

# Hunter Regional Environmental Plan 1989

[1989-180]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The plan was repealed by Sch 1 [1] to *State Environmental Planning Policy (Repeal of REP Provisions) 2009* (285) (LW 26.6.2009) with effect from 26.6.2009.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# Hunter Regional Environmental Plan 1989



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Hunter Regional Environmental Plan 1989*.

### 2 Aims, objectives etc

(1) The aims of this plan are:

- (a) to promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community,
- (b) to co-ordinate activities related to development in the region so there is optimum social and economic benefit to the community, and
- (c) to continue a regional planning process that will serve as a framework for identifying priorities for further investigations to be carried out by the Department and other agencies.

(2) The aims will be implemented in this plan by specifying:

- (a) objectives for the future planning and development of the region,
- (b) regional policies to guide the preparation of local environmental plans and development control plans, to control development and to control activities in the region, and
- (c) principles relating to future needs of the region, future development opportunities and requirements and the manner in which the effects of growth and change are to be managed.

(3) (Repealed)

### 3 Region to which plan applies

This plan applies to land declared to be a region by the Minister under section 4 (6) of the Act, being all land in the Cities of Cessnock, Greater Taree, Lake Macquarie, Maitland and Newcastle and the Shires of Dungog, Gloucester, Great Lakes, Merriwa, Murrurundi, Muswellbrook, Port Stephens, Scone and Singleton.

### 4 Relationship to other environmental planning instruments

- (1) This plan repeals *Hunter Regional Environmental Plan No 1*.
- (2) In the event of an inconsistency between this plan and another environmental planning instrument (other than a State Environmental Planning Policy) applying to the land to which this plan applies, this plan shall prevail to the extent of the inconsistency.
- (3) In so far as a provision of this plan indicates that any matter or thing should be undertaken by a council or other consent authority as a condition precedent to the granting of a development consent in accordance with any local environmental plan, the provision does not operate so as to render a development consent unlawful or ineffective by reason only of a failure to observe the condition.
- (4) In so far as a provision of this plan indicates that a local environmental plan should include, or should refrain from including, a particular requirement (whether as a condition subsequent to the inclusion in such a plan of some other requirement of a specified kind, or otherwise):
  - (a) the provision has effect in relation to all local environmental plans applying to any land within the region, with the intent that a failure of any draft plan to comply with the provision constitutes an inconsistency, as mentioned in section 68 (4) (d) (iii) of the Act, between this plan and the draft local environmental plan concerned,
  - (b) the provision does not, however, operate so as to render any such plan, if duly made, unlawful or ineffective by reason of such an inconsistency.

### 5 Definitions

In this plan:

**background report** means the publication entitled *Hunter Regional Environmental Plan 1989—Background Report*, copies of which are held in the office of the Department and in the offices of the councils of the region.

**council**, in relation to an area within the region, means the council of that area.

**dual occupancy** means the construction or conversion of a dwelling-house so as to provide two dwellings.

**region** means the land referred to in clause 3.

**rural land** means land identified, in an environmental planning instrument applying to land within the region, as either Rural, Non-Urban or Environmental Protection.

**subregion** means the Lower Hunter subregion, the Upper Hunter subregion or the Northern Hunter subregion, which are defined as follows:

Lower Hunter subregion—the land within the Cities of Cessnock, Lake Macquarie, Maitland and Newcastle and the Shire of Port Stephens,

Upper Hunter subregion—the land within the Shires of Merriwa, Murrurundi, Muswellbrook, Scone and Singleton, and

Northern Hunter subregion—the land within the City of Greater Taree and the Shires of Dungog, Gloucester and Great Lakes.

**the map** means the map marked “*Hunter Regional Environmental Plan 1989*”, the original of which is deposited in the office of the Department and a copy of which is deposited in the office of each council of the region.

**urban development program** means a program for the planning and development of urban land prepared by the Department on an annual basis.

## **6 Adoption of model provisions**

- (1) This plan adopts clause 4 of the [\*Environmental Planning and Assessment Model Provisions 1980\*](#).
- (2) For the purposes of subclause (1), a reference in clause 4 of the [\*Environmental Planning and Assessment Model Provisions 1980\*](#) to a local environmental plan shall be read and construed as a reference to a regional environmental plan.

## **7 Duties of certain public authorities in relation to plan preparation and development consents**

Where:

- (a) an environmental planning instrument applying to the region or a part of the region provides (or is deemed to have provided) that development specified in the instrument may not be carried out except with consent under the Act being obtained, and an application is made to carry out development,
- (b) under an environmental planning instrument applying to the region or a part of the region, certain development specified in the instrument cannot be carried out because of a development standard applying to the development but nevertheless application to carry out that development is made to the consent authority pursuant to the provisions of [\*State Environmental Planning Policy No 1—Development Standards\*](#),



- (c) a council decides or is directed to prepare a draft local environmental plan or the Director prepares a draft regional environmental plan applying to a part or to the whole of the region,
- (d) the Minister, pursuant to section 101 of the Act, gives a direction in writing to a consent authority to refer to the Secretary for determination by the Minister a particular development application or development applications of a particular class or description,
- (e) an environmental planning instrument applying to the region or a part of the region provides that development specified in the instrument may be carried out without the consent of the council, or without the necessity for consent under the Act being obtained from a consent authority, and that development, being development that is an activity within the meaning of Part 5 of the Act, is proposed to be carried out,

then a consent authority, the Director, the Minister or a determining authority (as the case may be) should, in carrying out its or his or her function under the Act or under the instrument concerned, and for the purpose of advancing the aims and objectives of this plan enumerated in clause 2, consider the content of the background report and the objectives, policies and principles contained in this plan and relevant to the matter.

## **Part 2 Social development**

### **Division 1 Housing**

#### **8 Objectives**

The objectives of this plan in relation to planning strategies concerning housing are:

- (a) to provide opportunities for adequate provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups throughout the region, and
- (b) to ensure that the design and siting of residential development meets community needs, minimises impact on the natural environment and involves the quality of the region's built environment.

