
- (3) Of the members of the Advisory Committee—
 - (a) one is to be an officer of the Maritime Authority of NSW nominated by the Authority, and
 - (b) one is to be an officer of the Department selected by the Director-General, and
 - (c) one is to be—
 - (i) in respect of a function exercised by the Advisory Committee in relation to a matter for which the council of a local government area is the consent authority, a person nominated by the council, or
 - (ii) in respect of a function exercised by the Advisory Committee in relation to a matter for which the Minister is the consent authority, a person nominated by the Minister.
- (4) If a function of the Advisory Committee is not being exercised in respect of land within a local government area, but is being exercised in respect of any land that is reserved under the *National Parks and Wildlife Act 1974*, the Advisory Committee is to include an officer of the Department of Environment and Conservation selected by the Director-General of that Department instead of the member referred to in subsection (3)(c).
- (5) The Director-General is to appoint one of the members of the Committee to be the Chairperson of the Advisory Committee.
- (6) The procedures for the calling of meetings of the Advisory Committee and for the conduct of business at those meetings are, subject to this Chapter and to any direction of the Director-General, to be as determined by the Advisory Committee.

Division 4 Special provisions

10.29 Commercial marinas within Zone No W1

The consent authority must not grant development consent to development for the purpose of a commercial marina on land within Zone No W1 unless it is satisfied that access between the marina and the foreshore will not be provided on or across land within Zone No W2, W3, W7 or W8.

10.30 Boat repair facilities and commercial marinas in Zone No W2

- (1) The objects of this section are as follows—
 - (a) to maintain the working harbour character and functions of certain existing boat repair facilities by retaining the sites of those facilities for maritime purposes,
 - (b) to ensure that any development carried out on those sites, including any alteration or extension of those facilities, does not substantially increase the scale of those facilities or the intensity of their use.
- (2) Despite any other provision of this Chapter, development for the purposes of a boat repair facility or commercial marina may be carried out, but only with development consent, on a site shown edged heavy black on the Special Purposes (Boat Repair Facilities and Commercial Marinas) Map.

10.31 Homebush Bay—Rhodes Peninsula bridge

Despite any other provision of this Chapter, development for the purposes of a pedestrian and cycle bridge over Homebush Bay, between Homebush Bay West and Rhodes Peninsula, may be carried out, in accordance with the provisions of the *Homebush Bay West Development Control Plan* with respect to such a bridge, but only with development consent.

10.32 Development on land comprising acid sulfate soils

- (1) This section applies to such of the land in the Foreshores and Waterways Area as is within Zone No W1, W2, W3, W4, W5, W6, W7, W8 or 8 (a).
- (2) Works that involve the excavation, dredging, filling or contouring of land to which this section applies, or the extraction of soil or other extractive material from such land, may be carried out only with development consent.
- (3) Despite subsection (2), such works may be carried out without development consent if—
 - (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been given to the consent authority, and
 - (b) the consent authority has provided written advice to the person carrying out the works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.
- (4) The consent authority must not grant development consent as required by this section unless it has considered—
 - (a) the adequacy of an acid sulfate soils management plan prepared for the proposed

development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and

(b) the likelihood of the proposed development resulting in the discharge of acid water, and

(5) This section requires development consent for the carrying out of works—

(a) by councils or county councils (within the meaning of the *Local Government Act 1993*), or

(b) by private drainage boards (within the meaning of the *Water Management Act 2000*),

despite any other provision of this Chapter.

(6) This section does not apply to or in respect of works carried out by or on behalf of the Maritime Authority of NSW or Sydney Ports Corporation.

(7) In this section—

acid sulfate soils means actual or potential acid sulfate soils, as defined in the *Acid Sulfate Soils Assessment Guidelines*.

Acid Sulfate Soils Assessment Guidelines means the *Acid Sulfate Soils Assessment Guidelines* as published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General.

10.33 Development within 20 metres of boundary of Zone No W2

Despite any other provision of this Chapter, a consent authority may grant development consent to the development of land that is within 20 metres of the boundary of Zone No W2 and another zone for a purpose for which development may be carried out in either Zone No W2 or the adjoining zone.

10.34 Development on land in waterways adjoining national parks

Development for any purpose for which development is authorised to be carried out under the *National Parks and Wildlife Act 1974* may be carried out without development consent in the waterway adjoining land that is reserved under that Act, where the development spans the mean high water mark and is part of any other development or activity being carried out on that land.

10.35 Development and activities in vicinity of national parks

A consent authority must not grant consent to development in any part of the waterway that would be likely to affect land that is reserved under the *National Parks and Wildlife Act 1974* if it is of the opinion that the proposed development is not consistent with the provisions contained in the *Guidelines for developments adjoining Department of Environment and Climate Change land* (as in force on the day on which this section, as

substituted by *State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2008*, commenced).

Division 5 Complying development

10.36 Boat sheds, mooring pens, private landing facilities, private landing steps, skids and slipways

- (1) Structural repairs to, the replacement of, or the carrying out of maintenance works in relation to existing lawful boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways that are not used for a commercial purpose is complying development if—
 - (a) the development meets the standards specified in subsection (2), and
 - (b) the development is not carried out on a heritage item or a draft heritage item.
- (2) The development must—
 - (a) not increase the height or site coverage of the building concerned, and
 - (b) use materials that are equivalent to the quality of the existing approved materials being repaired or replaced, and
 - (c) not result in a pile being left exposed within the waterway, and
 - (d) not reduce the amount of light penetration to any water below, and
 - (e) satisfy the provisions of the *Building Code of Australia* applying to the development, or if there are no applicable provisions—
 - (i) be structurally adequate, and
 - (ii) not change the classification of any building under the *Building Code of Australia*, and
 - (f) use recessive colours sympathetic to the existing natural landscape and built form, and
 - (g) comply with AS 4997—2005, *Guidelines for the design of maritime structures*, and
 - (h) if the development is for the purpose of the removal or the replacement of damaged or degraded piles—
 - (i) not cause a deterioration in water quality, and
 - (ii) use silt curtains or similar effective methods to control pollution, and
 - (iii) not dispose of spoil in the waterway, and

- (i) not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*), and
- (j) in the case of the repair or replacement of any winch or other device used for the lifting of a vessel—not be larger in size or capacity than the one being repaired or replaced.

Note—

Approvals may be required under the *Fisheries Management Act 1994* and the *Protection of the Environment Operations Act 1997*.

10.37 Floating boat platforms

- (1) Development for the purposes of floating boat platforms is complying development if the development—
 - (a) is located within a mooring pen in Zone No W6 or W7 to which the consent authority has given development consent, and
 - (b) meets the standards specified in subsection (2).
- (2) The following standards are specified for the development—
 - (a) the development must, at all times, have a minimum seabed clearance of 600mm (without the need for dredging),
 - (b) the floating boat platform must be located wholly within a mooring pen,
 - (c) the highest point of the floating boat platform must not be greater than 400mm above the water line of the platform when a vessel is berthed on the platform,
 - (d) the floating boat platform must not include any crane, winch or mechanical device,
 - (e) the development must use neutral or recessive colours,
 - (f) the development must not impact adversely on safe navigation,
 - (g) the development must not reduce or adversely affect public access to and along the foreshore, and to and from the waterway, in the vicinity of the development,
 - (h) the development must not be located above seagrass and the construction, installation or use of the floating boat platform must not impact adversely on seagrass.
- (3) In this section, **seabed clearance** means the distance to the seabed from the underside of the fishing boat platform.

Note—

Development must not involve disturbance of, or injury to, the bed of a waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*) unless the carrying out of the activity causing the disturbance or injury has been authorised under that Act.

Part 10.4 Strategic foreshore sites

Division 1 Requirement for master plan

10.38 Application of Division

- (1) This Division applies to development that is carried out on a strategic foreshore site.
- (2) In this Division, a reference to a strategic foreshore site extends to the whole of any structure (such as a wharf)—
 - (a) that is located partly on land within the site and partly on waters adjacent to the site, and
 - (b) that is related to the site.

10.39 Requirement for master plans

- (1) Development consent must not be granted for the carrying out of development on a strategic foreshore site unless—
 - (a) there is a master plan for the site, and
 - (b) the consent authority has taken the master plan into consideration.
- (2) The Minister may waive compliance with the requirements of subsection (1)—
 - (a) if satisfied that preparation of a master plan is unnecessary because of—
 - (i) the nature of the proposed development, or
 - (ii) the fact that the proposed development will affect only a small proportion of the site, or
 - (iii) the adequacy of other planning controls applying to the proposed development, or
 - (b) for such other reason as the Minister considers sufficient,so long as the Minister is satisfied that the proposed development will not compromise the application of the planning principles set out in sections 10.10, 10.11 and 10.12.
- (3) If the Minister is not the consent authority, the Minister is to notify the relevant consent authority, in writing, of a waiver of the requirements of subsection (1).
- (4) A master plan does not have to be prepared for the following unless the Minister so directs—

(a) the City Foreshores Area or Garden Island, as shown on the Strategic Foreshore Sites Map,

(b) the Leeds Street Character Area within the meaning of *Canada Bay Local Environmental Plan 2013*.

(5) This section does not apply to minor development specified in Schedule 10.

Division 2 Master plans

10.40 Master plans to which Part applies

This Division applies to and in respect of any master plan that is required by Division 1 to be prepared for any land.

10.41 Appropriate authority

For the purposes of this Part, the **appropriate authority** is—

(a) the Minister, in relation to any land for which the Minister is the consent authority for any development (whether or not the relevant council or any other public authority is the consent authority for other development), and

(b) the relevant council, in relation to any other land.

10.42 Nature of master plans

A **master plan** is a document (consisting of written information, maps and diagrams)—

(a) that outlines provisions relating to development of land to which the master plan applies, and

(b) that explains how the principles in Part 2 and in any other relevant environmental planning instrument are addressed.

10.43 Land for which master plan to be prepared

(1) A master plan for a strategic foreshore site for which the Minister is the appropriate authority may be prepared for the whole of the site or for part only of the site.

(2) A master plan for a strategic foreshore site for which the relevant council is the appropriate authority must be prepared for the whole of the site unless the Minister directs that it may be prepared for part only of the site.

(3) Such a direction must not be given unless the Minister is satisfied that the adoption of a master plan for the specified part will not compromise the application of the planning principles set out in sections 10.10, 10.11 and 10.12.

10.44 Preparation of master plans

- (1) A draft master plan may be prepared by or on behalf of the owner or lessee of the land concerned, the relevant council or the Director-General.
- (2) A draft master plan is to be prepared following consultation with the appropriate authority and is to illustrate and explain, where appropriate, proposals for the following—
 - (a) design principles drawn from an analysis of the site and its context,
 - (b) phasing of development,
 - (c) distribution of land uses including foreshore public access and open space,
 - (d) pedestrian, cycle and motor vehicle access and circulation networks,
 - (e) parking provision,
 - (f) infrastructure provision,
 - (g) building envelopes and built form controls,
 - (h) heritage conservation (including the protection of archaeological relics and places, sites and objects of Aboriginal heritage significance), implementing the guidelines set out in any applicable conservation policy or conservation management plan,
 - (i) remediation of the site,
 - (j) provision of public facilities,
 - (k) provision of open space, its function and landscaping,
 - (l) the impact on any adjoining land that is reserved under the [National Parks and Wildlife Act 1974](#),
 - (m) protection and enhancement of the natural assets of the site and adjoining land,
 - (n) protection and enhancement of the waterway (including water quality) and any aquatic vegetation on or adjoining the site (such as seagrass, saltmarsh, mangroves and algal communities).
- (3) The requirement for consultation under subsection (2) does not apply if the draft master plan is prepared by or on behalf of the relevant council or the Director-General.
- (4) If a draft master plan is prepared by or on behalf of the relevant council or the Director-General, the relevant council or the Director-General is required to consult with the owner or lessee of the land concerned.

10.45 Consultation

- (1) A draft master plan submitted to the appropriate authority by or on behalf of the owner or lessee of the land concerned, the relevant council or the Director-General must be advertised in a newspaper circulating in the locality and exhibited for not less than 21 days for public comment.
- (2) A draft master plan (other than a draft master plan prepared by the Director-General) must be submitted to the Director-General for comment and the views of relevant public authorities and community organisations sought.
- (3) If the appropriate authority is the Minister, a draft master plan must be submitted to the relevant council for comment.
- (4) Any comments made by the Director-General or the relevant council must be taken into consideration prior to finalising the draft master plan.
- (5) The appropriate authority must take into account any written submissions made about the content of the draft master plan during the exhibition period.

10.46 Adoption of master plans

- (1) A draft master plan must be submitted to the appropriate authority for adoption.
- (2) The Director-General may recommend that a draft master plan be adopted without any variations or that it be adopted with such variations as the Director-General considers appropriate.
- (3) The Minister may adopt a draft master plan for land for which a council is the appropriate authority under section 10.41(b) if the council has rejected, or has not adopted, that plan within 6 months after the date on which it was submitted to the council for adoption.
- (4) The Minister must seek the views of the relevant council concerning the draft master plan before the Minister adopts it.
- (5) A draft master plan becomes a master plan if it is adopted by the appropriate authority or by the Minister under subsection (3).
- (6) When a master plan is adopted, the appropriate authority must advertise the adoption of the master plan in a newspaper circulating in the locality.

10.47 Amendment of master plans

- (1) A master plan may be amended by another master plan.
- (2) An amendment to a master plan may be dealt with concurrently with a development application.

10.48 Availability of master plans

A copy of each master plan must be available for inspection at the head office of the Department and the relevant council.

10.49 Master plans not required for land dedicated or reserved under [National Parks and Wildlife Act 1974](#)

Nothing in this Chapter—

- (a) requires a master plan to be prepared—
 - (i) for land that is reserved under the [National Parks and Wildlife Act 1974](#), or
 - (ii) for waterfront land that is adjacent to, and managed in the same manner as, land that is reserved under the [National Parks and Wildlife Act 1974](#), or
- (b) prohibits the carrying out of development on land that is reserved under the [National Parks and Wildlife Act 1974](#) otherwise than in accordance with such a plan.

Part 10.5 Heritage provisions

Division 1 General

10.50 General

The matters referred to in this Part (together with any other relevant matters)—

- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and
- (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.

10.51 Objectives

- (1) The objectives of this Chapter in relation to heritage are—
 - (a) to conserve the environmental heritage of the land to which this Part applies, and
 - (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items, and
 - (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
 - (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items.
- (2) The objectives of this Chapter in relation to the Sydney Opera House are—

- (a) to establish a buffer zone around the Sydney Opera House so as to give added protection to its world heritage value, and
- (b) to recognise that views and vistas between the Sydney Opera House and other public places within that zone contribute to its world heritage value.

