

*the  
biodiversity planning  
local government*

? Sample only

Adjust to suit local  
conditions.

*Sample*

## LOCAL ENVIRONMENTAL PLAN

### OVERVIEW OF LEP STRUCTURE & ORGANISATION

#### Part 1 - Introduction

Outlines the scope, status and purpose of the plan, and defines important terms.

#### Part 2 - Policy Plan

Outlines strategic directions, objectives, policies and principles that are to inform decisions made under the plan.

#### Part 3 - Framework Plan

Establishes controls over the carrying out of development, and specifies matters and requirements that must be considered by the Council (or other consent authority) when determining development applications. Also provides for the preparation and approval of management plans for specific areas of land.

#### Part 4 - Management Planning

Outlines generic land management issues and guidelines that are to be applied generally throughout the area, and which are to be documented in greater detail in site-specific management plans prepared under this plan.

#### Part 5 - Monitoring and Reporting

Outlines requirements for environmental monitoring and reporting that are related to state of the environment reporting under the *Local Government Act 1993*.

Dictionary

References

Schedules

## Part 1 Introduction

### Simplified outline of this Part

*This part provides preliminary information about the plan. It identifies:*

- *the name of the plan*
- *the land to which it applies*
- *the purpose of the plan*
- *how the plan operates*
- *how the plan relates to other planning instruments*
- *how the plan relates to other policies, plans and strategies*
- *how words with special meanings are to be interpreted.*

### 1 Name of plan

This Plan is called ..... Local Environmental Plan .....

### 2 Land to which plan applies

This Plan applies to all land ....., as shown on the map marked ..... and dated .....

### 3 Purpose of plan

This plan has the following purposes:

- (a) to establish a planning, development control and land management framework for the area to conserve biodiversity and facilitate appropriate development of land, taking into account principles of ecologically sustainable development,
- (b) to consolidate development controls into one integrated and locality-specific environmental planning instrument, thereby enabling efficient and consistent administration and implementation.

### 4 What does the plan do?

The plan:

- (a) recognises the importance of biodiversity conservation in the locality to achieve ecologically sustainable development, whilst maintaining and improving the character and environmental values of the locality,
- (b) identifies specific objectives for core biodiversity conservation areas and wildlife corridors, and applies development and management guidelines for these areas,
- (c) identifies land assessment and management categories that will enable development proposals to be assessed having regard to their ecological setting,
- (d) requires consent for clearing native vegetation (including grasses, herbs, shrubs and trees) outside urban areas in order that an assessment of the likely impact on flora and fauna may be made,
- (e) retains existing zoning controls relating to the permissibility of development where these are not inconsistent with the above,
- (f) establishes a two-tiered approach to development controls whereby:
  - (i) the first tier identifies whether consent is required, and
  - (ii) the second tier requires proposals that need consent to undergo an assessment that is related to the site's ecological setting,

- (g) applies development assessment and land management criteria that are related to the ecological setting of development sites,
- (h) provides positive incentives for biodiversity conservation measures.

## 5 How to use the LEP

This LEP must be taken into account when formulating and implementing land development and management activities regulated under the *Environmental Planning and Assessment Act 1979* or the *Native Vegetation Conservation Act 1997*.

## 6 Relationship to other environmental planning instruments

- (1) Subject to section 36 of the Act, this plan prevails over all other environmental planning instruments applying to the land, but a later instrument may prevail over this plan if it expressly so provides.
- (2) The provisions of State Environmental Planning Policies Nos XX and XX do not apply to land to which this plan applies.

*[Note: For example, it may be appropriate to consider replacing the provisions of SEPP 19—Bushland in Urban Areas, or SEPP 44—Koala Habitat Protection where a LEP introduces approaches that are more relevant to local or regional circumstances. This would require substantial justification.]*

## 7 Relationship to other policies, plans, strategies, etc

The following policies, plans and strategies have been taken into account during the preparation of this plan:

- (a) x.....
- (b) x.....