#### **9 Policies for plan preparation**

- (1) A draft local environmental plan providing for the development of land for residential purposes (including rural residential and caravan park developments) or for an increase in residential densities:
  - (a) should be prepared only when the council is satisfied that adequate and affordable health, education and other community facilities and services (the need for which will be generated by the proposed development) can be provided, and
  - (b) should include provisions to allow the establishment of such facilities to meet the

needs of residents.

(2) A draft local environmental plan applying to a residential area:

- (a) should retain any existing provisions enabling a dwelling-house to be erected on an existing allotment and should not increase the minimum lot size required for development for residential purposes,
- (b) should include provisions to allow dual occupancy,
- (c) should not contain provisions which will result in a reduction of the permissible residential density of any land to which the plan applies (unless those provisions are necessary to preserve a conservation area) and, in as much as is practicable and compatible with the environmental capacity of the area, should provide for a variety of housing forms, including small dwelling units, and increase the permissible residential density of the land,
- (d) should not introduce more restrictive development standards relating to residential flat development (unless those standards are necessary to preserve a conservation area) than those currently in force,
- (e) should not contain provisions which will inhibit the retention and restoration for residential purposes of existing housing stock or the conversion of existing building stock for residential purposes, and
- (f) should not require development consent for a single dwelling-house.

## **10 Policies for control of development**

Councils should not consent to development for residential or rural residential purposes, or for caravan parks, unless they have made an assessment of the need for health, education and welfare facilities and services and the availability of existing facilities and services to serve additional residents.

## **11 Principles**

- (1) Councils should prepare housing strategies which will assist in the provision of secure, appropriate and affordable housing to meet the needs of different population groups.
- (2) Councils, the Department and the Department of Housing should encourage urban consolidation through dual occupancy, infill, redevelopment, retention and restoration of existing housing stock and conversion of buildings in appropriate locations.

## **Division 2 Health, education and community services**

### **12 Objectives**

The objective of this plan in relation to planning strategies concerning health, education

and community services is to encourage the co-ordinated provision of facilities and services designed to meet the needs of user groups and accessible to those groups.

### **13 Policies for plan preparation**

A draft local environmental plan, in so far as it relates to schools, colleges or educational institutions, should contain provisions that allow and encourage the community use of the facilities and sites of schools, colleges or other educational institutions, allow commercial operation of those facilities and sites, and allow any person to carry out development for the purposes of community uses on such sites, whether or not the development is ancillary to that purpose.

### **14 Principles**

- (1) The Hunter Area Assistance Scheme should be administered so as to make an impact on the socio-economic problems of the region, and, in particular, so as to encourage co-operative and innovative solutions, co-ordination between agencies and improving access to services.
- (2) The Department should prepare and maintain regional guidelines for the operation of the Scheme.
- (3) Councils should prepare and maintain social plans to assist in planning and assessing appropriate contributions for community services and facilities and in the assessment of applications under the Scheme.

## **Part 3 Economic development**

### **Division 1 Industrial development**

#### **15 Objectives**

The objectives of this plan in relation to planning strategies concerning industrial development are:

- (a) to ensure that sufficient zoned and serviced industrial land is provided in locations appropriate to the needs of industry, while ensuring protection of the environment, and
- (b) to promote the distribution of employment in secondary industry in a manner compatible with the availability of services and distribution of population.

#### **16 Policies for plan preparation**

- (1) A draft local environmental plan which will significantly reduce the amount of land available for industrial development should be prepared only after the council concerned:

- (a) has made an assessment of land available, servicing and the location and size of industrial lots within the relevant area, and
  - (b) is satisfied that the reduction will not jeopardise job opportunities in the area.
- (2) A draft local environmental plan to provide additional land for industrial development:
  - (a) should apply to land which is environmentally suitable,
  - (b) should be prepared only when adequate water, sewerage and power services are available, or can be economically provided, to meet the demands of any industrial development which may be permissible under the provisions of that plan,
  - (c) should apply to land which can be adequately serviced by transport and is accessible from urban areas, and
  - (d) should not restrict the relocation or development of industry by virtue of inflexible land use controls.
- (3) A draft local environmental plan to allow the development of large scale, heavy or offensive industry should be prepared only after the council has made an assessment of:
  - (a) workforce accessibility,
  - (b) the visual impact of the development when viewed from a public place,
  - (c) the adequacy of buffer zones between the proposed industrial land and residential or commercial areas,
  - (d) pollution potential, and
  - (e) the need to avoid the intrusion of major new or upgraded traffic routes into residential areas.
- (4) (Repealed)
- (5) A draft local environmental plan containing provisions for land for industrial development may contain provisions for uses such as ancillary office development, retail or discount warehouses or other retail outlets for bulky goods where, in the opinion of the council:
  - (a) there is a need for those uses in the industrial zone,
  - (b) those uses would not defeat the predominantly industrial nature of development in the industrial zone, and
  - (c) there will not be a substantial adverse impact on existing business centres or adjoining residential properties.

## **17 Principles**

Councils should:

- (a) ensure that an adequate supply of zoned and serviced industrial land is available in appropriate locations to meet needs, taking into account the extensive nature of modern industrial and quasi-industrial development,
- (b) ensure that waterfront industrial land is retained for industries requiring waterfront access, and
- (c) identify sites for hazardous or offensive industries in appropriate locations, taking into account [\*State Environmental Planning Policy No 33—Hazardous and Offensive Development\*](#).

## **Division 2 Commercial development**

### **18 Objectives**

The objectives of this plan in relation to planning strategies concerning commercial development are:

- (a) to ensure that commercial service centres are developed to suit the convenience of consumers and to optimise public and private investment, and
- (b) to promote the distribution of employment in the tertiary sector in a manner compatible with the distribution of population.