Note—

Attention is drawn to the provisions of the *Heritage Act 1977* and the *National Parks and Wildlife Act 1974* under which an approval or permit under either or both of those Acts may be required for certain activities, whether or not development consent is required by this section.

Division 2 Protection of heritage items

10.52 Land to which Part applies

This Part applies to and in respect of the land shown on the Heritage Map and to the heritage items identified on that map.

Note—

The heritage items are also listed in Schedule 11.

10.53 Protection of heritage items

- (1) The following development may be carried out only with development consent—
 - (a) demolishing or moving a heritage item,
 - (b) altering a heritage item by making structural or non-structural changes to its exterior, including changes to its detail, fabric, finish or appearance,
 - (c) altering a heritage item by making structural changes to its interior,
 - (d) disturbing or damaging a place of Aboriginal heritage significance or an Aboriginal object,
 - (e) erecting a building on, or subdividing, land on which a heritage item is located.
- (2) Development consent is not required by this section if—
 - (a) in the opinion of the consent authority—
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item, and
 - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will

comply with this subsection and that development consent is not otherwise required by this Chapter.

- (3) Development consent is not required by this section for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance—
 - (a) the creation of a new grave or monument, or
 - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) Before granting development consent as required by this section, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.
- (5) The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues)—
 - (a) the heritage significance of the item as part of the environmental heritage of the land to which this Part applies, and
 - (b) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
 - (c) the measures proposed to conserve the heritage significance of the item and its setting, and
 - (d) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
 - (e) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision.
- (6) The consent authority may also decline to grant development consent until it has considered a conservation management plan, if it considers the development proposed should be assessed with regard to such a plan.

Division 3 Protection of places of potential heritage significance

10.54 Development affecting matters of Aboriginal heritage significance

- (1) Before granting development consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority—
 - (a) must consider an Aboriginal heritage impact assessment that has been prepared

in accordance with any relevant guidelines established by the Department of Environment and Conservation and that documents the views of local Aboriginal communities, and

(b) except where the proposed development is integrated development by virtue of the requirement for consent under section 90 of the *National Parks and Wildlife Act 1974*, must notify the local Aboriginal communities (in such way as it thinks appropriate) of its intention to do so and take into consideration any comments received in response within 21 days after the relevant notice is sent, and

(c) must be satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.

(2) The notice referred to in subsection (1)(b) must be sent to the local Aboriginal communities by the consent authority within 2 days after the date of lodgment of the relevant development application.

10.55 Development affecting matters of non-Aboriginal heritage significance

(1) Before granting development consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority—

(a) must consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and

(b) must be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

(2) This section does not apply—

(a) if the proposed development does not involve disturbance of below-ground deposits, and if the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or

(b) if the proposed development is integrated development by virtue of—

(i) the requirement for consent under section 90 of the *National Parks and Wildlife Act 1974*, or

(ii) the requirement for approval under section 57 of the *Heritage Act 1977*.

Division 3A Sydney Opera House

10.56 Land to which Division applies

This Division applies to the Sydney Opera House buffer zone, as shown edged heavy black on the Sydney Opera House Buffer Zone Map.

10.57 Protection of world heritage value of Sydney Opera House

The matters to be taken into consideration in relation to development within the Sydney Opera House buffer zone include the following—

- (a) the objectives set out in section 10.51(2),
- (b) the need for development to preserve views and vistas between the Sydney Opera House and other public places within that zone,
- (c) the need for development to preserve the world heritage value of the Sydney Opera House,
- (d) the need for development to avoid any diminution of the visual prominence of the Sydney Opera House when viewed from other public places within that zone.

10.58 Minor development

- (1) This Division does not apply to or in respect of building work that merely involves—
 - (a) the renovation, repair, rebuilding or demolition of a building, or
 - (b) internal alterations to a building, or
 - (c) external alterations to a building that are carried out below ground level.
- (2) This Division does not apply to or in respect of the subdivision of land.
- (3) This Division does not apply to or in respect of any use of a building or place, other than—
 - (a) the temporary use of a public open space, and the erection of temporary structures in connection with any such use, for more than 50 days in any single period of 12 months, or
 - (b) the temporary use of a private open space for more than 2 years.
- (4) This Division does not apply to or in respect of—
 - (a) the installation or erection in any open space of any artwork, time capsule, bollard, tree surround, street furniture, pathway, driveway steps or flagpole, or
 - (b) any landscaping or tree planting.

Division 4 Miscellaneous

10.59 Development in vicinity of heritage items

- (1) Before granting development consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.
- (2) This section extends to development—
 - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item, or
 - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item.
- (3) The consent authority may refuse to grant development consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

10.60 Conservation incentives

The consent authority may grant development consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this Chapter, if—

- (a) it is satisfied that the retention of the heritage item depends on the granting of development consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and
- (c) the granting of development consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area

otherwise than to an insignificant extent.

Part 10.6 Wetlands protection

10.61 Objectives

The objectives of this Chapter in relation to wetlands are—

- (a) to preserve, protect and encourage the restoration and rehabilitation of wetlands, and
- (b) to maintain and restore the health and viability of wetlands, and
- (c) to prevent the fragmentation of wetlands, and
- (d) to preserve the scenic qualities of wetlands, and
- (e) to ensure that wetlands continue to perform their natural ecological functions (such as the provision of wetland habitat, the preservation of water quality, the control of flooding and erosion).

Note—

Attention is drawn to the provisions of the [National Parks and Wildlife Act 1974](#) under which approval under that Act may be required for certain activities (such as the disturbance of Aboriginal objects or places) whether or not development consent is required by this section. Attention is also drawn to the requirements of the [Fisheries Management Act 1994](#) for all dredging proposals to be referred to the Minister administering that Act.

10.62 Requirement for development consent

- (1) Development within a wetlands protection area may be carried out only with development consent.
- (2) Development consent is not required by this section—
 - (a) for anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or
 - (b) for any works that restore or enhance the natural values of wetlands (including works to restore or enhance plant communities, water levels, water flows or soil composition), being works—
 - (i) that are carried out to rectify damage arising from a contravention of this Chapter, and
 - (ii) that are not carried out in association with any other development, and
 - (iii) that have no significant impact on the environment beyond the site on which they are carried out.
- (3) Development consent is not required by this section for any other development if—

- (a) in the opinion of the consent authority—
 - (i) the proposed development is of a minor nature, and
 - (ii) the proposed development would not adversely affect the wetland or wetlands protection area, and
 - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subsection and that development consent is not otherwise required by this Chapter.
- (4) This section does not apply to development carried out by or on behalf of the Maritime Authority of NSW or Sydney Ports Corporation.
- (5) This section does not apply to development that is prohibited by any other environmental planning instrument.

10.63 Matters for consideration

- (1) The matters referred to in this section (together with any other relevant matters)—
- (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and
 - (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies.
- (2) The matters to be taken into consideration in relation to any development are as follows—
- (a) the development should have a neutral or beneficial effect on the quality of water entering the waterways,
 - (b) the environmental effects of the development, including effects on—
 - (i) the growth of native plant communities,
 - (ii) the survival of native wildlife populations,
 - (iii) the provision and quality of habitats for both indigenous and migratory species,
 - (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependent,

- (c) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,
- (d) whether carrying out the development would be consistent with the principles set out in *The NSW Wetlands Management Policy* (as published in March 1996 by the then Department of Land and Water Conservation),
- (e) whether the development adequately preserves and enhances local native vegetation,
- (f) whether the development application adequately demonstrates—
 - (i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and
 - (ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and
 - (iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and
 - (iv) how appropriate on-site measures are to be implemented to ensure that the intertidal zone is kept free from pollutants arising from the development, and
 - (v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and
 - (vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and
 - (vii) that the development minimises physical damage to aquatic ecological communities, and
 - (viii) that the development does not cause physical damage to aquatic ecological communities,
- (g) whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.

Part 10.7 Miscellaneous consent provisions

10.64 Subdivision—consent requirements

Land to which this Chapter applies may be subdivided, but only with development consent.

Notes—

- 1** If a subdivision is specified as **exempt development** in an applicable environmental planning instrument,

such as this Chapter or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.

2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

10.65 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

Note—

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Chapter or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

10.66 Temporary use of land

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Chapter, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Chapter and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

Chapter 11 Georges Rivers Catchment

Part 11.1 Introduction

11.1 Where plan applies

This Chapter applies to the Catchment, which is part of the region declared under the Act and known as the Greater Metropolitan Region. The Catchment consists of parts of Bankstown City, Blacktown City, Campbelltown City, Camden, Canterbury City, Fairfield City, Holroyd City, Hurstville City, Kogarah, Liverpool City, Rockdale City, Sutherland, Wollondilly and Wollongong City local government areas that are within the Georges River Catchment. The catchment map indicates the boundary of the Catchment.

11.2 Relationship to other environmental planning instruments

- (1) If this Chapter is inconsistent with another regional environmental plan or a local environmental plan, then this Chapter prevails to the extent of the inconsistency, subject to section 36 (4) of the Act.
- (2) However, this Chapter does not permit development which is prohibited by another environmental planning instrument.
- (3) This Chapter contains planning principles to help councils prepare local environmental plans that apply to the land within the Catchment.

11.3 Definitions

- (1) This Chapter adopts the [Environmental Planning and Assessment Model Provisions 1980](#). Other terms used in this Chapter are defined in the dictionary at the end of this Chapter.
- (2) The list of contents and the notes in this Chapter do not form part of this Chapter.

11.4 Aims and objectives

- (1) The general aims and objectives of this Chapter are as follows—
 - (a) to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,
 - (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,
 - (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely

on groundwater and on the water quality and river flows within the Georges River or its tributaries,

- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,
- (e) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

(2) The specific aims and objectives of this Chapter are as follows—

Environmental protection and water quality and river flows

- (a) to preserve and protect and to encourage the restoration or rehabilitation of regionally significant sensitive natural environments such as wetlands (including mangroves, saltmarsh and seagrass areas), bushland and open space corridors within the Catchment, by identifying environmentally sensitive areas and providing for appropriate land use planning and development controls,
- (b) to preserve, enhance and protect the freshwater and estuarine ecosystems within the Catchment by providing appropriate development,
- (c) to ensure that development achieves the environmental objectives for the Catchment.

Regional role and land use

- (a) to identify land uses in the Catchment which have the potential to impact adversely on the water quality and river flows in the Georges River and its tributaries and to provide appropriate planning controls aimed at reducing adverse impacts on the water quality and river flows,
- (b) to conserve, manage and improve the aquatic environment within the Catchment which is a significant resource base for the aquaculture industry, by providing controls aimed at reducing pollution entering the Catchment's watercourses,
- (c) to protect the safety and well being of the local and regional community in accordance with standards and processes aimed at improving the water quality and river flows in the Catchment to enable recreation,
- (d) to aid in the improvement of the environmental quality of Botany Bay in conjunction with other regional planning instruments.

Part 11.2 Planning principles

11.5 When planning principles are to be applied

This Part applies when—

- (a) a consent authority determines a development application, or
- (b) a public authority or another person proposes to carry out development or an activity which does not require development consent but which has the potential to adversely affect the water quality, river flows, flood regime or ecosystems within the Catchment.

11.6 General principles

When this Part applies the following must be taken into account—

- (a) the aims, objectives and planning principles of this Chapter,
- (b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,
- (c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,
- (d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),
- (e) the *Georges River Catchment Regional Planning Strategy* (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),
- (f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,
- (g) whether there are any feasible alternatives to the development or other proposal concerned.

11.7 Specific planning principles

When this Part applies, the following must be taken into account—

(1) Acid sulfate soils

Disturbance of acid sulfate soil areas is to be avoided or minimised and those areas are to be protected in accordance with the requirements set out in the *Acid Sulfate Soils Assessment and Management Guidelines* prepared by the Acid Sulfate Soils Management Advisory Committee. Measures to minimise that disturbance are to take

into account the following—

- (a) verification of the existence, locations and extent of acid sulfate soils,
- (b) the capacity of land to sustain the proposed land uses, having regard to—
 - (i) potential impacts on surface and groundwater quality and quantity, and
 - (ii) potential impacts on ecosystems and on biodiversity, and
 - (iii) potential impacts on agricultural, fisheries and aquaculture productivity, and
 - (iv) any likely engineering constraints and impacts on infrastructure, and
 - (v) cumulative environmental impacts.

(2) Bank disturbance

Disturbance of the bank or foreshore along the Georges River and its tributaries is to be avoided and those areas and any adjoining open space or vegetated buffer area must be protected from degradation.

(3) Flooding

The following are to be recognised—

- (a) the benefits of periodic flooding to wetland and other riverine ecosystems,
- (b) the pollution hazard posed by development on flood liable land in the event of a flood,
- (c) the cumulative environmental effect of development on the behaviour of flood water and the importance of not filling flood prone land.

(4) Industrial discharges

The discharging of industrial waste into the Georges River or its tributaries must be avoided and the requirements of the relevant consent authority and licensing authority must be met in those instances where industrial discharges into the river and its tributaries occur.

(5) Land degradation

Land degradation processes, such as—

- (a) erosion,
- (b) sedimentation,
- (c) deterioration of soil structure,
- (d) significant loss of native vegetation,

(e) pollution of ground or surface water,

(f) soil salinity and acidity, and

(g) adverse effects on habitats and sensitive natural environments (aquatic and terrestrial) within the Catchment,

must be avoided where possible, and minimised where avoidance is not possible.

(6) On-site sewage management

The potential adverse environmental and health impact associated with effluent disposal is to be recognised and guarded against by meeting the criteria set out in the *Environment Health Protection Guidelines: On-site Sewage Management for single households* and the provisions of the [Local Government \(Approvals\) Regulation 1993](#).

(7) River-related uses

Uses located on immediate foreshore land on the Georges River and its tributaries must be water-related and public access to the foreshore of the river and its tributaries must be provided in order to enhance the environment of the Catchment.

(8) Sewer overflows

The adverse impact of sewer overflows, including exfiltration, on the environment within the Catchment, and specifically on the water quality of the river and its tributaries, is to be recognised and that issue is to be addressed through appropriate planning and management of development within the Catchment.

(9) Urban/stormwater runoff

The impacts of stormwater runoff, including sewage contaminated runoff into or near streams within the Catchment, is to be minimised and mitigation measures that address urban stormwater runoff are to be implemented in accordance with the local council requirements and the Managing Urban Stormwater series of documents. Development is also to be in accordance with the *NSW State Rivers and Estuaries Policy* available from offices of the Department of Urban Affairs and Planning. Stormwater management must be integrated so that quality, quantity and land use aspects are all encompassed.