*[Note: The LEP provisions may take into account and make reference to other plans, including regional vegetation management plans, recovery plans, catchment management strategies, river management plans, estuary management plans, and other relevant plans that apply to the land. These plans may be used as reference documents where they are relevant to the consideration of development applications.]*

## 8 Definitions and interpretation

- (1) Terms used in this plan are defined in the Dictionary at the end of this plan.
- (2) The list of contents, the simplified outlines at the beginning of each part and notes in the text throughout the plan do not form part of this plan.

# Part 2 Policy plan

## Simplified outline of this Part

*This part outlines strategic directions, objectives, policies and principles that are to inform decisions made under the plan. It identifies:*

- *the regional context for decision-making*
- *goals and objectives*
- *conservation priorities*
- *general principles*
- *specific principles*
- *policies*
- *targets and indicators.*

## 9 What is important about the land to which the plan applies?

The native vegetation and landscapes of the area contribute to the maintenance of important ecosystem processes, provide habitat for threatened species and ecological communities, and provide cultural benefits and social amenity.

*[Note: The environmental and biodiversity attributes of the area or site should be described in detail to form a planning context for development decision-making. For example, the broad vegetation types within the area could be listed and used as a basis for identifying plan targets.]*

## 10 Regional context

*[Note: The plan should recognise the regional context within which development applications need to be considered. This may include bioregions, populations of threatened species, unique habitats, and regional corridors.]*

## 11 Goals and objectives

- (1) The goal of the plan is to implement ecologically sustainable development.
- (2) The objectives of this plan are:
  - (a) to protect and preserve native vegetation, native fauna, habitat and biodiversity as a major contribution to the achievement of ecologically sustainable development, and
  - (b) to improve the condition of existing native vegetation and encourage the revegetation, and rehabilitation of land with appropriate native vegetation management, and
  - (c) to rationalise vegetation management controls in environmental planning instruments applying to the land to ensure a consistent approach to the control and management of biological and other related natural resources, and
  - (d) to manage non-native vegetation in accordance with its cultural and landscape significance, and
  - (e) to protect native vegetation and existing landforms for their scenic values, and to maintain the unique visual identity of the landscape as far as it is consistent with biodiversity conservation, and
  - (f) to identify and maintain habitat corridors between areas identified as conservation reserves or zoned for environmental protection purposes to facilitate the movement, dispersal and long term survival of native species, and
  - (g) to allow development on land and the carrying out of activities where these are compatible with the above objectives and have undergone appropriate environmental assessment.

## 12 Categorisation of land according to ecological setting

For the purposes of relating conservation objectives, principles and development controls to the ecological setting of land, the land to which this plan applies is categorised as follows:

- (a) natural areas,
- (b) urban and modified areas,
- (c) transitional areas.

*Note: These terms are defined in the dictionary.*

**Natural areas** comprise land where natural processes are maintained, natural ecosystems continue to exist to some extent and have some capacity for self-regeneration.

**Urban and modified areas** comprise highly modified land developed and used for urban purposes including residential or industrial land as well as intensive agricultural purposes. Natural systems are secondary to urban processes, and ecosystems are generally dominated by non-native plants and animals.

**Transition areas** are the interface between natural and urban areas. They comprise land in the process of transformation from one state to another (normally from natural to urban). Development needs to relate to both natural and urban contexts.

*Within each category there are varying development and assessment priorities. In urban and modified areas the focus is on facilitating urban or rural development whilst minimising the extent of off-site disturbance. In natural areas, the focus is on land management, minimising on-site disturbance, and rehabilitating disturbed landscapes whilst encouraging compatible agricultural and rural development. Transitional areas are characterised by a state of dynamic change, where management and planning are crucial to influencing the direction and rate of change.*

## 13 Conservation priorities

In implementing this plan, conservation priority will be given to:

- (a) areas of native vegetation having a width exceeding ..... metres and an area exceeding ..... hectares,
- (b) habitat corridors linking conservation reserves,
- (c) retention of populations of plants identified as having conservation importance,
- (d) land with known populations of threatened species,
- (e) land containing an endangered ecological community having an area exceeding ..... hectares.