### **19 Policies for plan preparation**

In preparing a draft local environmental plan or considering an application to provide for an increase in commercial or retail development, the council:

- (a) should consider whether the development is likely to have a detrimental impact on the existing or potential function of land shown on Schedule 1 as a regional, subregional or district centre, and
- (b) should not increase the floor area allowed on land zoned for business purposes, or increase the area of land zoned for business purposes, unless it has been demonstrated that the area is or will be underprovided with business facilities.

### **20 Principles**

- (1) The Newcastle central business district should be promoted as the major commercial, retail and service centre in the region, comprising a wide range of office and entertainment facilities and establishments providing high quality goods and services.
- (2) Councils should:
  - (a) encourage retailing, office and associated service functions in the central business

district and subregional and district centres,

- (b) provide for new or expanded centres in other locations to meet anticipated local and visitor needs, and
  - (c) require the provision of social and community facilities, including environmental improvement, in centres appropriate to the location and scale of development.
- (3) Officers of the Department should investigate land requirements for non-retailing commercial uses in the Lower Hunter subregion and, in particular, the feasibility of business park development.
- (4) In subclause (3), **business park** means a development containing a mix of office, research, manufacturing, servicing, storage and distribution functions which is subject to detailed planning of subdivision and development control.

## Division 3 Tourism

### 21 Objectives

The objectives of this plan in relation to planning strategies concerning tourism are:

- (a) to encourage the co-ordinated development of the region as an important tourist destination area within the State,
- (b) to encourage appropriate leisure and tourism developments on land which is environmentally capable and suitably located, as a means of improving the region's economic diversity and employment prospects,
- (c) to encourage the recognition of natural and heritage conservation values as a means of improving tourism opportunities, and
- (d) to encourage the adoption of planning controls containing incentives for tourism development where appropriate.

### 22 Policies for plan preparation

- (1) In preparing a draft local environmental plan or development control plan, a council:
  - (a) should take into consideration plans prepared by Tourism New South Wales for areas within the region, and
  - (b) should take into consideration the impact of any proposed tourist development on the existing and future supply of permanent residential accommodation.
- (2) A draft local environmental plan or development control plan should, where appropriate, incorporate incentives and provide flexibility aimed at encouraging developments for tourism purposes.

## 23 Principles

Responsible authorities should:

- (a) encourage the development of tourism facilities which will result in a net inflow of money or jobs to the region, and which will be environmentally acceptable,
- (b) support tourism development proposals which help to provide a wide range of high quality attractions and accommodation types, and which are in accordance with tourism development plans prepared by the Tourism Commission,
- (c) encourage initiatives which increase tourism interest and potential, such as historic site interpretation and trail signposting, provided they conform with guidelines of the Department of Main Roads and with the proposals of the Hunter-Manning Tourist Authority, and
- (d) give consideration to the needs of tourism developments in the provision of servicing and transport linkages where these conform to tourism development plans, and are capable of providing significant increases in tourism activity and jobs for the region.

## Part 4 Land use and settlement

### Division 1 Rural land

#### 24 Objectives

The objectives of this plan in relation to planning strategies concerning rural land are:

- (a) to protect prime crop and pasture land from alienation, fragmentation, degradation and sterilisation,
- (b) to provide for changing agricultural practices, and
- (c) to allow for the development of small rural holdings and multiple occupancy on land capable of such developments in appropriate locations.

#### 25 Definition

In this Division:

***prime crop and pasture land*** means land shown as being Class 1, 2 or 3, or special purpose lands, on maps prepared by the Department of Agriculture and Fisheries from time to time, or land identified by the Department of Agriculture and Fisheries as being Classes 1, 2 or 3, or special purpose lands.

#### 26 Policies for plan preparation

- (1) A draft local environmental plan applying to land identified on the map as prime crop and pasture land:

- (a) (Repealed)
  - (b) should make separate provision for the subdivision of land in each of the following circumstances:
    - (i) subdivision for the purposes of agriculture,
    - (ii) subdivision for the purposes of a dwelling, and
    - (iii) subdivision for a purpose other than agriculture or a dwelling,
  - (c) should make separate provision for the erection of dwellings, and
  - (d) should require a development application to indicate the purpose for which any subdivision is to be made and the location of all existing or proposed dwellings.
- (2) A draft local environmental plan for rural land:
- (a) should, subject to paragraph (b), allow the subdivision of any land to any area for the purpose of agriculture,
  - (b) should set minimum holding sizes based on the concept of an area capable of efficient, sustainable agricultural production,
  - (c) should, where appropriate include prime crop and pasture land in an agricultural protection zone, and
  - (d) should provide, where appropriate, a buffer or other means to separate areas zoned for residential use from agricultural areas.
- (3) A draft local environmental plan for the land identified as suitable for inclusion in an agricultural protection zone should include provisions that:
- (a) aim to achieve the retention of such land for agriculture, and
  - (b) permit the subdivision of land for purposes other than the purpose of agriculture, and permit the erection of a dwelling, only where the council considers that such provisions will not affect the efficient sustainable agricultural production of that land.
- (4) A draft local environmental plan, to the extent that it prohibits the subdivision of allotments of rural land having an area less than a specified minimum, should not provide an exemption from that prohibition in the case of allotments of such a kind, and with such a history, as have come to be known as **concessional allotments**.
- (5) A draft local environmental plan may make provision for small rural holdings which are not necessarily to be used for agricultural purposes, provided that these holdings do not consist of land:



- (a) identified as suitable for inclusion in an agricultural protection zone, or
  - (b) shown on the map as land of open cut coal mining potential, as land containing minerals or extractive materials or as land potentially suitable for urban use.
- (6) A draft local environmental plan to provide for small rural holdings should be prepared only after the council has considered:
  - (a) demand for such holdings,
  - (b) accessibility to community facilities and services,
  - (c) proximity to urban centres,
  - (d) provision of infrastructure and services,
  - (e) the risk of hazards as described in Division 3 of Part 7,
  - (f) land capability and agricultural suitability, and
  - (g) the control of noxious weeds and animals.
- (7) A draft local environmental plan may contain provisions permitting the erection of dwelling-houses on any or all of the following kinds of allotments of rural land:
  - (a) an allotment created according to the requirements set out in subclause (5),
  - (b) an allotment legally created, or approved for that purpose, under the previous planning provisions applying to the land,
  - (c) an **existing holding** or **existing parcel** as defined in the relevant environmental planning instrument applying to the land at the day on which that instrument takes effect,
  - (d) a holding larger than the holding size referred to in subclause (2) (b) where there is no existing dwelling.
- (8) A draft local environmental plan containing provisions permitting the erection of dwelling-houses on rural land may make provision:
  - (a) for a worker's dwelling, or
  - (b) for a dwelling-house to be converted or extended to form two separate dwellings, provided such dwellings are attached.