(10) Urban development areas

The environment within the Catchment is to be protected by ensuring that new or expanding urban development areas are developed in accordance with the Urban Development Program and the Metropolitan Strategy and that the requirements of the *NSW Floodplain Development Policy and Manual* (prepared by and available from the Department of Land and Water Conservation) are also satisfied. It is important to

ensure that the level of nutrients entering the waterways and creeks is not increased by the development.

(11) **Vegetated buffer areas**

Appropriate buffer widths (as identified in item 21 relating to Development in Vegetated Buffer Areas in the Planning Control Table in Part 3) must be retained as a means of improving surface runoff entering into the Georges River or its tributaries.

(12) **Water quality and river flows**

Water quality and river flows within the Catchment are to be improved through the implementation of environmental objectives for water quality and river flows agreed between the Minister for Environment and the Minister for Land and Water Conservation and by the application of consistent decisions affecting the use and management of land.

(13) **Wetlands**

Wetlands must be protected through the application of consistent land use and management decisions that take into account the potential impact of surrounding land uses, incorporate measures to mitigate adverse effects and are in accordance with the *NSW Wetlands Management Policy* (prepared by and available from the Department of Land and Water Conservation). Wetlands must also be protected by requiring adequate provisions where clearing, construction of a levee, draining or landscaping is to be undertaken.

Part 11.3 Planning requirements

11.8 Planning control table

- (1) The planning control table at the end of this section deals with development defined in that table.
- (2) Under **Planning control:**
 - (a) **Development consent** means that the development may be carried out only with development consent, and
 - (b) **Prohibited** means the development must not be carried out (either generally or only in the circumstances specified), and
 - (c) **Designated development** means that the development is declared to be designated development for the purposes of the Act.
- (3) Under **Specific matters for consideration**, matters are listed for consideration by the consent authority when determining a development application or (if consent is not required) by the public authority or person concerned before carrying out the

development.

- (4) The council of the area in which development is proposed to be carried out is the **consent authority** for a development application required by this Chapter, except as provided otherwise by the Act.

PLANNING CONTROL TABLE

1 ARTIFICIAL LAKE

Definition

Construction of a water body such as an artificial wetland or dam, but not a dam of less than 1 hectare in surface area used for agricultural purposes or land flood-irrigated for agriculture.

Planning control

Development consent required unless carried out by or for the Chipping Norton Lakes Authority in which case development consent is not required.

Specific matters for consideration

The likely impact of the proposal on the water table.

The likely impact of the proposal on natural flows in the Georges River and its tributaries.

The likely impact of the proposal on other downstream water users in the Catchment.

Whether the proposal will contribute to enhancing both the recreational and environmental amenity within the Catchment.

If the proposal is part of rehabilitation works, whether the proposal is in keeping with an approved rehabilitation plan.

Whether the proposal is likely to result in a propagation zone for noxious aquatic weeds.

The likelihood of the development of algal blooms and measures proposed to control that.

2 AQUACULTURE

Definition

Farming of aquatic organisms (including fish, molluscs, crustaceans and aquatic plants) for commercial purposes, requiring intervention in the rearing process to enhance production, whether or not undertaken in a natural or artificially created water body.

Planning control

Development consent required.

Note—

Owner's consent for proposed development or an activity on Crown land is required from the Department of Lands.

Specific matters for consideration

The potential impact of the proposal on seagrass beds.

The impact of related activities, including the coating of fishing accessories with protective finishes, the transport of cages, racks and other accessories onshore and the cleaning of cages, racks and other accessories. In this regard, consideration is also to be given to the provisions made for the disposal of waste.

The impact of aquaculture additives on water quality within the Georges River and its tributaries.

Whether acceptable health criteria for shellfish are met.

The potential for impacts arising from possible damage from floods, stormwater and erosion.

3 CARAVAN PARKS

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](#).

Planning controls

Development consent required unless on flood liable land in which case it is prohibited.

Permanent facilities and sites identified for long term use as caravan parks are prohibited on land within 40 metres of the Georges River or its tributaries (in this item referred to as "the buffer zone").

Note—

A licence from the Environment Protection Authority may be required for sewage disposal.

Specific matters for consideration

The impact of the proposal on remnant vegetation.

If the caravan park is located on land adjoining the buffer zone, public access to the park is to be restricted to clearly identified pathways. The buffer zone is to be planted

or, where vegetated, the vegetation is to be retained, between the Georges River or its tributaries and the caravan park or camping ground.

Sewage treatment and disposal from such sites.

Whether approvals have been sought for access points, such as boat ramps and jetties, to the river.

4 CHEMICAL OR FUEL STORAGE ON LAND

Definition

Use of land for chemical, fuel or fertiliser storage.

Planning controls

Prohibited on flood liable land.

Development consent required for all other land.

Specific matters for consideration

That adequate provisions have been made to contain water that may be contaminated by its use for fire control purposes.

Whether the proposal meets the requirements of the local council's stormwater management plan or, if no such plan is prepared, the local council's stormwater management objectives or policy determined by the council.

Whether the proposal is in accordance with the local council's soil erosion and sediment management plan or policy.

Any impacts on groundwater.

Provision for on-site bush fire hazard reduction where relevant.

5 EXTRACTIVE INDUSTRY

Definition

The winning of extractive material, or an undertaking which depends for its operations on the winning of extractive material, from land within the Catchment, including any washing, cutting, crushing, grinding, milling or separating into different sizes of extractive material on the site on which it has been won.

Planning control

Development consent is required unless the proposed development—

(a) is in-stream, in which case it is prohibited, or

(b) is part of an operation to carry out maintenance dredging by a public authority and the consent authority is satisfied that the proposal is in accordance with the principles and objectives contained in the *NSW Sand and Gravel Extraction Policy for Non Tidal Rivers*, in which case consent is not required.

Specific matters for consideration

The likely effect of the proposal on flood behaviour, geomorphology, vegetation, surface and groundwater quality, water quality, water quantity and hydrodynamics of any watercourse within the Catchment.

Whether a Rehabilitation Plan has been prepared in accordance with the Guidelines established by the Department of Land and Water Conservation in its *Urban Erosion and Sediment Control Handbook* (1992).

Whether the noise and vibration levels are generally in accordance with the guidelines in the *Environmental Noise Control Manual* (1994) prepared by the Environment Protection Authority.

Satisfaction that any proposed rehabilitation measures will be carried out in accordance with the guidelines in the *Managing Urban Stormwater Soils and Construction Handbook* (1998) prepared by and available from Landcom and the Department of Housing.

6 FLOOD CONTROL WORKS

Definition

The carrying out of any works in an attempt to mitigate against flooding if the works will change the natural or existing condition of the Georges River or its tributaries, including river flows.

Planning controls

Development consent required.

Specific matters for consideration

Whether the proposal satisfies the stormwater management plan prepared by the local council or, until such a plan is made, the local council's stormwater management objectives.

Whether the proposal is in accordance with the Council's soil erosion and sediment management plan or policy.

Whether the proposal is consistent with State Government policies including the New South Wales Government's *Floodplain Development Manual: the management of flood liable land* (April 2005, ISBN 0 7347 5476 0).

7 HAZARDOUS OR OFFENSIVE, OR POTENTIALLY HAZARDOUS OR OFFENSIVE INDUSTRIES

Definition

Hazardous or offensive industry (as defined in [State Environmental Planning Policy No 33—Hazardous and Offensive Development](#)) of a type that has the potential to pollute and to lower water quality in the Georges River or its tributaries.

Planning controls

Development consent required unless located on either flood liable land or land within 40 metres of any watercourse within the Catchment, in which case it is prohibited.

Specific matters for consideration

Whether adequate provisions have been made to contain water that may be contaminated by its use for fire control purposes.

Whether the proposal meets the requirements of the local council's stormwater management plan or, if no such plan has been prepared, the local council's stormwater management objectives or policy determined by the council.

Whether the proposal is in accordance with the Council's soil erosion and sediment management plan or policy.

Whether any potential impacts will arise in regard to groundwater.

Whether adequate provisions for on-site bushfire hazard reduction are made.

8 HOUSING DEVELOPMENT

Definition

Development of land for housing, including the following—

- (a) development of new areas for housing in accordance with the Urban Development Program and the Metropolitan Strategy, and
- (b) rural-residential development within the Catchment.

Planning control

For land included in the Urban Development Program:

Development consent required for land identified in the Urban Development Program unless the land is not connected to a reticulated sewerage system or is flood liable, in which case it is prohibited.

For rural residential land, being land within a rural zone on which residential

development is allowed by a local environmental plan:

Development consent required.

Specific matters for consideration

For land within the Urban Development Program:

Whether the proposal for development accords with the Metropolitan Strategy and satisfies the strategy's goals and key principles.

Whether the land is adequately serviced.

Whether adequate provision has been made to meet the requirements of any council stormwater management plans and erosion and sediment control plans or policies.

Whether provision has been made for sediment and/or erosion control during construction in accordance with best practice.

Whether adequate provision has been made to prevent untreated urban runoff including nutrients, oils and greases, animal wastes, detergents and other pollutants from car washing and general litter entering into the Georges River or its tributaries.

Note—

The suitability of urban runoff treatment measures may include one or more of the following—

- (a) directing runoff onto artificial wetlands,
- (b) directing runoff into grassed drainage lines and table drains,
- (c) use of on-site detention basins,
- (d) gross pollutant traps,
- (e) adequate sediment and erosion controls.

Any treatment measures will need to be in accordance with the *NSW State Rivers and Estuaries Policy* and have the necessary approval of the Department of Land and Water Conservation.

The provision of planted areas and the minimisation of hard surface areas mitigates against increased urban runoff from built up areas and must be encouraged. Reuse of treated waste water and the utilisation of appropriate water conservation practices must also be encouraged.

Whether adequate provision has been made to incorporate vegetated buffer areas to watercourses, foreshores or other environmentally sensitive areas.

The potential cumulative environmental impact of urban runoff on the Georges River or its tributaries.

For land that is not reticulated, including rural residential land:

Whether the proposal meets the requirements of a strategy prepared by the local council for sewage management or adequate provision has been made for on-site sewage management.

9 INDUSTRY

Definition

The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes (other than development defined elsewhere in this table).

Planning controls

Development consent required.

Specific matters for consideration

The potential cumulative environmental impact of any industrial uses on water quality within the Catchment.

The adequacy of proposed stormwater controls and whether the proposal meets the Council's requirements for stormwater management.

Whether proposed erosion control measures meet the criteria set out in *Managing Urban Stormwater: Soil and Construction Handbook* (1998) prepared by and available from Landcom and the Department of Housing.

Likely impact on groundwater and remnant vegetation.

The possibility of reusing treated waste water on land and the adequacy of proposed waste water disposal options.

Whether adequate provision has been made to incorporate vegetated buffer areas to protect watercourses, foreshores or other environmentally sensitive areas where new development is proposed.

The adequacy of planned waste water disposal options.

10 INTENSIVE HORTICULTURAL ACTIVITIES

Definition

Use of a place to grow a commercial crop of plants or fungi, whether under cover or in the open, using intensive agricultural systems such as hydroponics or a sprinkler system (but not use of a place to grow produce for personal household consumption or enjoyment) which has the potential to impact significantly on the total water cycle.

Planning controls

Development consent required.

Specific matters for consideration

Whether adequate provision has been made for flood mitigation in the event of a 1 in 10 year flood event.

Whether adequate provision has been made for a vegetated buffer area adjacent to watercourses.

Whether adequate provision has been made in relation to soil erosion control.

Whether adequate provision has been made to protect groundwater and the Georges River or its tributaries where chemical application is to be undertaken on land adjacent to watercourses.

Opportunities for retention and reuse of site surface runoff.

11 INTENSIVE LIVESTOCK KEEPING

Definition

Use of land for holding cattle, sheep, goats, poultry or other livestock for the purpose of nurturing by a feeding method other than natural grazing, including use of—

- (a) feed lots, and
- (b) piggeries, and
- (c) poultry farms,

but not an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or intensive hand feeding of livestock as a result of drought, flood, bushfire or other natural disaster.

Planning controls

Development consent required unless—

- (a) on land within 40 metres of the Georges River or its tributaries, or
- (b) carried out within a floodway,

in which case it is prohibited.

Specific matters for consideration

Whether farm management including the use of appropriate best management

practices is proposed so as to mitigate the impact of the development on the water quality of the Georges River or its tributaries.

Whether adequate provision has been made in relation to soil erosion control.

The likely additional impact of the development on the Georges River during a flood event where development is proposed on flood prone land.

Whether adequate provision has been made for a vegetated buffer area adjacent to watercourses.

Whether adequate provision has been made to protect groundwater and the Georges River and its tributaries from nutrient enrichment.

12 LAND FILL

Definition

Use of land for the purpose of disposing of waste, including use of a site for the collection and disposal of industrial, trade or human waste (other than development defined elsewhere in this table).

Planning control

Development consent required unless on flood liable land, in which case it is prohibited.

Specific matters for consideration

Whether groundwater contamination is likely to occur.

The adequacy of any proposed leachate management system and surface water controls.

The long-term stability of the final landform and the adequacy of a site management plan prepared for the development.

13 MAINTENANCE DREDGING

Definition

The winning or removal of extractive material from the bed of the Georges River or its tributaries by or for a public authority for the purpose of obtaining sufficient width and depth in the waterway to enable the waterway to continue to function—

- (a) as a channel for the escape or passage of water, or
 - (b) as a safe navigation route for travel or transport by water,
- but not including bank or bed works.

Planning control

Development consent required.

Note—

State Environmental Planning Policy (Infrastructure) 2007 makes provision with respect to maintenance dredging carried out by or on behalf of a public authority.

Specific matters for consideration

The likely effects of maintenance dredging on river flows, water quality, geomorphology, flood behaviour and bank stability.

The need to maintain river shallows to protect and support the aquatic habitat.

The potential effect of maintenance dredging on recreational opportunities available in the Catchment.

The need to protect fish breeding grounds, commercial and recreational fishing areas and oyster farming.

The need to protect seagrass beds and mangroves.

The likelihood of disturbing pollutants, sediments and acid sulfate soils and any proposed mitigation measures.

The advantages of using cutter-suction methods as against dragline methods when carrying out maintenance dredging.

14 MANUFACTURED HOME ESTATES

Definition

Development for the purpose of 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.

Planning control

Development consent required unless the proposed development is on flood liable land or sites which are or will not be adequately provided with reticulated water, a reticulated sewerage system, drainage or electricity, in which case it is prohibited.

Specific matters for consideration

The likely impact on any significant remnant vegetation.

Whether adequate provision is made for vegetated buffer areas on land adjacent to watercourses or environmentally sensitive areas.

That the development will not have an adverse impact on any waterway or land having

special landscape, scenic or ecological qualities.

Note—

The provisions of *State Environmental Planning Policy No 36—Manufactured Home Estates* would also need to be satisfied.