## 14 General principles

The following general principles are to guide the implementation of this plan:

*[Note: Principles marked \* are principles of ecologically sustainable development identified in the Intergovernmental Agreement on the Environment and certain NSW Acts; principles marked # are derived from the draft Earth Charter 1999.]*

- (a) *Appropriate mode of protection*—In natural areas, the preferred approach to native vegetation management is preservation, whilst in transition areas the preferred approach is conservation.
- (b)\* *The precautionary principle*—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,
- (c)\* *Inter-generational equity*—the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
- (d)\* *Conservation of biodiversity and ecological integrity*—conservation of biodiversity and ecological integrity should be a fundamental consideration
- (e)\* *Improved valuation, pricing and incentive mechanisms*—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.
- (f) *No net loss principle*—the carrying out of development should not result in any net reduction in biodiversity (measured in relation to the targets specified in clause 17).
- [*Note: This principle can be achieved by protecting existing habitat, reconstructing former habitat, providing compensatory and promoting appropriate design and is an acknowledgment of the duty of care held by land owners and land managers. Its implementation relies on assessment of habitat loss, population loss and habitat change over time arising from development, and assessment of the required period to create suitable habitat, relocate populations and maintain stable ecosystems.*]
- (g) *Natural process principle*—measures should be taken to protect communities and ecosystems, and the functioning of natural processes that support them.
- (h) *Minimisation of landscape fragmentation*—landscapes should be maintained with suitable quantities and qualities of habitat to enable the long-term movement and survival of species. Corridors through fragmented landscapes should be suitable for both the most vulnerable species and their supporting ecosystems.
- [*Note: Successful habitat corridors for movement and long term survival of species is a function of size of dispersing population, species dispersal ability, landscape connectivity and dispersal distance.*]
- (i) *Protection of habitat*—measures should be taken to protection and appropriately manage native vegetation as a means of maintaining habitat value, even if the extent to which this will be achieved is difficult to define due to lack of knowledge and biological survey and monitoring.
- (j)# *In-situ conservation*—the recovery of threatened species and populations should be promoted through in-situ conservation measures.
- (k)# *Introduced species*—reasonable measures should be taken to prevent human-mediated introduction of alien species into the environment.

## 15 Specific principles

Specific principles that are to be applied in respect of land within each ecological setting are shown in the Table to this clause.

[Note: Refer to Part 4 of the Guide for discussion of ecological settings.]