## **27 Policies for control of development**

- (1) Councils, before granting consent to the subdivision of prime crop and pasture land for purposes other than agriculture, or for the erection of a dwelling on prime crop and pasture land:

- (a) (Repealed)
- (b) should be satisfied that the creation of an allotment or the erection of a dwelling will not significantly reduce the agricultural potential of the land.
- (2) Before granting consent to a development application for development (other than commercial farming) on land identified as prime crop or pasture land councils should take into consideration the effect of the development on the productive potential of the land and on the productive use and potential of adjoining lands.
- (3) Before granting consent to an application for open-cut coal or other mining or resource extraction on land identified on the map as prime crop or pasture land consent authorities should consider:
  - (a) the degree to which the mining or resource extraction area can be restored for further agricultural use,
  - (b) the contents of the policy statement “Rehabilitation of Land Affected by Mining” issued by the Soil Conservation Service,
  - (c) the likely effects on agricultural land and surface and groundwater resources in the vicinity, and
  - (d) the cost of sterilisation of the coal resource, mineral resource or extractive material if mining or extraction does not proceed.

## **28 Principles**

- (1) Councils should undertake rural land studies in accordance with the Department of Urban Affairs and Planning’s publication “Rural Lands Evaluation Manual 1988”, aimed at protecting prime crop and pasture land, and identifying appropriate land uses and planning controls.
- (2) These studies and associated planning controls should be kept under regular review.

## **Division 2 Urban land**

### **29 Objectives**

The objective of this plan in relation to planning strategies concerning urban land is to provide for sufficient urban land to meet anticipated growth in an orderly and efficient manner, having regard to:

- (a) constraints of the natural environment,
- (b) urban capability of the land as defined by the Soil Conservation Service,
- (c) supply and demand for land for all urban purposes,

- (d) availability and cost of public utility services,
- (e) access to employment and commercial and community facilities, and
- (f) provision of a choice of locations and development types.

### **30 Policies for plan preparation**

- (1) A draft local environmental plan to rezone rural land for urban purposes should not be prepared by councils in the Lower Hunter subregion except where:
  - (a) the land is identified on the map as potentially suitable for urban uses,
  - (b) the land is included in an urban development program,
  - (c) such action is justified by an environmental study, or
  - (d) the rezoning is of relatively minor significance.
- (2) A draft local environmental plan to rezone rural land for urban purposes should not be prepared by councils in the Upper Hunter or Northern Hunter subregions except where:
  - (a) the land is included in an urban development program, or
  - (b) the council is satisfied that there is insufficient land to cater for projected household growth for a period of ten years,
  - (c) or the rezoning is of relatively minor significance.
- (3) A draft local environmental plan to rezone rural land for urban purposes should not be prepared:
  - (a) for land shown on the map as having open-cut coal mining potential or land included in an agricultural protection zone pursuant to clause 26 (2) (c),
  - (b) for land shown on the map as having underground coal mining potential or containing other minerals or extractive materials, unless the council has consulted with officers of the Department of Minerals and Energy,
  - (c) for land unsuitable for development due to any industrial hazard, or any environmental hazard as described in Division 3 of Part 7, unless the council has made an assessment of the risk and considers it to be minor,
  - (d) for land which has conservation value, or
  - (e) unless adequate provision can be made for water, electricity and sewage disposal facilities and preference is given to areas which are most economic to service.
- (4) A draft local environmental plan involving the rezoning of land which is likely to give

rise to the need for additional bus services should be prepared only after the council has taken into consideration the guidelines set out in the Department of Transport's *Technical Bulletin No 19—Planning for Bus Services (1989)*.

- (5) A draft local environmental plan for residential areas should separate residential zones from incompatible land uses.
- (6) A draft local environmental plan for an urban area should adopt the following general principles:
  - (a) zoning should be simple and flexible—in most cases there should be no more than a single residential zone permitting a wide range of housing types and densities,
  - (b) provisions for flexible zone boundaries may apply to any zones except environmental protection zones,
  - (c) detailed guidelines within the broad zone parameters should be spelt out under the development control plan process, and
  - (d) residential road widths should be similar to those in *Technical Bulletin No 12—Residential Road Widths, 1981*, published by the Department.

### **31 Principles**

- (1) The Department should continue to prepare an urban development program for appropriate areas on an annual basis.
- (2) Councils should ensure that:
  - (a) an adequate supply of residential land is rezoned to meet anticipated demand and, in particular, take account of the urban development program, and
  - (b) in locating and developing new residential areas, preference is given to areas in proximity to existing or proposed transport, public utility services and community facilities and services.

## **Part 5 Transport**

### **Division 1 Roads, railways and public transport**

#### **32 Objectives**

The objectives of this plan in relation to planning strategies concerning roads, railways and public transport are to maximise accessibility and facilitate the movement of people and goods throughout the region in a manner which has regard to social, economic, environmental and safety considerations and, in particular:

- (a) to ensure that the use of public transport is facilitated,

- (b) to ensure traffic management techniques are utilised to optimise the use of the existing road system,
- (c) to ensure that new or upgraded roads and railways are constructed to meet identified demands including provision of bicycle facilities, and that their impact on the natural environment is minimised,
- (d) to maintain an appropriate acoustical environment in line with criteria established by the State Pollution Control Commission in its *Environmental Noise Control Manual*, and
- (e) to encourage the transport of goods, especially coal and other bulk materials, by rail or other non-road modes where practicable.