15 MARINAS AND SLIPWAYS

Definition

Development for the purpose of a pontoon, jetty, pier or other structure or apparatus providing berths for boats, and use of adjoining land for any support facilities.

Planning control

Development consent required unless carried out by or on behalf of the Chipping Norton Lakes Authority, in which case development consent is not required.

Note—

Owner's consent for proposed development or an activity on Crown land is required from the Department of Land and Water Conservation. Some marinas are scheduled under the *Protection of the Environment Operations Act 1997* if the size is above a certain threshold.

Specific matters for consideration

The need for a condition of consent requiring centralised pumping stations.

Whether adverse impacts will occur on any natural wetlands, seagrass beds, mangroves and any other flora and fauna habitats.

Whether arrangements for the collection, storage, treatment and subsequent disposal of sewage and other wastes are satisfactory and meet the requirements of the Environment Protection Authority.

Whether measures to prevent the escape of fuels, oils, grease and other chemicals into the waterway are adequate.

Whether the proposal satisfies the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways* (1997) prepared by and available from the Environment Protection Authority.

Whether adequate depth of water exists for the marina and other related land and water shoreline facilities and, if not, whether the means proposed for maintaining adequate water depth are appropriate and will not lead to adverse impacts on the Georges River or its tributaries.

The stability of banks and foreshores and whether acid sulfate soils are likely to be disturbed.

16 PUBLIC UTILITY UNDERTAKING

Definition

Any of the following undertakings carried on by or for a public authority that is likely to significantly affect the water quality and river flows of the Georges River or its tributaries and the environment within the Catchment—

- (a) rail, road, air or water transport,
- (b) provision or maintenance of wharfs and navigation markers,
- (c) telecommunications,
- (d) supply of water, electricity or gas or provision of sewerage or drainage services.

Planning control

The controls set out in the local environmental plan or deemed environmental planning instrument for the land.

17 RECREATIONAL FACILITIES

Definition

Use of a building, work or place for sporting activities, recreation or leisure activities (whether or not operated for commercial gain) being a building that is situated within the Georges River, on land that is situated within the Georges River or on land—

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

Planning control

Development consent required.

Specific matters for consideration

Whether the proposal will encourage bank erosion and the adequacy of any proposed mitigation measures.

The need to retain and maintain riparian vegetation and habitat.

Whether acid sulfate soils will be disturbed by the proposed development and the adequacy of any mitigation measures.

Any proposed effluent disposal system for areas not connected to a reticulated sewerage system.

The suitability of the site for on-site sewage disposal and the likely effect of that

disposal on the Georges River or its tributaries, any natural wetland areas, groundwater or flood liable land.

The possibility for reuse of treated waste water on land, for irrigation purposes.

Recreation facilities must not obstruct, alienate or pollute the river.

The impact of the proposal on access and use of the Georges River and its tributaries and foreshores.

18 SINGLE MOORINGS

Definition

Provision or maintenance of a berth or apparatus located on or in the Georges River or its tributaries which may be used for the purpose of storing only one vessel.

Planning control

Development consent required unless seagrass beds identified by NSW Fisheries are located on the site, in which case it is prohibited, or unless carried out for or by the Chipping Norton Lakes Authority, in which case development consent is not required.

Specific matters for consideration

The likely impact on any seagrass beds located at the site or within the vicinity of the proposed development.

The type and size of vessel proposed to be moored.

Any requirements for dredging where water depth is inadequate and whether an environmental impact statement is required.

Possibility of developing shared facilities with an adjoining owner.

19 SEWERAGE MANAGEMENT SYSTEMS OR WORKS

Definition

Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to other development which requires consent) but not including a public utility undertaking.

Planning control

Development consent required.

Specific matters for consideration

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.

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. Where the proposal is for single dwelling residential development not connected to a reticulated sewerage system, the *Environment and Health Protection Guidelines—On-site Sewage Management for Single Households* (1998) prepared by and available from the Department of Local Government, the Department of Land and Water Conservation, the Department of Health and the Environment Protection Authority must be followed.

The likely effect of any on-site disposal area required by the proposed development on—

- (a) any water bodies in the vicinity, including rivers, streams, creeks, dams, or
- (b) any wetland areas identified and mapped by the National Parks and Wildlife Service, or
- (c) any groundwater, or
- (d) any flood liable land within the Catchment.

The sewage management facility or, in the case of on-site disposal systems, the effluent application area should make provision for the following—

- (a) preventing the spread of disease by micro-organisms, emission of foul odours, contamination of water and degradation of soil and vegetation, discouraging insects and vermin and ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises,
- (b) the reuse of resources (including nutrients, organic matter and water) and the minimisation of any adverse impacts on the amenity of the land on which the facility or area is installed or constructed and other land in the vicinity of that land,
- (c) the scope for recycling and reusing effluent or sludge on the site,
- (d) the adequacy of wet weather storage and the wet weather treatment capacity (as necessary) of the proposed sewerage system or works,
- (e) likely cumulative impacts downstream where direct discharge of effluent to the Georges River or its tributaries is proposed,
- (f) the need for ongoing monitoring of the system or work.

Note—

Direct discharge into the Georges River or its tributaries is strongly discouraged. Where that is permitted, the

standards set by the Environment Protection Authority must be satisfied.

20 STORMWATER MANAGEMENT SYSTEM OR WORKS

Definition

Carrying out of works designed to collect, channel, store, treat or disperse stormwater runoff from areas of urban development or from development adjacent to the Georges River or its tributaries. Untreated stormwater is water which has not been subjected to measures designed to reduce litter, suspended solids, nutrients or other substances which contribute to a decline in the quality of water in the Georges River or its tributaries.

Planning control

Development consent is required except where works are by or on behalf of a public authority.

Works that dispose of untreated stormwater into the Georges River or its tributaries are prohibited.

Specific matters for consideration

That untreated stormwater is not disposed of into the Georges River or its tributaries.

The likely impact of stormwater disposal on the quality of any receiving waters.

That the levels of nutrients and sediments entering the waterway are not increased by the proposed development.

Whether any proposals to manage stormwater are in accordance with the local council's stormwater management plans and the Managing Urban Stormwater series of documents and meet the local council's stormwater management objectives.

Whether the principles outlined in the *Managing Urban Stormwater Soils and Construction Handbook* (1998) prepared by and available from Landcom and the Department of Housing are followed during each stage of a development (including subdivision).

Whether the proposal satisfies the local council's sediment control plan or, if no such plan has been prepared, any erosion and sediment policies adopted by the local council.

Note—

The suitability of stormwater treatment measures will depend on the characteristics of individual sub-catchments. Those measures may, however, include one or more of the following—

- (a) artificial wetlands,
- (b) detention basins,
- (c) grassed drainage lines and table drains,
- (d) trash racks,
- (e) booms.

Source control is to be preferred to downstream engineering solutions and natural treatments instead of hard engineering treatments for watercourses and drainage lines are to be encouraged.

21 DEVELOPMENT IN VEGETATED BUFFER AREAS

Definition

Development on land within the Catchment that adjoins, and is within 100 metres of, a drainage line, creek, wetland or river foreshore area within the Catchment.

Planning control

Development consent required.

Specific matters for consideration

Bushfire hazard reduction measures are not to be confined to the vegetated buffer area.

Whether the proposed vegetated buffer will act as a buffer between developed land and environmentally sensitive areas, including adjacent waterways.

Whether the following specifications have been satisfied for the proposed vegetated buffer area—

- (a) 100 metre minimum buffer width from the edge of the gorge or the top of the banks of the Georges River and its tributaries on currently forested Crown lands and natural bushland classified as community land under the *Local Government Act 1993*,
- (b) 40 metre minimum buffer width from the edge of the gorge or the top of the banks of the Georges River and its tributaries on freehold land that has not been previously developed or cleared,
- (c) 40 metre minimum buffer widths from wetlands identified by the National Parks and Wildlife Service and local council State of the Environment Reports required under the *Local Government Act 1993*,
- (d) 40 metre minimum buffer width from other environmentally sensitive areas, including remnant vegetation and steep slopes, identified on maps prepared by and available from the National Parks and Wildlife Service.

The requirements of the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

The requirements of the *NSW State Rivers and Estuaries Policy* prepared by and available from the Department of Land and Water Conservation and the *NSW Wetlands Management Policy* prepared by and available from that Department where the development proposals are likely to impact on the quality of water and river flows of the Georges River or its tributaries.

The need to filter runoff from developed areas to improve water quality within the Georges River and its tributaries.

The need to reduce the loss of riparian vegetation and to remove invasive weed species.

The need to minimise damage to river banks and channels so as to reduce bank erosion.

The need to increase or maintain terrestrial and aquatic biological diversity and to provide fauna habitat and corridors.

22 WASTE MANAGEMENT FACILITY OR WORKS

Definition

Development for the purpose of waste management facilities or works described in Schedule 3 (Designated Development) to the *Environmental Planning and Assessment Regulation 1994*.

Planning controls

Development consent required unless on flood liable land, in which case it is prohibited.

Specific matters for consideration

A system is to be required to manage leachate surface controls on the land on which the waste management facility or works is or are proposed.

A site management plan is to be required for the land on which the waste management facility or works is or are proposed.

The likelihood of groundwater contamination.

The adequacy of the proposed leachate management system and surface water controls.

The long-term stability of the final landform and the adequacy of the site management

plan.

Where the proposed development involves extraction of material, whether an adverse impact on the Georges River or its tributaries will result.

23 WETLANDS AND FRESHWATER RIVERS—FILLING, DREDGING, DRAINING OR CLEARING

Definition

Filling, dredging, draining or clearing of wetland areas and freshwater rivers within the Catchment.

Planning controls

Development consent required unless part of maintenance dredging carried out for or on behalf of a public authority, in which case development consent is not required.

Designated development unless the consent authority is satisfied that development is for the purpose of restoring or rehabilitating a wetland.

Specific matters for consideration

Whether any native vegetation, including mangroves, will be destroyed as a result of any filling, dredging, draining or clearing.

The need to protect aquatic biological diversity.

Chapter 12 Willandra Lakes Region World Heritage Property

Part 12.1 Preliminary

12.1 Land to which Chapter applies

This Chapter applies to the Willandra Lakes Region World Heritage Property, which is land in the local government areas of Balranald and Wentworth declared under section 4 (6) of the Act to be a region for the purposes of that Act and shown shaded on the map to that declaration.

12.2 Aim of Chapter

- (1) The aims of this Chapter are to protect, conserve and manage the World Heritage Property.
- (2) The objectives of this Chapter are—
 - (a) to protect, conserve and manage the World Heritage Property in accordance with any strategic plan of management and any operational plans prepared for the Property, and

- (b) to set up a consultation method for making decisions on conservation and development within the World Heritage Property.

12.3 How this Chapter affects other environmental planning instruments

This Chapter prevails over any other environmental planning instrument made before this Chapter where there is an inconsistency.

12.4 Definitions

In this Chapter—

Community Management Council means the Willandra Lakes Region World Heritage Property Community Management Council set up under an agreement between the Commonwealth and New South Wales governments.

development means both development requiring development consent and development not requiring development consent.

Elders Council means the Willandra Lakes Region World Heritage Area Three Traditional Tribal Groups Elders Council.

individual property plan means an individual property plan approved by the Community Management Council and in force.

Ministerial Council means the New South Wales World Heritage Properties Ministerial Council set up under an agreement between the Commonwealth and New South Wales governments.

Mungo National Park Management Plan means the plan of management prepared for Mungo National Park under the [National Parks and Wildlife Act 1974](#).

operational plan means an operational plan approved by the Community Management Council and the Ministerial Council and in force.

strategic plan of management means a strategic plan of management approved by the Community Management Council and the Ministerial Council and in force.

Technical and Scientific Advisory Committee means the Willandra Lakes Region World Heritage Property Technical and Scientific Advisory Committee set up under an agreement between the Commonwealth and New South Wales governments.

the Act means the [Environmental Planning and Assessment Act 1979](#).

World Heritage Property means the land to which this Chapter applies.

12.5 Strategic plans of management

- (1) The Community Management Council is to prepare a draft strategic plan of

management for the World Heritage Property.

- (2) A draft strategic plan of management prepared for the World Heritage Property must—
 - (a) be consistent with the aims of this Chapter, and
 - (b) go through a public participation process.
- (3) The Community Management Council and the Ministerial Council may approve a draft strategic plan of management with any changes that they think are required, including changes of substance, as a strategic plan of management for this Chapter.
- (4) A strategic plan of management may be amended or replaced by another strategic plan of management.

12.6 Operational Plans

- (1) The Community Management Council is to prepare a draft operational plan of management for the World Heritage Property.
- (2) A draft operational plan of management prepared for the World Heritage Property must be consistent with the strategic plan of management.
- (3) The Community Management Council and the Ministerial Council may approve a draft operational plan of management with any changes that they think are required, including changes of substance, as a strategic plan of management for this Chapter.
- (4) An operational plan may be amended or replaced by another operational plan.

12.7 Individual Property Plans

- (1) The owner of land which is part of the World Heritage Property may prepare a draft individual property plan for the land.
- (2) The Community Management Council may approve a draft individual property plan with any changes that it thinks are required, including changes of substance, as an individual property plan for this Chapter.
- (3) An individual property plan may be amended or replaced by another individual property plan.

Part 12.2 Planning considerations and consultation

12.8 When this Part applies

- (1) This Part applies when—
 - (a) a consent authority determines a development application, or

(b) a public authority or person proposes to carry out an activity as defined by Part 5 of the Act, or

(c) a person prepares an individual property plan.

(2) When this Part applies in the circumstances referred to in subsection (1)(a), (b) or (c), the relevant authority or person concerned must comply with the requirements of this Part.

12.9 Planning considerations

The council, authority or person concerned is to take into account—

(a) the aims and objectives of this Chapter, and

(b) if relevant, the Mungo National Park Management Plan, and

(c) any relevant strategic plan of management, and

(d) any relevant operational plan, and

(e) any relevant individual property plan.

12.10 Consultation

(1) Consultation under this section is to be carried out before the relevant plan is made, application determined or activity carried out.

(2) The council, authority or person concerned is to consult the Community Management Council about the impact of the plan, development or activity on the world heritage values identified in the strategic plan of management by—

(a) writing to the Community Management Council, giving a copy of the proposed plan or a description of the proposed development or activity, and

(b) requesting the Council to comment on the proposed plan, development or activity within 60 days of the Council receiving the request.

(3) The council, authority or person is—

(a) as far as is practicable, to give effect to any requirements of the Community Management Council made within those 60 days about the proposed plan, development or activity, and

(b) to consider any comments of the Community Management Council about the proposed plan, development or activity made within those 60 days.