TABLE

Specific plan principles	Ecological setting		
	Natural area	Urban and modified areas	Transition area
<b>Development assessment</b> - Biodiversity conservation is a key determining factor in decision-making on development proposals.	Yes	Some cases only	In many cases
<b>Management plans</b> - Management plans should be prepared to ensure an ongoing commitment from landowners to appropriate activities and management practices.	Yes	No	Yes
<b>Conservation incentives</b> - Incentives will be applied where possible to support landowners and development proposals wishing to implement measures to ensure conservation of biodiversity within the area.	Yes	No	Yes
<b>Buffer area</b> - Development adjoining another category of land should provide for and ensure the management of a buffer area of an appropriate width to prevent adverse impacts on the adjoining land.	No	Yes	Yes
<b>Clearing controls</b> - Clearing of native vegetation is to be minimised, and is only to be permitted where satisfactory arrangements have been made for provision of compensatory habitat (in accordance with the no net loss principle), or targets referred to in clause 17 have been met.	Yes	No	Yes
<b>Rehabilitation guidelines</b> - Measures are to be taken to rehabilitate land that is currently degraded.	Yes	No	Yes
<b>Watercourses</b> - Natural watercourses and adjoining riparian land should be maintained, and degraded areas rehabilitated to a natural conditions as far as possible.	Yes	Some cases only	Yes
<b>Riparian land</b> - Development should not occur on riparian land, except for temporary uses or for the provision of access.	Yes	Yes	Yes
<b>Dams</b> - Construction of new water storage dams is not to be permitted except where it can be demonstrated that there will be no adverse impacts on streamflow, and on species which have specific streamflow requirements.	Yes	No	Yes
<b>Bushfire</b> - Bush fire management is to take into account the natural fire regimes which are essential for supporting the ecological communities occurring on the land.	Yes	No	No
<b>Weeds &amp; cultural plantings</b> - Non-indigenous plants should not be deliberately introduced adjacent to natural areas, and should be managed and controlled to limit their dispersal and breeding.	No	Yes	Yes
<b>Introduced animals</b> - Conditions are to be applied to restrict introduced animals on sites.	Yes	No	Some cases only
<b>Fauna protection design</b> - Habitat replacement features or design measures (such as suitable design of swimming pools, fences, landscaping, road crossings and nature strips) are to be considered as a requirement where appropriate.	Some cases only	No	Some cases only
<b>Retention of habitat features</b> - Important habitat features such as dead trees, old trees with hollows, native grasslands, shrubs, etc, are to be maintained.	Yes	Yes	Yes
<b>Habitat corridors</b> - Suitable widths and characteristics of corridor design are to be incorporated in identified habitat corridors.	No	No	Yes

## 16 Policies

*[Note: This clause should identify policies that are to be applied when determining development applications, and when allocating resources to activities affecting land to which the plan applies.]*

*This sample LEP does not identify any generic policies, as this would have little direct value. Policies should be prepared so as to reflect local conditions, goals and objectives.*

*For example, policies could identify priority land uses (to set to provide guidance when choosing between conflicting alternatives), outline criteria for applying the precautionary principle, or describe how principles and targets are to be applied in practice.]*

## 17 Targets and indicators

### Vegetation targets

- (1) The plan identifies the following targets for conservation of vegetation types and communities:

*[Note: These figures should identify clearly defined vegetation types or communities, and specify the target % area to be conserved or particular sizes of land to be conserved, eg. all areas of community X greater than X ha. The plan could also identify core conservation areas on an overlay map that accompanies the LEP. Specific targets in a plan can be applied to the determination of individual development proposals.]*

### Fauna targets

- (2) The plan identifies the following targets for conservation of fauna species:

*[Note: Species targets can be included for a range of common and threatened species occurring in an area to provide a basis for the implementation and monitoring of the implementation of the objectives of the plan. These species can be used as an indicator, and the plan should include scientific and common names and the target to be achieved (such as maintaining population of XX wild breeding individuals). Targets identified in a plan may be linked to a council's state of the environment reporting.]*

### Flora targets

- (3) The plan identifies the following targets for conservation of flora species:

*[Note: Flora species targets will usually relate to threatened species. Reference to these species in the plan should include scientific and common names, habitat, locational information and a specific target (such as retention of the population of X species on Lot X DP XXXXXX). In some cases it will not be possible to include targets in plans until adequate data can be obtained which is of value for development assessment purposes.]*

### Individual property targets

- (4) The following targets apply to individual land parcels, even if a parcel may be contiguous with adjacent land in the same ownership:
  - (a) for land within a rural zone—a landcover comprising ..... % native vegetation, or if the current land cover is currently less than ..... % native vegetation, an increase over and above the current percentage,
  - (b) for land that is protected land—a land cover comprising ..... % native vegetation,

- (c) for land identified in a development control plan or management plan as being degraded land, the site-specific targets specified by that development control plan or management plan.