### **33 Policies for plan preparation**

- (1) In preparing a draft local environmental plan, a council shall identify primary arterial roads and include provisions that promote the safety and efficiency of these routes (including consideration of use of the bicycle).
- (2) The provisions should:
  - (a) limit access to the route except at specially constructed intersections,
  - (b) recognise the need to ensure that adequate truck access to major employment centres is provided, but so as to minimise the loss of amenity caused by heavy vehicle traffic.
- (3) Draft local environmental plans which make provision for secondary arterial roads and other main or arterial routes should contain provisions to:
  - (a) restrict direct access where possible to main or arterial routes so that access is obtained from a side road or a service road or lane,
  - (b) facilitate in existing developed areas the segregation of through and local traffic, and
  - (c) restrict development where that development will be adjacent to or adjoining a road where traffic operates at high speed.
- (4) In preparing a draft local environmental plan, a council:
  - (a) should not create, alter or remove an existing zoning or reservation for a main or arterial road or railway line without the approval of the relevant public authority, and
  - (b) should retain or upgrade existing provisions relating to the control of traffic or access on road frontages.
- (5) In preparing a draft local environmental plan for a significant new or expanded

commercial centre, industrial estate or residential area, a council should ensure that provision is made for railway stations, bus stations, bus/rail interchanges and parking facilities (including bicycle facilities), if appropriate.

### **34 Policies for control of development**

A council:

- (a) should not grant consent to the carrying out of any development involving the storage or handling of goods or materials which are likely to be delivered by heavy transport vehicles, unless it has considered whether use could be made of a transport mode other than road which, in the opinion of that council, is economically practicable, and
- (b) should not grant consent to the carrying out of development on land having frontage to a main or arterial road unless:
  - (i) all vehicular access to the land is from a road other than a main or arterial road, where practicable, or
  - (ii) the council is satisfied that the applicant has demonstrated that there will not be an adverse effect on traffic movement in the area as a result of the development.

### **35 Principles**

- (1) Councils should identify a regional road hierarchy to meet the needs of the community and ensure that development and maintenance of the road system is consistent with the following principles:
  - (a) maximising access to Newcastle as the regional centre,
  - (b) improving access to subregional and district centres, other employment nodes and tourist destinations, and
  - (c) providing adequate access to residential growth areas.
- (2) Councils should investigate the development potential of locations adjacent to National Highway interchanges.
- (3) Councils should prepare and implement plans and programs (especially those identified in bicycle plans approved by the State Bicycle Committee) to promote the safe and convenient use and storage of bicycles for commuting, shopping, school trips and recreation purposes, in accordance with the Department's Circular F2—Planning for Cyclists.

## **Division 2 Ports and airports**

### **36 Objectives**

The objectives of this plan in relation to planning strategies concerning ports are to

ensure:

- (a) the efficient operation of the Port of Newcastle through provision of an adequate supply of land and through control of development and transport corridors in areas around the Port,
- (b) that operation and development of the Port of Newcastle is undertaken with minimal adverse impact on the environment, and
- (c) that air transport services can operate efficiently and effectively, with minimum impact on the environment.

### **37 Policies for plan preparation**

- (1) A draft local environmental plan for land adjacent to the Port of Newcastle:
  - (a) should be prepared having regard to the objectives referred to in clause 36 (a) and (b),
  - (b) should not contain provisions which prevent or seriously restrict any future expansion of port-related activities,
  - (c) should include provisions to ensure that the best available technology is applied to reduce the risks of environmental hazards and pollution, and
  - (d) should consider sites for recreational and commercial fishing boat facilities which do not restrict commercial port needs.
- (2) A draft local environmental plan for land adjacent to airports:
  - (a) should contain controls to limit residential and rural residential development on land affected by aircraft noise, and
  - (b) should provide that development should not intrude into aircraft flight paths by the imposition of height limits and other relevant controls.

### **38 Principles**

Consent authorities, when making land use decisions for sites in the land/sea interface, should ensure that the legitimate requirements for the operation of the Port of Newcastle are not compromised.

## **Part 6 Natural resources**

### **Division 1 Mineral resources and extractive materials**

#### **39 Objectives**

The objectives of this plan in relation to planning strategies concerning mineral resources and extractive materials are to:

- (a) manage the coal and other mineral resources and extractive materials of the region in a co-ordinated manner so as to ensure that adverse impacts on the environment and the population likely to be affected are minimised,
- (b) ensure that development proposals for land containing coal and other mineral resources and extractive materials are assessed in relation to the potential problems of rendering those resources unavailable, and
- (c) ensure that the transportation of coal and other mineral resources and extractive materials has minimal adverse impact on the community.

**40, 41 (Repealed)**

**Division 2 Soil, water and forest resources**

**42 Objective**

The objective of this plan in relation to planning strategies concerning soil, water and forest resources is to manage the resources of the region in a co-ordinated manner so as to sustain their productivity and condition, and so as to meet community needs while ensuring that adverse impacts on the environment and the population likely to be affected are minimised.

**43 Policies for plan preparation**

- (1) A draft local environmental plan for land in the catchment area of an existing or proposed dam, or aquifer recharge area:
  - (a) should be prepared only after the council has considered the impact the proposed development is likely to have on water quality and availability,
  - (b) should provide for appropriate protective zoning, and
  - (c) should provide only for development which is compatible with maintenance of appropriate water quality standards.
- (2) A draft local environmental plan for land in State Forests or Crown Timber Lands:
  - (a) should be prepared only after the council has considered the impact of the proposed development on forest resources,
  - (b) should provide for appropriate zoning in areas required by the Commission, and
  - (c) should provide only for development which is compatible with conservation of forest resources.

**44 Policies for control of development**

- (1) Councils, in considering proposals for development in the catchment area of an



existing or proposed dam, or aquifer recharge area:

- (a) should consider the impact the proposed development is likely to have on water quality and availability, and
  - (b) should apply conditions which are relevant to the appropriate use and will ensure maintenance of adequate water quality and availability.
- (2) Councils, in considering proposals for development in Crown Timber Lands, should consider the impact of the proposed development on forest resources.