(4) The Community Management Council may extend the 60-day period by up to 60 days by advising the council, authority or person in writing of the extension.

- (5) The Community Management Council may refer a proposed plan, development or activity to the Technical and Scientific Advisory Committee if the Council considers that the proposed plan, development or activity may have a significant impact on the world heritage values identified in the strategic plan of management.
- (6) The Community Management Council is to refer a proposed plan, development or activity to the Elders Council.
- (7) The Community Management Council must consider advice given by the Technical and Scientific Advisory Committee, and the Elders Council, in response to a referral if the advice is received within 28 days after the referral was made.
- (8) The Community Management Council may determine that consultation is not necessary in a particular case or class of case.

Schedule 1 Feed tree species

section 3.2

Scientific Name	Common Name
<i>Eucalyptus tereticornis</i>	Forest red gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus viminalis</i>	Ribbon or manna gum
<i>Eucalyptus camaldulensis</i>	River red gum
<i>Eucalyptus haemastoma</i>	Broad leaved scribbly gum
<i>Eucalyptus signata</i>	Scribbly gum
<i>Eucalyptus albens</i>	White box
<i>Eucalyptus populnea</i>	Bimble box or poplar box
<i>Eucalyptus robusta</i>	Swamp mahogany

Schedule 2 Local government areas

(sections 4(1), 11(1))

Local government area	Koala management area(s)
Armidale Regional	Northern Tablelands
Ballina	North Coast
Bathurst Regional	Central and Southern Tablelands
Bega Valley	South Coast

Bellingen	North Coast
Berrigan	Riverina
Blayney	Central and Southern Tablelands
City of Blue Mountains *	Central and Southern Tablelands Central Coast
Bourke	Darling Riverine Plains Far West
Brewarrina	Darling Riverine Plains Far West
Byron	North Coast
Cabonne	Central and Southern Tablelands
City of Campbelltown *	Central Coast
Central Coast *	Central Coast
Central Darling	Far West
City of Cessnock	Central Coast
Clarence Valley	North Coast
City of Coffs Harbour	North Coast
Coonamble	Darling Riverine Plains Northwest Slopes
Dungog	Central Coast
Edward River	Riverina
Eurobodalla	South Coast
Federation	Central and Southern Tablelands Far West Riverina
Forbes	Far West
Gilgandra	Northwest Slopes
Glen Innes Severn Shire	Northern Tablelands
Goulburn Mulwaree	Central and Southern Tablelands
Greater Hume Shire	Central and Southern Tablelands Far West Riverina
Gunnedah	Northwest Slopes
Gwydir	Northwest Slopes

City of Hawkesbury *	Central Coast
Hilltops	Central and Southern Tablelands Far West
Hornsby *	Central Coast
Inverell	Northern Tablelands Northwest Slopes
Kempsey	North Coast
Ku-ring-gai *	Central Coast
Kyogle	North Coast
City of Lake Macquarie	Central Coast
Leeton	Far West Riverina
City of Lismore	North Coast
City of Lithgow	Central and Southern Tablelands
City of Liverpool *	Central Coast
Liverpool Plains	Northwest Slopes
Lockhart	Central and Southern Tablelands Far West
City of Maitland	Central Coast
Mid-Coast	North Coast
Mid-Western Regional	Northwest Slopes
Moree Plains	Northwest Slopes
Murray River	Far West Riverina
Muswellbrook	Central Coast
Nambucca Valley	North Coast
Narrabri	Northwest Slopes
Narrandera	Far West Riverina
Narromine	Darling Riverine Plains Far West
City of Newcastle	Central Coast
Northern Beaches *	Central Coast
Oberon	Central and Southern Tablelands

Parkes	Far West
Port Macquarie-Hastings	North Coast
Port Stephens	Central Coast
Queanbeyan-Palerang Regional	Central and Southern Tablelands
Richmond Valley	North Coast
City of Shoalhaven	Central and Southern Tablelands South Coast
Singleton	Central Coast
Snowy Monaro Regional	Central and Southern Tablelands
Snowy Valleys	Central and Southern Tablelands
Tamworth Regional	Northern Tablelands
Tenterfield	Northern Tablelands
Tweed	North Coast
Upper Hunter Shire	Northwest Slopes
Upper Lachlan Shire	Central and Southern Tablelands
Uralla	Northern Tablelands
City of Wagga Wagga	Central and Southern Tablelands Far West
Walcha	Northern Tablelands
Walgett	Darling Riverine Plains Northwest Slopes
Warren	Darling Riverine Plains
Warrumbungle Shire	Northwest Slopes
Weddin	Central and Southern Tablelands Far West
Wentworth	Far West Riverina
Wingecarribee	Central and Southern Tablelands Central Coast
Wollondilly *	Central and Southern Tablelands Central Coast
City of Wollongong	South Coast
Yass Valley	Central and Southern Tablelands

Schedule 3 Koala use tree species

(section 4.9)

Central and Southern Tablelands koala management area

Scientific name	Common name(s)
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bosistoana</i>	Coast Grey Box
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus dalrympleana</i>	Mountain Gum
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dives</i>	Broad-leaved Peppermint
<i>Eucalyptus elata</i>	River Peppermint
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus goniocalyx</i>	Bundy
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus maidenii</i>	Maiden's Blue Gum
<i>Eucalyptus mannifera</i>	Brittle Gum
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus nortonii</i>	Large-flowered Bundy
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus oblonga</i>	Stringybark
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum

<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus polyanthemos</i>	Red Box
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus radiata</i>	Narrow leaved Peppermint
<i>Eucalyptus rossii</i>	Inland Scribbly Gum
<i>Eucalyptus rubida</i>	Candlebark
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus viminalis</i>	Ribbon Gum

Central Coast koala management area

Scientific name	Common name(s)
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Angophora bakeri</i>	Narrow-leaved Apple
<i>Angophora costata</i>	Smooth-barked Apple
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Casuarina glauca</i>	Swamp Oak
<i>Corymbia eximia</i>	Yellow Bloodwood
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus acmenoides</i>	White Mahogany
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus beyeriana</i>	Beyer's Ironbark
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bosistoana</i>	Coast Grey Box

<i>Eucalyptus botryoides</i>	Bangalay
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus camfieldii</i>	Camfield's Stringybark
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus capitellata</i>	Brown Stringybark
<i>Eucalyptus carnea</i>	Thick-leaved Mahogany
<i>Eucalyptus consideniana</i>	Yertchuk
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus deanei</i>	Mountain Blue Gum
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus glaucina</i>	Slaty Red Gum
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus grandis</i>	Flooded Gum
<i>Eucalyptus haemastoma</i>	Broad-leaved Scribbly Gum
<i>Eucalyptus imitans</i>	<i>Eucalyptus imitans</i>
<i>Eucalyptus largeana</i>	Craven Grey Box
<i>Eucalyptus longifolia</i>	Woollybutt
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus michaeliana</i>	Brittle Gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus oblonga</i>	Stringybark
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus parramattensis</i>	Parramatta Red Gum
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus propinqua</i>	Small-fruited Grey Gum

<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus racemosa</i>	Narrow-leaved Scribbly Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus scias</i>	Large-fruited Red Mahogany
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus siderophloia</i>	Grey Ironbark
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus signata</i>	Scribbly Gum
<i>Eucalyptus sparsifolia</i>	Narrow-leaved Stringybark
<i>Eucalyptus squamosa</i>	Scaly Bark
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus umbra</i>	Bastard White Mahogany
<i>Eucalyptus viminalis</i>	Ribbon Gum
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark
<i>Syncarpia glomulifera</i>	Turpentine

Darling Riverine Plains koala management area

Scientific name	Common name(s)
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus coolabah</i>	Coolibah
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dwyeri</i>	Dwyer's Red Gum

<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box
<i>Eucalyptus populnea</i>	Bimble Box, Poplar Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark

Far West koala management area

Scientific name	Common name(s)
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus coolabah</i>	Coolibah
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus intertexta</i>	Gum Coolibah
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box
<i>Eucalyptus populnea</i>	Bimble Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Geijera parviflora</i>	Wilga

North Coast koala management area

Scientific name	Common name(s)
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia henryi</i>	Large-leaved Spotted Gum
<i>Corymbia intermedia</i>	Pink Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus acmenoides</i>	White Mahogany
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus bancroftii</i>	Orange Gum
<i>Eucalyptus biturbinata</i>	Grey Gum
<i>Eucalyptus campanulata</i>	New England Blackbutt
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus carnea</i>	Thick-leaved Mahogany
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus eugenoides</i>	Narrow-leaved stringybark
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus glaucina</i>	Slaty Red Gum
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus grandis</i>	Flooded Gum
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus largeana</i>	Craven Grey Box
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus placita</i>	Grey Ironbark
<i>Eucalyptus planchoniana</i>	Bastard Tallowwood
<i>Eucalyptus propinqua</i>	Small-fruited Grey Gum
<i>Eucalyptus psammitica</i>	Bastard White Mahogany

<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus rummeryi</i>	Steel Box
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus scias</i>	Large-fruited Red Mahogany
<i>Eucalyptus seeana</i>	Narrow-leaved Red Gum
<i>Eucalyptus siderophloia</i>	Grey Ironbark
<i>Eucalyptus signata/Eucalyptus racemosa</i>	Scribbly Gum/Narrow-leaved Scribbly Gum
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus tindaliae</i>	Stringybark
<i>Eucalyptus umbra</i>	Bastard White Mahogany
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark

Northwest Slopes koala management area

Scientific name	Common name(s)
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus caleyi</i>	Drooping Ironbark
<i>Eucalyptus caliginosa</i>	Broad-leaved Stringybark
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus coolabah</i>	Coolibah
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dalrympleana</i>	Mountain Gum

<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dwyeri</i>	Dwyer's Red Gum
<i>Eucalyptus exserta</i>	Peppermint
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus goniocalyx</i>	Bundy
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus mannifera</i>	Brittle Gum
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus parramattensis</i>	Parramatta Red Gum
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box
<i>Eucalyptus polyanthemos</i>	Red Box
<i>Eucalyptus populnea</i>	Bimble Box/Poplar Box
<i>Eucalyptus prava</i>	Orange Gum
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus viminalis</i>	Ribbon Gum

Northern Tablelands koala management area

Scientific name	Common name(s)
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Eucalyptus acaciiformis</i>	Wattle-leaved Peppermint

<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus biturbinata</i>	Grey Gum
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus brunnea</i>	Mountain Blue Gum
<i>Eucalyptus caleyi</i>	Drooping Ironbark
<i>Eucalyptus caliginosa</i>	Broad-leaved Stringybark
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus campanulata</i>	New England Blackbutt
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dalrympleana</i>	Mountain Gum
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus michaeliana</i>	Brittle Gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nicholii</i>	Narrow-leaved Black Peppermint
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus nova-anglica</i>	New England Peppermint
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum
<i>Eucalyptus prava</i>	Orange Gum
<i>Eucalyptus radiata</i>	Narrow leaved Peppermint
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark

<i>Eucalyptus stellulata</i>	Black Sally
<i>Eucalyptus subvelutina</i>	Broad-leaved Apple
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus viminalis</i>	Ribbon Gum
<i>Eucalyptus williamsiana</i>	Eucalyptus williamsiana
<i>Eucalyptus youmanii</i>	Youman's Stringybark

Riverina koala management area

Scientific name	Common name(s)
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus intertexta</i>	Gum Coolibah
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus populnea</i>	Bimble Box

South Coast koala management area

Scientific name	Common name(s)
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus baueriana</i>	Blue Box
<i>Eucalyptus bosistoana</i>	Coast Grey Box
<i>Eucalyptus consideniiana</i>	Yertchuk
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus elata</i>	River Peppermint
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark

<i>Eucalyptus fastigata</i>	Brown Barrel
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus longifolia</i>	Woollybutt
<i>Eucalyptus maidenii</i>	Maiden's Blue Gum
<i>Eucalyptus muelleriana</i>	Yellow Stringybark
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus tricarpa</i>	Mugga (Red) Ironbark
<i>Eucalyptus viminalis</i>	Ribbon Gum

Schedule 4 Dictionary for Chapter 5

(section 5.5)

abbreviations of agencies:

C&NR (Vic) means the Victorian Department of Conservation and Natural Resources.

CaLM means the NSW Department of Conservation and Land Management.

DoP means the NSW Department of Planning.

DWR means the NSW Department of Water Resources.

EPA means the NSW Environment Protection Authority.

Forestry Commission means the Forestry Commission of New South Wales.

MDBC means the Murray-Darling Basin Commission.

MSB means the NSW Maritime Services Board—Maritime Authority of NSW.

NPWS means the National Parks and Wildlife Service.

NSW Agriculture means the NSW Department of Agriculture.

P&D (Vic) means the Victorian Department of Planning and Development.

PWD means the NSW Public Works Department.

RWC (Vic) means the Rural Water Corporation of Victoria.

bank means a change of slope that defines the extent of the bed of the River Murray.

bed means the land which contains the River Murray, including that which is alternately inundated or left bare from a rise or fall in the supply of water, but does not include any land inundated only in time of flood.

consent authority means the Council for the local government area in which the proposed development is to be carried out.

development is defined in the Act.

Note—

See also section 5.5(2).

The expression means, in relation to land—

- (a) the erection of a building on that land,
- (b) the carrying out of a work in, on, over or under that land,
- (c) the use of that land or of a building or work on that land, and
- (d) the subdivision of that land.

Land includes a bay, inlet, lagoon, lake or body of water, a river, stream or watercourse.

flood liable land means land identified on the map as flood liable land.

hazardous industry means an industry which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality—

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on the other land in the locality), would pose a significant risk in relation to the locality—

- (a) to human health, life or property, or
- (b) to the biophysical environment.

offensive industry means an industry which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures

to isolate the industry from existing or likely future development on other land in the locality), would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

potentially hazardous industry means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality—

- (a) to human health, life or property, or
- (b) to the biophysical environment,

and includes a hazardous industry and the use of a hazardous storage establishment.

potentially offensive industry means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and the use of an offensive storage establishment.

public authority means a public or local authority constituted by or under any Act, a Government department or a statutory body representing the Crown, and includes a person exercising functions on behalf of that authority, Department or body and also includes a public or local authority constituted under any Act of the Parliament of the Commonwealth, Victoria or South Australia, a government department of the Commonwealth, Victoria or South Australia, a statutory body representing the Crown in right of the Commonwealth, Victoria or South Australia and a person exercising functions on behalf of any such authority, department or body.

River Management Plan means any development control plan, plan of management, study, strategy, guideline or the like, which has undergone a public participation process, which is consistent with the aims, objectives and principles of this Chapter and which is endorsed by the MDBC.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the map means the map marked “Murray Regional Environmental Plan No 2—Riverine Land” (consisting of an index map and sheets 1–19, 21, 23 and 25–42) deposited in the office of the Department of Planning.

Vegetation Management Plan means a plan which is prepared in accordance with guidelines issued by the DoP for such plans and which is approved by CaLM.

Schedule 5 Areas and part areas to which Chapter 6 applies

(sections 6.1(1), 6.2(1))

Ashfield.
Auburn.
Bankstown.
Baulkham Hills.
Blacktown.
Botany.
Burwood.
Camden.
Campbelltown.
Canterbury.
Concord.
Drummoyne.
Fairfield.
Gosford.
Hawkesbury, excluding all of that part of the Shire which is north of the Colo River.
Holroyd.
Hornsby.
Hunters Hill.
Hurstville.
Kogarah.
Ku-ring-gai.
Lake Macquarie.
Lane Cove.
Leichhardt.
Liverpool.
Manly.
Marrickville.
Mosman.
North Sydney.
Parramatta.
Penrith.
Randwick.
Rockdale.
Ryde.
Strathfield.
Sutherland.
Sydney.
Warringah.
Waverley.
Willoughby.
Woollahra.

Schedule 6 Items of non-Aboriginal heritage

(Referred to in item (5) of section 9.5 and item (9) of section 9.9)

Note—

This Schedule includes those items which were identified in former SREP 20 and have not since been protected under local environmental planning instruments.

Area of Wollondilly

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

City of Campbelltown

- Menangle Weir, Menangle
- Menangle Railway Bridge, Menangle
- 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 7 Places where extractive industry is prohibited

(Referred to in item (5) of section 9.9)

- 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—1995)*, and
 - (b) land to which *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* applies.

Schedule 8 Dictionary for Chapter 9

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.

clearing, in relation to mapped wetlands (see item (19) of section 9.9), 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 in accordance with a bush fire management plan of flora which are a bush fire hazard, 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 (3) of section 9.9), development in or near the river (see item (15) of section 9.9), or development in a riverine scenic area (see item (16) of section 9.9), 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—

- (c) 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
- (d) 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
- (e) the removal in accordance with a bush fire management plan of flora which are a bush fire hazard, or
- (f) the removal of flora in accordance with an approval under a council tree preservation order, or
- (g) the removal of flora in accordance with a Vegetation Management Plan approved by the council of the area concerned.

company State owned corporation is a State owned corporation listed in Schedule 1 to the [State Owned Corporations Act 1989](#).

conservation area sub-catchments are those that are subject to relatively minimal human interference and are consequently in a reasonably pristine environmental condition, being 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.

cumulative environmental impact means the combined effects on the environment of development and resource use within an area over a period of time.

demolish means wholly or partly destroy or dismantle.

environmentally sensitive areas are areas where environmental characteristics mean that the potential impacts of land use are greater than elsewhere in the catchment. Environmentally sensitive areas identified by the Hawkesbury-Nepean Environmental Strategy in the Hawkesbury-Nepean

catchment are: the river; riparian land; escarpments and other scenic areas; conservation area sub-catchments; national parks and nature reserves; wetlands; other significant floral and faunal habitats and corridors; acid sulphate soils and potential acid sulphate soils.

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) the winning or removal of extractive material from land and any ancillary or incidental land use, 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.

floodplain means the floodplain level nominated in a local environmental plan or those areas inundated as a result of a 1 in 100 flood event, if no such level has been nominated.

flood prone land means land susceptible to inundation by the probable maximum flood event.

floodway means those areas of a floodplain where a significant discharge of water occurs during floods. Floodways are areas which, even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.

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. Such a study identifies 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](#) and the [Hawkesbury-Nepean Catchment Management Trust Regulation 1993](#).

Hawkesbury-Nepean Environmental Planning Strategy means the Strategy entitled “Draft 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.

Metropolitan Strategy means the document titled *Cities for the 21st Century* prepared by the former Department of Planning and published in 1995.

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.

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 Chapter 9 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 Chapter 9 applies, whether before or after its occupation by persons of European extraction.

riverine corridor means the river and the land marked on the map as scenic corridor.

Scenic Quality Study means the document entitled “Hawkesbury-Nepean River Scenic Quality Study” published by the Department of Urban Affairs and Planning in 1996.

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.

sprinkler system means a high or low level system with a lateral move, centre pivot, travelling irrigator, side roll, end tow or hand shift sprinkler head.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the catchment means the catchment of the river.

the map means the map consisting of 42 sheets marked “Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)” 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 Chapter 9.

the river means the Hawkesbury-Nepean River.

threatened species, populations and ecological communities has the same meaning as in the [Threatened Species Conservation Act 1995](#).

Total Water Cycle Management Study or Plan means a study or plan which estimates pre- and post-development runoff volumes and pollutant loads from a site, and identifies any associated impacts of development on receiving waters, identifies water cycle management strategies and best management practices to be employed on the site to address these, and identifies arrangements for ongoing maintenance and monitoring of the water cycle management system. The level of detail should be appropriate to the stage of the development cycle proposed, with a Plan for a subdivision proposal being more specific than a Study for a rezoning proposal.

tributary of the river means (for the purposes of items (14) and (15) of section 9.9) Badgerys Creek, the Bargo River, Cataract River, Colo River, Grose River, Macdonald River or Berowra Creek, Calabash Creek, Cattai Creek, Coal and Candle Creek, Cowan Creek, Currency Creek, Eastern Creek, Kemps Creek, Little Cattai Creek, Mangrove Creek, Marrs Creek, McKenzie Creek, Mogo Creek, Mooney Mooney Creek, Mulgoa Creek, Mullet Creek, Narellan Creek, Patonga Creek, Popran Creek, Rickabys Creek, Roberts Creek, Ropes Creek, South Creek, Webbs Creek, Werrington 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 items of section 9.5 by the strategies recommended in those items, 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 an area with characteristics of both terrestrial and aquatic environments that is flooded or waterlogged often enough to support aquatic or other plants typical of areas with those characteristics.

Schedule 9 Maps incorporated in plan

(section 10.5)

Critical Habitat Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Little Penguin Critical Habitat Map*”.

Foreshores and Waterways Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Foreshores and Waterways Area Map*”, as amended by the sheets marked as follows—

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Foreshores and Waterways Area Map (Amendment 2016)

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Foreshores and Waterways Area Map Sheet 2 of 5 (Amendment 2016)

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Foreshores and Waterways Area Map Sheet 3 of 5 (Amendment 2016)

Heritage Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Heritage Map (Amendment 2016)*”.

Special Purposes (Boat Repair Facilities and Commercial Marinas) Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Special Purposes (Boat Repair Facilities and Commercial Marinas) Map*”, comprising the sheets marked as follows—

Sheet 1—Davis Marina

Sheet 2—Manly Boatshed

Sheet 3—Sailors Bay Boatshed

Strategic Foreshore Sites Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Strategic Foreshore Sites Map*”, comprising the sheets marked as follows—

Strategic Foreshore Sites Map (Amendment 2016)

Sheet 1—City Foreshores Area (Amendment 2016)

Sheet 2—Garden Island

Sheet 3—North Head

Sheet 4—St Patrick’s Estate, North Head Peninsula

Sheet 5—Manly Wharf

Sheet 6—Middle Head

Sheet 7—Taronga Zoological Gardens

Sheet 8—HMAS Platypus

Sheet 9—Luna Park

Sheet 10—SRA land, Lavender Bay

Sheet 11—BP site, Berrys Bay

Sheet 12—Coal Loader site, Balls Head

Sheet 13—HMAS Waterhen

Sheet 14—Woolwich Defence Land

Sheet 15—Gladesville Hospital site

Sheet 16—ADI site, Ryde

Sheet 17—Shepherds Bay, Meadowbank

Sheet 18—Naval Stores site, Ermington

Sheet 19—Leeds Street, Rhodes

Sheet 20—Rivendell Adolescent Unit

Sheet 21—Concord Repatriation General Hospital

Sheet 22—The Dame Eadith Walker Hospital

Sheet 23—AGL site, Mortlake

Sheet 24—Cockatoo Island, Spectacle Island and Snapper Island

Sheet 25—Caltex site, Ballast Point

Sheet 26—Fletcher site, Blackwattle Bay

Sheet 27—Strickland House, Vaucluse

Sheet 28—HMAS Watson, South Head

Sydney Harbour Catchment Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Catchment Map (Amendment 2016)*”.

Sydney Opera House Buffer Zone Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Opera House Buffer Zone Map (Amendment 2016)*”.

Wetlands Protection Area Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Wetlands Protection Area Map*”, as amended by the sheet marked “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Wetlands Protection Area Map Sheet 10 (Amendment 2016)*”.

Zoning Map, being the map entitled “*Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005—Zoning Map*”, as amended by the sheets marked as follows—

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Zoning Map (Amendment 2016)

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Zoning Map Sheet 10 (Amendment 2016)

Schedule 10 Minor development

(section 10.39)

1 Change of use

A different use of an existing building resulting from a change of use of the building.

2 Extension or variation of operating or trading hours

Any intensification of a use resulting from an extension or other variation of operating or trading hours.

3 Temporary uses

A temporary use for 2 years or less (not being the use of a temporary structure referred to in item 6).

4 Internal building work

Structural or non-structural alterations (such as commercial or retail fitouts) within an existing building.

5 External building work

(1) Erection or installation of any telecommunications device (such as an aerial, antenna,

microwave dish or satellite dish) other than a device that, when erected or installed, would be visible from a waterway.

- (2) Erection or installation of any awning or canopy.
- (3) Erection or installation of any minor structure (such as a flue, solar panel or flag pole).
- (4) Minor structural or non-structural alterations (such as the enclosure of a balcony, changes to a window or door or the installation of an automatic telling machine) to the outside of an existing building.

6 Temporary structures

- (1) The erection of a temporary structure for a period of not more than 60 days, whether consecutive or not, in any period of 12 months.
- (2) In this section, **temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

7 Development within the public domain

- (1) The provision and use of outdoor seating or tables or street furniture (such as benches, bollards, public artwork installations, street lights, telephone kiosks and tree surrounds) on a footpath, or in a plaza or other public place.
- (2) The use of the public domain for temporary purposes (such as the conduct of a festival, performance or promotion or the exhibition of artwork) for a period of not more than 30 days, whether consecutive or not, in any period of 12 months.
- (3) The construction of an access way for pedestrians or vehicles and any associated works.

8 Signage

The erection, installation or display of any signage (such as signage for building or business identification or for business or product advertisement) other than signage that, when erected, installed or displayed, would be visible from a waterway.

9 Advertising

The erection of any advertising structure, or the display of any advertisement, other than an advertising structure or advertisement that, when erected or displayed, would be visible (whether from a waterway or otherwise) outside the premises in which it is situated.

10 Demolition

- (1) The demolition of any building or other structure, other than a building or structure

that is identified as a heritage item or an item of the environmental heritage in an environmental planning instrument or in a heritage study prepared by or on behalf of a consent authority.

- (2) The demolition of any structure whose erection is minor development pursuant to some other provision of this Schedule, except where the demolition is associated with development that is a project to which Part 3A of the Act applies.

11 Strata and community subdivision

- (1) Any strata or neighbourhood subdivision of land with respect to any building or work for which a development consent is in force, except where the land forms part of the public domain or is situated over water.

- (2) In this section—

neighbourhood subdivision means subdivision by means of a neighbourhood plan, a neighbourhood plan of consolidation or a neighbourhood plan of subdivision within the meaning of the [Community Land Development Act 1989](#).

strata subdivision means subdivision by means of a strata plan, a strata plan of consolidation or a strata plan of subdivision within the meaning of the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#).

Schedule 11 Heritage items

(Dictionary)

Part 1 Heritage items in Parramatta River Area

Note—

Further details on these items can be found in the *Parramatta River Regional Environmental Study—Heritage Study*. “S” (State significance) identifies those items that are listed on the State Heritage Register, that have been assessed in a relevant heritage study as being of State heritage significance or that are listed in a register kept under section 170 of the [Heritage Act 1977](#).

Item no	Local government area	Name or description of heritage item	Address	S = State significance
1	—	Cockatoo Island		S
2	—	Spectacle Island		S
3	—	Snapper Island		
4	—	Balmain to Greenwich Tunnel, including docking facilities and service buildings	Under harbour, from Long Nose Point, Balmain to Manns Point, Greenwich	S
5	Leichhardt	Long Nose Point Wharf	Louisa Road, Birchgrove	

6	Leichhardt	Boat sheds only, Louisa Road	Louisa Road, opposite steps to Deloitte Avenue, Birchgrove	
7	Leichhardt	Elliott Street Wharf	Elliott Street, Balmain	
8	Leichhardt	Punch Street Wharf	Punch Street, Balmain	
9	Leichhardt	Cove Street Wharf	Cove Street, Balmain	
10	Leichhardt	Former Callan Park Hospital Wharf	Rozelle Hospital, Rozelle	
11	Leichhardt	Leichhardt Wharf	Leichhardt Park, Leichhardt	
12	Leichhardt	Stone retaining walls	Iron Cove	
13	Canada Bay	Stone retaining walls	Five Dock Bay	
14	Canada Bay	Stone retaining walls	Hen and Chicken Bay	
15	—	Rodd Island	Iron Cove	S
16	Canada Bay	Thompson Street Wharves	Thompson Street and Henley Marine Drive, Drummoyne	
17	—	Iron Cove Bridge	Iron Cove	
18	Canada Bay	Wharves/Reclaimed Land, access from Peppercorn Reserve and Salton Reserve	St Georges Crescent, Drummoyne	
19	Canada Bay	Wolseley Street Wharf	Wolseley Street, Drummoyne	
20	Canada Bay	Clovelly House boat shed	Drummoyne Avenue, Drummoyne	
21	Canada Bay	Federation House boat shed	Drummoyne Avenue, Drummoyne	
22	—	Gladesville Bridge, including abutments		S
23	Canada Bay	Stone Wharf, Blackwall Point	11 Bortfield Drive, Chiswick	
24	Canada Bay	Abbotsford Jetty	Great North Road, Abbotsford	
25	Canada Bay	Newington College boat shed and grounds	Checkley Street, Abbotsford	

26	Canada Bay	Site of former swimming baths at Hen and Chicken Bay	Bayview Park, Concord
27	Canada Bay	Former Cabarita Wharf	Cabarita Park, Cabarita
28	Canada Bay	Sanders Marina	Cabarita Park, Cabarita
29	Canada Bay	Federation House boat shed only	87 Llewellyn Street, Rhodes
30	Canada Bay	Stone Wharf	91 Llewellyn Street, Uhrs Point, Rhodes
31	—	Ryde Bridge	Church Street, Ryde to Concord Road, Rhodes
32	—	Ryde Railway Bridge	Northern Railway Line, bridge between Rhodes and Meadowbank
33	Auburn	Log Ponds and Wharves to Timber Yards	Bennelong Point, Homebush Bay
34	Auburn	Newington Arms Depot Wharf	Newington Arms Depot, Silverwater
35	Parramatta	Shell Oil Refinery Wharf	Duck River
36	Parramatta	Industrial Wharves	33 Grand Avenue, Camellia
37	Parramatta	Former Spurway Street Wharf	Spurway Street, Ermington
38	Parramatta	Former McDonald Farm Wharf	George Kendall Reserve, Ermington
39	Parramatta	Wharf and Reserve	George Kendall Reserve, Ermington
40	Parramatta	Former Pennant Hills Wharf	Wharf Road, Ermington
41	Ryde	Former Log Road and Private Wharf	Continuation of Cobham Street, Melrose Park, West Ryde
42	Ryde	Timber Wharves	Either side of Ryde Railway Bridge, Ryde
43	Ryde	Private Wharf	Below Rothesay Avenue, Meadowbank
44	Ryde	Former Ryde Wharf	Parsonage and Belmore Streets, Ryde

45	Ryde	Former Swimming Baths	End of Regent Street and Osborne Avenue, Ryde	
46	Ryde	Naval Refit Centre	Waterview Street, Putney	S
47	Ryde	Putney Wharf	Putney Parade, Putney	
48	Ryde	Scots College boat shed	3 Delmar Parade, Gladesville	
49	Ryde	Former Gladesville Wharf	Wharf Road, Looking Glass Point, Gladesville	
50	Ryde	Sydney Grammar School boat shed	88 Wharf Road, Gladesville	
51	Ryde	Punt Road Wharf	Punt Road, Gladesville	
52	—	Searles Monument	The Brothers, off Blackwall Point, Henley, Parramatta River	S

Part 2 Heritage items identified in Sydney and Middle Harbour Areas

Note—

Further details on these items can be found in the *Sydney and Middle Harbours Heritage Study* or the State Historic Shipwrecks Register.