## **Part 7 Environment protection**

### **Division 1 Pollution control**

#### **45 Objective**

The objective of this plan in relation to planning strategies concerning pollution control is to control development so as to minimise air, noise and water pollution.

#### **46 Policies for plan preparation**

- (1) A draft local environmental plan to rezone a particular site in order to permit development listed in Schedule 3 to the *Environmental Planning and Assessment Regulations 1980* should not be prepared unless:
  - (a) topographic and meteorological conditions are such that air pollutants would have no significant adverse effect, and
  - (b) an appropriate buffer zone can be provided to ensure that noise, dust and vibration are maintained at acceptable levels.
- (2) A draft local environmental plan to permit the carrying out of any development in the catchment areas of significant waterways, and particularly Lake Macquarie, Port Stephens and the Myall, Smiths and Wallis Lakes, should be prepared only after the council has considered:
  - (a) the likelihood of sedimentation or increases in nutrient level of the waterways associated with the proposed development,
  - (b) ways of mitigating any potential adverse impact, including cumulative impacts, on the water quality of the waterways, and
  - (c) the guidelines contained in the document entitled "Pollution Control Manual for Urban Stormwater" prepared by the State Pollution Control Commission.
- (3) A draft local environmental plan for an area not serviced by a sewerage system should contain provisions to restrict development which is likely to cause significant pollution of surface and ground waters.

(4) A draft local environmental plan:

- (a) should not permit the carrying out of development on land for residential purposes, or increase residential densities, in areas where the Australian Noise Exposure Forecast, as from time to time advised by the Department of Aviation, exceeds 25, and
- (b) should not permit the carrying out of development on land for the purposes of hotels, motels, offices or public buildings where the Australian Noise Exposure Forecast, as so advised, exceeds 30.

(5) A draft local environmental plan which:

- (a) permits the carrying out of development on land for residential purposes or increases residential densities in areas where the Australian Noise Exposure Forecast, as from time to time advised by the Department of Aviation, is between 20 and 25,
- (b) permits the carrying out of development on land for the purposes of hotels, motels, offices or public buildings on sites where the Australian Noise Exposure Forecast, as from time to time advised by the Department of Aviation, is between 25 and 30, or
- (c) permits the carrying out of development on land for commercial or industrial purposes on sites where the Australian Noise Exposure Forecast, as from time to time advised by the Department of Aviation, is above 30,

should include provisions to ensure that any building or work the subject of development in those areas complies with document AS 2021-1985 *published by the Australian Standards Association entitled Acoustics—Aircraft Noise Intrusion—Building Siting and Construction*.

#### **47 Policies for control of development**

- (1) A consent authority should not grant consent to the carrying out of development listed in Schedule 3 to the *Environmental Planning and Assessment Regulations 1980* (including development comprising the expansion of an existing facility) unless it is satisfied that:
  - (a) topographic and meteorological conditions are such that air pollutants would have no significant adverse effect,
  - (b) an appropriate buffer zone can be provided to ensure that noise, dust and vibration are maintained at acceptable levels,
  - (c) the best practicable technology for air, water and noise pollution control will be incorporated in the design and operation of the equipment and facilities to be used for the purposes of the industry,

- (d) there will be no significant deterioration of air or water quality as a result of emissions from that equipment or those facilities, and
  - (e) the site will not become contaminated within the meaning of Part 5 of the *Environmentally Hazardous Chemicals Act 1985*.
- (2) A council should not grant consent to any development unless it is satisfied that:
- (a) there is adequate provision for setbacks between the development and existing watercourses,
  - (b) an adequate vegetation cover is maintained or reinstated so as to minimise soil erosion,
  - (c) where necessary, adequate retardation basins, grassed floodways, sedimentation pits and trash collection facilities are established and maintained, and
  - (d) adequate measures are provided to control soil erosion during construction of the development.

#### **48 Principles**

- (1) Councils should prepare and implement comprehensive drainage management plans for catchments subject to urban development and identify catchments subject to pollution or sedimentation problems with a view to introducing appropriate control practices in accordance with Total Catchment Management principles based on the Department's Circular F1—Guidelines for Dual Use of Drainage/Open Space Reserves, and the Department of Land and Water Conservation's Urban Erosion and Sediment Control Handbook 1992.
- (2) Councils and public authorities, in considering applications for heliports and helipads, should have regard to the design and siting guidelines issued by the Department and the "Environmental Noise Control Manual" of the State Pollution Control Commission.
- (3) Councils and relevant public authorities should refer to the "Environmental Noise Control Manual" prepared by the State Pollution Control Commission for appropriate standards and measures which can be adopted to minimise the impact of noise from roads, railways, airports, industrial and mining development and the like.

### **Division 2 Waste disposal**

#### **49 Objectives**

The objectives of this plan in relation to planning strategies concerning waste disposal are:

- (a) to provide for safe and effective disposal of domestic, commercial and industrial wastes, including toxic materials,

- (b) to avoid the entry of harmful chemicals into the environment, and
- (c) to encourage the most efficient use of resources by recycling or alternative use as appropriate.

## **50 (Repealed)**

## **51 Principles**

- (1) Councils in the Lower Hunter subregion, in consultation with the Environment Protection Authority, should consider the need for the development of a waste disposal strategy, including consideration of the disposal of toxic wastes.
- (2) Councils should:
  - (a) encourage contracts for resource recovery to operate at all waste disposal sites, and encourage the community to separate paper, metal, glass and other waste materials for which there may be a demand, and
  - (b) consult with officers of the Department of Minerals and Energy and the State Pollution Control Commission with a view to utilizing voids from open cut coal mining for the disposal of domestic, commercial and industrial waste.