Item no	Local government area	Name or description of heritage item	Address	S = State significance
1	Sydney	Ferry Wharves	Alfred Street, Circular Quay	S
2	Sydney	Man O'War Steps	Farm Cove Crescent, Sydney	S
3	Sydney	Remains of the former Andrew (Boy) Charlton Pool	Mrs Macquarie's Road, Sydney	
4	Sydney	Site of Robinson's Baths	Mrs Macquarie's Road, Sydney	

5	Sydney	Former Woolloomooloo Deep Sea Wharves Nos 6, 7, 8, 9 and 11, and Cargo Sheds at Cowper Wharf Road and Lincoln Crescent, Woolloomooloo, and the land and the waterway between Wharf No 11 and the other Wharves	Cowper Wharf Road and Lincoln Crescent, Woolloomooloo	S
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		Garden Island Precinct—	
		(a) Former Residences for Overseers	
		(b) Building 37—Rigging Shed, including Chapel	
		(c) Buildings 31 and 32—Registry Offices	
		(d) Building 88—Battery Shed	
		(e) Buildings 95 and 99—Workshop and Factory	
		(f) Building 89—Naval Stores	
		(g) Building 27—Office Building	
6	Sydney	(h) Buildings 16/17 and 18/19/ 20—Residences	Off Cowper Wharf Road, Garden Island, S
		(i) Building 98—Core Shop	
		(j) Building 25—Boat Shed	
		(k) Buildings 7 and 8—Workshop and Store	
		(l) Figurehead of the Ship “Windsor Castle”	
		(m) Figurehead of the Ship “Consuela”	
		(n) Former Garden	
		(o) Former “Clarens” Garden Remains	
7	Ku-ring-gai	Remains of Roseville Baths	99 Babbage Road, Roseville
8	Ku-ring-gai	Remains of old Roseville Bridge	Babbage Road, Roseville

9	Ku-ring-gai	Site of Echo Point Farm (including slipway)	Echo Point Park, Babbage Road, Roseville	
10	Lane Cove	Electricity Tunnel	Foreshore of Manns Point Reserve, Greenwich	
11	Lane Cove	Boat shed and slips	O'Connell and Albert Streets, Greenwich	
12	Leichhardt	Site and remains of former Morts Dock	Foreshore of park, Balmain	
13	Leichhardt	Site and remains of ferry wharf	Yeend Street, Balmain	
14	Leichhardt	Urban Transit Authority Ferry Maintenance Depot	Alexander and Waterview Streets, Balmain	S
15	Leichhardt	Site of Rowntree's Floating Dock	Hart Street and The Avenue, Balmain	
16	Leichhardt	Remains of former Tasmanian Ferry Terminal	Yeend Street, Balmain	
17	Leichhardt	Tidal Pool	13 Simmons Street, Balmain	
18	Manly	Manly Wharf	The Esplanade, Manly	S
19	Manly	Grotto Point lighthouse and remains of former wharf	Grotto Point, Balgowlah	
20	Manly	Little Manly Cove Pool	Stuart Street, Manly	
21	Manly	Fairlight Pool	Lauderdale Avenue, Fairlight	
22	Manly	Site and remains of Brightside cargo wharf	Stuart Street, Manly	
23	Manly	Site and remains of harbour side pool and steps	Stuart Street, Manly	
24	Manly	Remains of Manly Public Baths	East Esplanade, Manly	
25	Mosman	Stone Wharf	National Park, Bradley's Head	

26	North Sydney	Sydney Harbour Queen	Moored in Berrys Bay, Waverton (formerly moored west of Luna Park, Milsons Point)
27	North Sydney	Site of Cavill's Baths	Foreshore of Lavender Bay
28	North Sydney	Lavender Bay ferry wharf	Walker Street, Kirribilli
29	South Sydney	Site of Ithaca Road ferry wharf	Ithaca Road, Elizabeth Bay
30	Warringah	Bantry Bay Public Powder Magazine	Foreshores of Bantry Bay, Killarney Heights
31	Warringah	Flat Rock Landing Place	Killarney Drive, Killarney Heights
32	Warringah	Former Killarney Picnic Ground (including wharf)	Partially Garigal National Park, partially Mosman Rowing Club, Killarney Drive, Killarney Heights
33	Willoughby	Site and remains of wharfage	Fig Tree Point, Hallstrom Close, Northbridge
34	Willoughby	Remains of H C Press picnic ground and public baths	Cammeray Road, Castle Cove
35	Willoughby	Willis Road wharf	Willis Road, Castle Cove
36	Willoughby	Sailors Bay boat shed	Clive Park, Northbridge
37	Willoughby	Former Horsley's boat shed and sea wall (now a house)	217B Edinburgh Road, Castlecrag
38	Willoughby	Site and remains of early wharfage (now occupied by Castlecrag marina)	Rockley Street, Castlecrag
39	Willoughby	Stone walls	297A Edinburgh Road, Castlecrag
40	Willoughby	Remains of Municipal Baths, structures and access steps	241 Edinburgh Road, Castlecrag
41	Willoughby	Stone walls, steps and baths	213-217B Edinburgh Road, Castlecrag

42	Woollahra	HMAS Rushcutter slipways	9 New Beach Road, Darling Point
43	Woollahra	Ferry Pier	Military Road, Watsons Bay
44	Woollahra	West Parsley Bay obelisk	65 Fitzwilliam Road, Vaucluse
45	Woollahra	East Parsley Bay obelisk	Between properties 36A and 38, The Crescent, Vaucluse
46	Woollahra	Remains of Bath House and site of jetty	Darling Point Road, Darling Point
47	Woollahra	Pilot Station	Marine Parade and Salisbury Street, Watsons Bay
48	Woollahra	Green Point obelisk	Off Pacific Street, Watsons Bay
49	Woollahra	Site of former Rose Bay Flying Boat Base	Lyne Park, Rose Bay
50	Woollahra	Watsons Bay Pool	Marine Parade, Watsons Bay
51	Woollahra	Remains of old Watsons Bay Pool	Marine Parade and Salisbury Street, Watsons Bay
52	Woollahra	Gladswood House private jetty	11 Gladswood Gardens, Double Bay
53	Woollahra	Chinese boat shed	20 Wolseley Road, Point Piper
54	Woollahra	Remains of Vaucluse Point ferry wharf	83 Fitzwilliam Street, Vaucluse
55	Woollahra	Remains of Western Rose Bay ferry wharf	New South Head Road, Rose Bay
56	Woollahra	Group of remains of wharf, baths and waterfront relics, including former Tivoli Pier and former Thorne's (or Claremont) Wharf	Bayview Hill Road, Rose Bay
57	Woollahra	Camp Cove tide gauge	Cliff Street, Camp Cove
58	Woollahra	Vaucluse Baths	68 Wentworth Road, Vaucluse

59	Woollahra	Site of Public Baths	Lyne Park, Rose Bay	
60	Woollahra	Parsley Bay Ferry Wharf	The Crescent, Vaucluse	
61	Woollahra	Former Nielsen Wharf remains	Steel Point, Vaucluse	
62	Woollahra	Shark Beach promenade and amenities	Nielsen Park, Steel Point, Vaucluse	
63	Woollahra	Hermit Bay Wharf, slipway and landing	Vaucluse Road, Vaucluse	
64	Woollahra	Site of wharf	Wingadal Place, Point Piper	
65	Woollahra	Site of Village Point Wharf (Kutti Beach Ferry Wharf)	Wharf Road, Vaucluse	
66	Woollahra	Site of Public Wharf (now occupied by new wharf)	Bay Street, Double Bay	
67	—	Sydney Harbour Bridge, including approaches and viaducts (road and rail)	Port Jackson	S
68	—	Glebe Island Bridge, including abutments	Blackwattle Bay	S
69	—	Fort Denison, Sydney Harbour	Sydney Harbour	S
70	—	Goat Island, including: former harbour master's residence, pathway from magazine precinct to water police station precinct, former ordinance magazine, former laboratory (original cooperage), former cooperage, wall gate and sentry post (entry to magazine area), former barracks, former kitchen, Andersons Councill, lime kiln, Barney's Cut, former water police station	Sydney Harbour	S

71	—	Navigation light Tower—western channel (Georges Head)	Sydney Harbour	
72	—	Navigation light tower—eastern channel (Bottle and Glass Rocks)	Sydney Harbour	
73	—	Wreck of the “Itata” and wrecks of other unnamed vessels	Salt Pan Creek, Middle Harbour	
74	—	Wreck of Maritime Services Board Hopper Barge	Foreshores of Berrys Bay, Sydney Harbour	
75	—	Navigation light tower	Off Shark Island, Sydney Harbour	
76	—	Wreck of the “Catherine Adamson”	Old Man’s Hat, North Harbour, Sydney Harbour	
77	—	Wreck of the “Centennial”	Taylor’s Bay, Sydney Harbour	
78	—	Wreck of the “Centurion”	Cannae Point, North Head, Sydney Harbour	
79	—	Wreck of the “Currajong”	Off Bradleys Head, Sydney Harbour	
80	—	Wreck of the “Edward Lombe”	Middle Harbour	
81	—	Wreck of the “Fame”	Sow and Pigs Shoal, Sydney Harbour	
82	—	Shark Island	Sydney Harbour	
83	—	Clark Island	Sydney Harbour	
84	—	Wreck of Hopper Barge	150 metres east of Clark Island	
85	—	The Spit Bridge	Spit Road, Balgowlah/ Mosman	S

Part 3 Heritage items in Lane Cove River Area

Note—

Further details on these items can be found in the *Regional Environmental Study for Lane Cove River and Inner Harbour*.

Item no	Local government area	Name or description of heritage item	Address	S = State significance
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1	Hunter's Hill	Remains of Bath	Boronia Park, Hunters Hill
2	Hunter's Hill	Hunters Hill Wharf and Waiting Shed	453 Ferry Street, Hunters Hill

Schedule 12 Dictionary for Chapter 10

(section 10.3)

Aboriginal object means any deposit, object or material evidence (other than a handcraft made for sale) relating to present or past Aboriginal habitation, and includes Aboriginal remains.

advertisement has the same meaning as it has in [State Environmental Planning Policy No 64—Advertising and Signage](#).

advertising structure has the same meaning as it has in [State Environmental Planning Policy No 64—Advertising and Signage](#).

Advisory Committee means the Foreshores and Waterways Planning and Development Advisory Committee constituted by section 10.28.

aid to navigation means any buoy, sign, light or other structure (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) that is designed to assist the safe and efficient movement of vessels on the waterway.

archaeological site means the site of one or more relics.

aviation facility means an area of the waterway set aside, or a structure provided, for the purpose of aircraft landing or taking off.

boat launching ramp means a structure designed primarily for the launching of trailer-borne recreational vessels, and includes associated car parking facilities.

boat lift means a device used for lifting or steering a vessel out of water, but does not include such a device if it forms part of a boat repair facility or commercial marina.

boat repair facility means any building, structure or facility used primarily for the construction, maintenance, repair, sale or hire of boats, whether or not including the storage of boats or other vessels, but does not include a commercial marina.

boat shed means a building or other structure, associated with a private residence, that is used for the storage and routine maintenance of one or more boats, and includes any skid used in connection with any such building or other structure.

charter and tourism boating facility means any structure used for charter boating or tourism boating purposes, being a structure that is open only to users or operators of the structure, and having a direct structural connection between the foreshore and the waterway, but does not include a private marina or commercial marina.

commercial marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities,

including—

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring,

but does not include a boat repair facility or a private marina.

commercial port facility means any structure used in connection with the carrying of goods or persons by water from one port to another for business or commercial purposes, being a structure having a direct structural connection between the foreshore and the waterway.

community facility means a building or place that provides for the physical, social, cultural, religious or intellectual development or welfare of the community.

conservation means preservation, protection, restoration or enhancement.

conservation management plan means a document, prepared in accordance with the guidelines issued by the Director of the Heritage Office—

- (a) that identifies various places, buildings, works, relics, moveable objects and precincts as having State or local heritage significance, and
- (b) establishes conservation policies and management mechanisms for the retention of that significance.

demolish a heritage item means wholly or partly destroy, dismantle or deface the heritage item.

dredging means the removal of material from the sea or harbour bed or the bed of a river, being an activity for the purpose of constructing a new or deeper navigational area or channel or re-opening a discontinued navigational area or channel, but does not include intertidal dredging or maintenance dredging.

earthwork means the addition or removal of any solid material on, to or from the land or any other work, being an activity that substantially alters the existing ground level or character of the surface of that land.

floating boat platform means a portable floating platform constructed from lightweight materials and secured to a mooring pen or a private landing facility that is used to store, above the water line, vessels that are not more than 6m in length.

flora and fauna enclosure means a net or other structure used for the purpose of protecting or encouraging the growth of flora and fauna, including a structure used for the observation of flora and fauna or for the maintenance of the net or other structure.

foreshore includes land with a water frontage and land that is separated from the waterfront by a

public reserve, road or open space.