## **Division 3 Environmental hazards**

### **52 Objectives**

The objectives of this plan relating to planning strategies concerning environmental hazards are to:

- (a) minimise the effects of soil erosion and land slip,
- (b) control developments on flood liable lands and encourage flood plain management practices which ensure maximum personal safety and appropriate land uses,
- (c) control development so as to minimise the dangers of coastal erosion and storm damage,
- (d) minimise the dangers of bushfires to all forms of development, especially residential development in fire prone areas, and
- (e) minimise the danger of mine subsidence to all forms of development.

### **53 Policies for plan preparation and control of development**

- (1) In preparing draft local environmental plans or determining applications for consent to development for urban, tourist or rural residential purposes, councils should consider the likelihood of erosion, land slip, flooding, coastal erosion or storm damage, bushfire hazards, mine subsidence and cumulative catchment-wide impacts, together with the

means of controlling and managing such impacts.

- (2) In assessing the likely extent of the hazard, the council should:
  - (a) ensure that due recognition is paid to the principles of personal safety and property protection as outlined in the Department's Circular No C.10—Planning in Fire Prone Areas and Chapter 5 of the Department's "Rural Lands Evaluation Manual" (revised edition dated 1988), and
  - (b) take into account the requirements of the Department of Public Works and Service's *NSW Government Coastline Management Manual 1990* and *Floodplain Development Manual 1986*.
- (3) Consent authorities should give consideration to arrangements under which a developer enters into a bond to ensure that erosion control works and restoration works are carried out in accordance with an approved development or management plan.

#### **54 Principles**

- (1) Councils and public authorities should endeavour to minimise soil erosion and other forms of land degradation by preparing and adopting erosion and sediment control policies and best practice construction techniques and, where necessary, undertake restoration and erosion control works.
- (2) Councils should prepare management plans and introduce appropriate planning controls for flood liable lands.
- (3) Councils should prepare management plans for estuaries in accordance with the NSW Government's *Draft Estuary Management Manual* (1992).

### **Division 4 Tall buildings**

#### **55 Objectives**

The objectives of this plan in relation to planning strategies concerning the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) subject to the opportunity for public comment, and
- (b) assessed for their local impact and regional significance.

#### **56 Definitions**

In this Division:

**building** does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation, ventilator or any other thing, or a building of a class or description exempted by the Minister from the provisions of this plan by notice

published in the Gazette.

**height**, in relation to a building, means the maximum height of a building measured vertically from the natural ground level to the topmost point of the building.

#### **57 Policies for plan preparation**

In the preparation of local environmental plans for urban areas a council should investigate the necessity for height controls on buildings and include such controls as it considers appropriate.

#### **58 (Repealed)**

### **Part 8 Conservation and recreation**

#### **Division 1 Natural areas**

##### **59 Objectives**

The objectives of this plan in relation to planning strategies concerning natural areas are to:

- (a) protect natural areas of geological, ecological or scenic interest such as important forests, bushlands, wetlands, rivers, estuaries, lakes, beach and dune systems, headlands, mountain ridges and escarpments,
- (b) strictly control any reduction in the extent of important natural areas, especially important habitats such as natural wetlands,
- (c) protect and preserve bushland within larger urban areas because of its natural, aesthetic, recreational, educational, scientific, soil conservation and habitat values, and
- (d) improve the aesthetic appeal and image of the region where possible and preserve existing amenity.

##### **60 Definitions**

In this Division:

**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 vegetation.

**wetland** means an area of land subject to permanent or periodic inundation and substantially retaining a cover of natural vegetation which generally displays hydrophytic characteristics.

## **61 Policies for plan preparation**

A draft local environmental plan:

- (a) should not alter or remove existing environmental protection zonings, or controls within them, without undertaking a detailed analysis which confirms that there will be no adverse environmental effects from such action, and
- (b) should include rural environmental protection zones for appropriate areas as described in the “Rural Lands Evaluation Manual” of the Department, dated 1981, in order to protect important wetlands, forests, water catchment areas, scenic and historic landscapes, escarpment and foreshore areas, archaeological, historic, scientific sites or wildlife habitats and the like.

## **62 Policies for control of development**

(1) In this clause:

**clearing**, in relation to land, means any manner of destruction of a tree, shrub or plant on the land but does not include:

- (a) the destruction of any tree, shrub or plant that is required or authorized by or in pursuance of the provisions of any Act or statutory instrument, or
  - (b) the destruction of any tree, shrub or plant where it is necessary in the event of an emergency to prevent the spread of fire or in circumstances where the tree, shrub or plant presents any danger to life or property.
- (2) Clearing, draining, filling, construction of a levee or other development on any wetland shown on the map (other than any wetland under the control of the National Parks and Wildlife Service or the Forestry Commission) shall not be carried out without the consent of the council, and the council should not grant such consent until it has taken into consideration:
- (a) the environmental effects of such development on the natural ecosystem plant life, water quality and wildlife population of the wetland and on any migratory species using the wetland,
  - (b) whether adequate safeguards and rehabilitation measures are proposed to protect the environment,
  - (c) the objectives and goals of the “National Conservation Strategy for Australia” in so far as they relate to wetlands,
  - (d) whether consideration has been given to any feasible alternative to the proposed development, and
  - (e) comments received as a result of any advertising of proposals and advice from relevant public authorities.

- (3) A person shall not carry out development on bushland zoned or reserved for open space purposes without the consent of the council.
- (4) Nothing in subclause (3) requires development consent for any development:
  - (a) for the purposes of bushfire hazard reduction,
  - (b) for the purpose of constructing, operating or maintaining:
    - (i) lines for electricity or telecommunication purposes, or
    - (ii) pipelines to carry water, sewage or gas or pipelines licensed under the [Pipelines Act 1967](#), or
  - (c) for the purpose of constructing or maintaining main roads.
- (5) 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 subclauses (2) and (3) in the same way as those provisions apply to and in respect of designated development.
- (6) A consent authority shall not consent to the carrying out of development referred to in subclause (3) unless:
  - (a) it has made an assessment of the need to protect and preserve the bushland having regard to the objectives of this plan,
  - (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.