Foreshores and Waterways Area means the land shown edged heavy black on the Foreshores and Waterways Area Map.

general restoration works means works carried out for the purpose of restoring or enhancing the natural values of a foreshore or waterway.

height of a building means the vertical distance (measured in metres) between—

- (a) the natural surface level of the ground on which the building is situated or, if the ground has been excavated, the natural surface level of the adjoining public domain, and
- (b) the topmost point of the building (including plant, lift over-runs and telecommunications devices installed on top of the building).

heritage impact statement means a document consisting of—

- (a) a statement demonstrating the heritage significance of a heritage item, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means—

- (a) a building, work, archaeological site or place—
 - (i) that is specified in an inventory of heritage items prepared for the purposes of Chapter 10, being an inventory that is available at the head office of the Department, and
 - (ii) that is situated on a site described in Schedule 4 and identified on the Heritage Map, or
- (b) a place—
 - (i) that is specified in an inventory of heritage items prepared for the purposes of Chapter 10, being an inventory that is available at the head office of the Department, and
 - (ii) that is described in the inventory as a place of Aboriginal heritage significance.

Note—

The items listed in paragraph (a) include only those that are not otherwise heritage items under some other environmental planning instrument.

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

houseboat means a vessel or structure that floats on, or is fixed in, the waterway and that is used for the purpose of providing permanent residential accommodation.

intertidal dredging means the removal of material from the sea or harbour bed in the intertidal zone, but does not include dredging or maintenance dredging.

intertidal zone means the area between the zero tide (that is, where the tide measures zero on the

Fort Denison Tide Gauge, or -0.925 metres Australian Height Datum) and the highest astronomical tide (that is, where the tide measures 2.1 metres above zero on the Fort Denison Tide Gauge, or 1.175 metres Australian Height Datum).

land-based development means any development carried out wholly above the mean high water mark, and development for any of the following purposes—

- (a) boat sheds,
- (b) reclamation works,
- (c) sea walls,
- (d) swimming pools,
- (e) waterfront access stairs,

but does not include land/water interface development or water-based development.

land/water interface development means development for any of the following purposes—

- (a) boat repair facilities,
- (b) boat launching ramps,
- (c) commercial marinas,
- (d) water-based restaurants and entertainment facilities,
- (e) water recreational facilities,
- (f) when carried out wholly or partly in the waterway—
 - (i) dwellings of any type (including serviced apartments),
 - (ii) commercial premises,
 - (iii) tourist facilities,
 - (iv) shops and retailing,
 - (v) restaurants,
 - (vi) recreational or club facilities (whether used for activities based on land or on water),
 - (vii) car-parking,

and includes land-based development and water-based development when carried out as part of development for a purpose referred to above.

maintenance means the ongoing protective care of a heritage item, but does not include alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

maintenance dredging means removal of material from the sea or harbour bed or the bed of a river

where the activity is for the purpose of maintaining the previously established harbour or river depth.

master plan means a master plan, as in force for the time being, adopted under Division 3 of Part 4.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, which is taken for the purposes of Chapter 10 to be 1.48 metres above zero on the Fort Denison Tide Gauge, or 0.555 metres Australian Height Datum.

mooring pen means an arrangement of freestanding piles or other restraining devices within which a vessel is permanently berthed.

native plant means any plant (including any tree, shrub, fern, vine, herb or grass) that is native to the Sydney Harbour Catchment.

place of Aboriginal heritage significance means—

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people, which may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature, which may (but need not) include natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

potential archaeological site means a site—

- (a) that is specified in an inventory of archaeological sites available at the office of the relevant council and described in the inventory as a potential archaeological site, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

potential place of Aboriginal heritage significance means a place—

- (a) that is specified in an inventory of heritage items available at the office of the relevant council and described in the inventory as a potential place of Aboriginal heritage significance, or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

private landing facility means a structure (such as a wharf, jetty or pontoon) that is used to enable passengers to embark or disembark a vessel, or to load or unload goods, being a structure that is not generally available for public use, but does not include private landing steps.

private landing steps means steps used for launching and retrieving vessels, being steps that are not generally available for public use.

private marina means an apparatus or structure located on or in the waterway and used for restraining two or more vessels, but does not include a commercial marina or mooring pen.

public boardwalk means a decked structure, supported by piers or piles, providing public pedestrian access extending over or beyond the intertidal zone, but does not include a structure that is intended

merely to provide direct access to a vessel.

public domain means land available for public use and includes streets, lanes, squares, playgrounds, parks, open shopping malls, pedestrian walkways, cycleways, pedestrian overpasses and underpasses, colonnades, balconies, terraces and the like.

public open space means—

- (a) any part of the public domain that is set aside for public recreation, or for a temporary use, and to which public access is unrestricted, or
- (b) any part of the public domain that is unfenced and that is set aside for commercial seating associated with restaurants, cafes or the like,

but does not include land on which any building (other than a temporary structure) is situated.

public water recreational facility means a pier, wharf, boat shed or other waterfront structure that is primarily used for public recreation.

public water transport facility means any structure used primarily in connection with transporting the public by water.

reclamation work means any work that involves—

- (a) the filling or draining of submerged land for the purpose of reclaiming the land, or
- (b) the filling of submerged land for the purpose of supporting a building or structure (such as a bridge) being erected over the land.

recreational or club facility means a building or place used exclusively for sporting or leisure activities, whether operated for the purpose of gain or not.

relic means any deposit, object or material evidence—

- (a) which relates to the settlement of that area that comprises New South Wales, not being Aboriginal habitation, and
- (b) which is 50 or more years old.

residential development means development for residential purposes.

restricted premises means any building or place at which—

- (a) restricted publications (that is, publications classified as Category 1 restricted, Category 2 restricted or RC under the [Classification \(Publications, Films and Computer Games\) Act 1995](#) of the Commonwealth) are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or
- (b) a business to which section 578E of the [Crimes Act 1900](#) applies is conducted,

but does not include a newsagency or pharmacy.

sea wall means a structure placed partially or wholly along the land/water interface to protect the

land from the sea or to stop accelerated erosion of the shoreline, but does not include a breakwater.

single mooring means an apparatus or structure located on or in the waterway and designed, constructed or used for restraining one vessel only, but does not include a mooring pen.

skid means an inclined ramp used for the manual launching of small craft, but does not include a slipway.

slipway means a structure, usually in the form of two supported parallel rails on which a wheeled cradle is run, to draw a vessel out of the water for maintenance and repair, other than a structure that forms part of a boat repair facility or commercial marina.

strategic foreshore site means a site shown edged heavy black on the Strategic Foreshore Sites Map.

street means any street, road, lane, footpath or other thoroughfare open to or used by the public, whether or not in public ownership.

swimming enclosure means a net or other structure placed in the waterway for the purpose of providing a protected swimming area, but does not include a public water recreational facility.

swimming pool has the same meaning as it has in the [Swimming Pools Act 1992](#).

Sydney Harbour includes all tidal bays, rivers and their tributaries connected with or leading to Sydney Harbour, and all waters bounded by mean high water mark and lying to the west of a line running between the southernmost point of North Head and the northernmost point of South Head.

Sydney Harbour Catchment means the land shown edged heavy black on the Sydney Harbour Catchment Map.

Sydney Opera House buffer zone means the land shown hatched blue on the Sydney Opera House Buffer Zone Map.

telecommunications facility means a building, structure, work or place (such as a radio mast, tower, earth station, cable, satellite dish or the like) used specifically for transmitting, receiving or passing on signals, but does not include any such facility used for domestic purposes only.

temporary structure includes—

- (a) a booth, tent or other temporary enclosure, whether or not a part of the booth, tent or enclosure is permanent, and
- (b) a mobile structure.

the Act means the [Environmental Planning and Assessment Act 1979](#).

tourist facility means a building or place, such as a hotel or motel, used by tourists or holiday-makers for the purposes of holiday accommodation, sport or recreation, and includes—

- (a) shops attached to or incorporated within the building or located at the place, and
- (b) other facilities serving the needs of tourists and holiday-makers using the building or place,

but does not include a caravan park.

water-based development means any development carried out wholly below the mean high water mark, and development for any of the following purposes—

- (a) advertisements,
- (b) advertising structures,
- (c) aids to navigation,
- (d) aviation facilities,
- (e) boat lifts,
- (f) charter and tourism boating facilities,
- (g) commercial port facilities,
- (h) dredging,
- (i) flora and fauna enclosures,
- (j) houseboats,
- (k) mooring pens,
- (l) private landing facilities,
- (m) private landing steps,
- (n) private marinas,
- (o) public boardwalks,
- (p) public water transport facilities,
- (q) single moorings,
- (r) skids,
- (s) slipways,
- (t) swimming enclosures,

but does not include land/water interface development.

water-based restaurant and entertainment facility means a vessel or structure that floats on, or is fixed in, the waterway, that is used as a club or restaurant or for entertainment (on a commercial basis) and that has a direct structural connection between the foreshore and the waterway.

waterfront access stairs means stairs or a ramp used for pedestrian access to the foreshore, but does not include stairs or a ramp used merely for launching vessels or for providing direct access to a vessel on the waterway.

waterway means such part of the Foreshores and Waterways Area as is within Zone No W1, W2, W3, W4, W5, W6, W7, W8 or 8 (a).

wetlands means natural or non-natural wetlands (including marshes, sedgelands, wet meadows, salt marshes, mudflats, mangroves and seagrasses) that form a shallow water body when inundated (cyclically, intermittently or permanently) with fresh, brackish or salt water.

wetlands protection area means land shown coloured green on the Wetlands Protection Area Map.

Schedule 13 Dictionary for Chapter 11

Agreed environmental objectives means the water quality and river flow objectives agreed by the Minister for Environment and the Minister for Land and Water Conservation.

Bank means a change of slope that defines the high bank of the Georges River or its tributaries or the bank which defines the channel in a geomorphic sense.

Bank or bed works means works carried out on the banks or the bed of the Georges River or any of its tributaries other than maintenance dredging.

Bed means the land which contains the Georges River and its tributaries, including that which is alternately inundated or left bare from a rise or fall in the supply of water, but does not include any land inundated only in time of flood.

Biological diversity means the diversity of life and is made up of the following 3 components—

- (a) genetic diversity (the variety of genes, or units of heredity, in any population), and
- (b) species diversity (the variety of species), and
- (c) ecosystem diversity (the variety of communities and ecosystems).

Clearing of wetlands or freshwater rivers 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 but 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—

- (c) 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
- (d) 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
- (e) the removal in accordance with a bush fire management plan of flora which are a bush fire hazard, or
- (f) the removal of flora in accordance with a vegetation management plan approved by the council of

the area concerned.

Cumulative environmental impact means the combined effects on the environment of development and resource use within a locality over a period of time.

Development is defined in the Act.

Ecosystems (or ecological systems) are collections of organisms (plants and animals) and the environment (the soil, geology, water and air) in which they live.

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs—

- (a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by—

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (ii) an assessment of the risk-weighted consequences of various options,
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
 - (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
 - (d) improved valuation, pricing and incentive mechanism—namely, that environmental factors should be included in the valuation of assets and services, such as—
 - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Environmentally sensitive natural areas are areas where environmental characteristics mean that the potential impacts of land use are greater than elsewhere in the Catchment. Environmentally sensitive natural areas in the Catchment are the river, vegetated buffer areas (riparian land), escarpments, national parks and nature reserves, wetlands, other significant floral and faunal habitats

and corridors and localities containing acid sulfate soils.

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 relevant project.

Fauna means all animal life, including birds, mammals, reptiles, fish and invertebrates (such as insects, shellfish and the like).

Floodplain means the floodplain level nominated in a local environmental plan or those areas inundated as a result of a 1 in 100 flood event, if no such level has been nominated.

Flood liable land means land identified in an environmental planning instrument as flood liable land.

Flood prone land means land susceptible to inundation by the probable maximum flood event.

Floodway means those areas of a floodplain where a significant discharge of water occurs during floods. Floodways are areas which, even if partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.

Flora means all plant life, including higher plants (flowering plants) and lower plants (non-flowering plants such as ferns).

Georges River and its tributaries means all the watercourses within the Georges River Catchment.

Habitat means the environment that permanently, periodically or occasionally supports a plant or animal.

Immediate foreshore land means land within 20 metres of the top of the bank of the Georges River or its tributaries.

In-stream extraction means the winning of extractive material or an undertaking which depends for its operations on the winning of extractive material from the channels of the Georges River or its tributaries.

Managing Urban Stormwater series of documents means the following documents prepared by and available from the Environment Protection Authority—

- (a) *Managing Urban Stormwater: Treatment Techniques*,
- (b) *Managing Urban Stormwater: Soils and Construction*,
- (c) *Managing Urban Stormwater: Council Handbook* prepared by Landcom and the Department of Housing.

Metropolitan Strategy means the document entitled *Cities for the 21st Century* prepared by the former Department of Planning and published in 1995. It is available from offices of the Department of Urban Affairs and Planning.

Native vegetation unless otherwise qualified has the same meaning as the definition in section 6 of the [Native Vegetation Conservation Act 1997](#).

Public authority has the same meaning as in the Act.

Remnant vegetation means vegetation within the Catchment identified and recorded as remnant in a document available from the National Parks and Wildlife Service.

Riparian areas are the lands immediately adjacent to waterbodies.

Sprinkler system means a high or low level system with a lateral move, centre pivot, travelling irrigator, side roll, end tow or hand shift sprinkler head.

Terrestrial ecosystems are those ecosystems that are land-based, including woodlands, grasslands and forests.

The Act means the [Environmental Planning and Assessment Act 1979](#).

The Catchment means the Catchment of the Georges River.

The catchment map means the map marked “Georges River Catchment Boundary” deposited in the Head Office of the Department of Urban Affairs and Planning.

Threatened species, populations and ecological communities has the same meaning as in the [Threatened Species Conservation Act 1995](#).

Urban Development Program means the government land release system managed by and available from the Department of Urban Affairs and Planning.

Watercourse means a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of the stream.

Water quality objectives means the objectives approved for the Catchment by the Minister for the Environment and the Minister for Land and Water Conservation.

Water Reform Package means the documents so identified prepared by the Department of Land and Water Conservation aimed at reforming the use of the State’s waterways. They are available from the offices of that Department.

Water-related development means development such as jetties, ramps and pontoons located on land within 20 metres of the Georges River or its tributaries.

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).

Wetlands means an area with characteristics of both terrestrial and aquatic environments that is flooded or waterlogged often enough to support aquatic or other plants typical of areas with those characteristics.

Schedule 14 (Repealed)