### **63 Principles**

- (1) Councils and determining authorities should have regard to the findings and recommendations of:
  - (a) the *Newcastle-Lake Macquarie Coastal Lands Study*, published by the Department, dated 1980,
  - (b) the *Lower Hunter Landscape Improvement Study* published by the Department, dated 1983,
  - (c) the *Hunter Region Landscapes*, published by the National Trust of Australia (NSW), dated 1984,



- (d) the *Wallis Lake and Estuarine Foreshores Study and Outline Plan*, published by the Interdepartmental Advisory Committee, dated 1985,
- (e) the *Total Catchment Management—A State Policy*, published by the Soil Conservation Service,
- (f) the *Newcastle–Lake Macquarie Open Space Study*, published by the Newcastle and Lake Macquarie City Councils, dated 1987, and
- (g) the *Tomaree Peninsula Landscape Study*, published by the National Trust of Australia (NSW), dated 1987,

as appropriate, when considering development proposals or activities.

- (2) The Department should further investigate the feasibility of maintaining a buffer zone between urban areas in the Lower Hunter subregion and the Wyong local government area, particularly in relation to the reservation of appropriate public lands.
- (3) Councils should undertake programs to improve the visual image and environmental quality of the region by initiatives such as tree preservation orders, urban forestry and street tree plantings, urban bushland and green corridor protection, and by the control or removal of visually intrusive development such as inappropriately sited billboards and junk yards.

## **Division 2 Recreation**

### **64 Objectives**

The objectives of this plan in relation to planning strategies concerning recreation are:

- (a) to ensure adequate provision of a wide range of recreation and leisure opportunities including a wide range of open space types in accordance with developing needs and capability of the land concerned,
- (b) to encourage compatible recreation and nature conservation and other land and water uses wherever appropriate throughout the region, and in particular to improve public access to natural areas, including foreshore and waterways,
- (c) to implement a regional open space program through a partnership of State and local government funding.

### **65 Policies for plan preparation**

- (1) A draft local environmental plan should not substantially reduce an area zoned for public open space unless this is justified having regard to the availability of appropriate alternative areas.
- (2) A draft local environmental plan should not zone land or enable land to be developed

for the purpose of a recreation vehicle area (within the meaning of the [Recreation Vehicles Act 1983](#)) where the land is within a coastal lands acquisition, coastal lands protection, conservation or any environment protection zone unless the council has taken into consideration:

- (a) the provisions of the guidelines entitled *Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas*, published by the Soil Conservation Service, dated September 1985, and
  - (b) the provisions of the guidelines entitled [Recreation Vehicles Act 1983](#), *Guidelines for Selection, Design and Operation of Recreation Vehicle Areas*, published by the State Pollution Control Commission, dated September 1985.
- (3) Draft local environmental plans should, in respect of land reserved or zoned for public recreation (other than that under the control of the National Parks and Wildlife Service), provide that:
- (a) the only developments which may be carried out without consent on that land are gardening, landscaping and bushfire hazard control, and
  - (b) in respect of development which may only be carried out with development consent, consent shall not be granted unless consideration has been given to:
    - (i) the need for the proposed development on that land,
    - (ii) the impact of the proposed development on the existing or likely future use of the land, and
    - (iii) the need to retain the land for its existing or likely future use.

## **66 Policies for control of development**

A consent authority, in considering proposals for development on land within 100 metres of the ocean or any substantial waterway should consider:

- (a) whether there is sufficient foreshore open space accessible and open to the public in the vicinity of the proposed development,
- (b) the likely impact of the proposed development on the amenity of the waterway,
- (c) the principles of any foreshore management plan applying to the area, and
- (d) any alternative use for which a waterfront site is essential.

## **67 Principles**

- (1) The development of recreation facilities which will result in a net inflow of money or jobs to the region and which will be environmentally acceptable should be encouraged.

- (2) Councils should be encouraged and, where appropriate, assisted in the preparation of:
- (a) broad studies which seek to further the above objectives within each local government area,
  - (b) feasibility studies of specific recreation and dual use facilities such as the controlled recreation use of major water storage reservoirs,
  - (c) open space management plans which give emphasis to broadening the recreation opportunity spectrum and rationalising open space management in each local government area,
  - (d) open space acquisition programs and management plans which increase the protection and appropriate public access to beach, foreshore, river and lake areas,
  - (e) plans for the development of recreational boating and ancillary facilities which enhance public access to and use of waterways,
  - (f) plans which promote green corridor and walking and cycling trail developments,
  - (g) cultural development proposals which reinforce recreation and tourism goals and the encouragement of visitor and community participation in such activities, and
  - (h) local environmental plans which support the abovementioned plans, policies, programs and objectives.

**Part 9 Miscellaneous**

**68 (Repealed)**

**Part 10**

**69 (Repealed)**

**Schedule 1 Hunter region: commercial centres**

Regional Centre	Newcastle CBD
	Charlestown
	Garden City
	Glendale (proposed)
Subregional Centres	Maitland
	Muswellbrook
	Singleton
	Taree

District Centres	Belmont
	Cardiff
	Cessnock
	Forster/Tuncurry
	Green Hills
	Jesmond
	Mayfield
	Mt Hutton
	Raymond Terrace
	Salamander Bay/Nelson Bay
	Scone
	The Junction
	Toronto
	Wallsend

## Schedule 2 Hunter region: wetlands

Wetland No	Wetland name	1:25000 Map reference	
A	Howes Lagoon	Maitland	691 772
B		Paterson	698 912
C		Paterson	691 900
D		Coopernook	537 863
E	Polblue Swamp	Moonan Brook	515 630
F	Ellalong Lagoon	Quorrobolong	400 570
G	Wittingham Swamp	Singleton	290 928
H		Maitland	641 805
I		Maitland	613 779
J	Wentworth Swamp	Beresfield	603 745
K		Cessnock	582 707
L	Dagworth Swamps	Cessnock	594 709
M		Beresfield	621 717
N		Cobark	595 717
O		Moonan Brook	485 674
P	Horse Swamp	Moonan Brook	472 658

## Schedule 3 (Repealed)