## Part 3 Framework plan

### Simplified outline of this Part

*This part establishes controls over the carrying out of development. It provides that:*

- ..... Council is the consent authority for development applications required under this plan,
- consent is required for specified types of development, including the clearing of native vegetation and other works
- specified types of development having minor environmental significance and certain activities identified by management plans may be carried out without consent
- land is to be categorised according to its ecological setting (urban and modified, natural or transitional) for the purpose of assessing and determining development applications
- the Council must consider certain matters and be satisfied that proposed development will be consistent with the aims, principles, objectives and requirements of this plan before granting development consent
- development proposals must have regard to detailed development and land management guidelines and targets outlined in the plan
- the Council may approve of management plans that specify ongoing land management requirements
- concurrence of certain agencies must be obtained prior to the granting of consent to some types of development.

### 18 Consent authority

The consent authority for a development application required by this plan is the Council, except as otherwise provided by the Act.

*[Note: Other consent authorities may also be identified in the plan, and could include catchment management trusts or government agencies.]*

### 19 Zones indicated on the Map

The following zones apply as identified on the Map:

Zone No X	Xxxxxxxxxxx
Zone No X	Xxxxxxxxxxx
Zone No X	Xxxxxxxxxxx

### 20 Zone objectives and development prohibited within zones

- (1) The zone table in Schedule 1 states for each zone:
  - (a) the objectives for that zone; and
  - (b) development that is prohibited within that zone due to its inconsistency with those objectives.
- (1) The plan objectives specified in Part 1 are to be given precedence over zone objectives specified in Schedule 1.

## 21 Development that requires consent

Development that comprises any one or more of the following may only be carried out with development consent:

- (a) the use of land, or
- (b) the subdivision of land, or
- (c) the erection of a building, or
- (d) the carrying out of a work, including:
  - (i) excavation, filling or dredging of land, or
  - (ii) clearing of vegetation, or
  - (iii) the destruction of or damage to trees, or
  - (iv) removal of rock, soil, sand, gravel or similar materials, or
  - (v) extraction of water from a watercourse or aquifer, or
  - (vi) disposal of waste, or
  - (vii) the application of herbicides, weedicides, or other harmful chemicals directly on riparian land
- (e) the demolition of a building or work.

## 22 Development that does not need consent

However, consent is not required for:

- (1)
  - (a) any development that, under the terms of a management plan prepared under clause 30 that is in force, is identified as development that does not need development consent, or
  - (b) earthworks directly associated with the erection of a dwelling house having a surface area of less than 500 square metres, and resulting in cutting and filling of less than 1 metre from natural ground level, or
  - (c) activities that are required to prevent or remove unreasonable safety hazards to the public, or
  - (d) bush fire hazard reduction undertaken in accordance with an approved bush fire hazard management plan
  - (e) activities carried out during an emergency which are necessary to deal with that emergency, or
  - (f) temporary activities, or
  - (g) exempt development referred to in Schedule 3, or
  - (h) certain development undertaken by public authorities, as referred to in Schedule 1 of the *Environmental Planning and Assessment Model Provisions 1980*, or
  - (i) the use of existing buildings of the Crown by the Crown; or
  - (j) home occupations carried on in dwelling-houses.

*Note: Routine native vegetation management will not require consent if it is in accordance with a management plan approved by council. For example, regular bush fire hazard reduction activities in accordance with an approved plan would not require consent.*

- (2) In determining whether or not an activity is a temporary activity, the Council must take into account the objectives of this plan, the level of certainty of ecological impacts and

requirements for monitoring to assess and manage impacts, and any other criteria identified by a development control plan.

## 23 Prohibited development

Development that is prohibited on land within particular zones is specified in the Table in Schedule 1.

## 24 Matters for consideration

- (1) In determining a development application, the Council is to take into consideration the following matters:
  - (a) the objectives, principles and targets of this plan, and
  - (b) whether the development would affect the achievement of any target adopted under clause 17 of this plan, and
  - (c) the presence of native vegetation and natural ecosystems on the site, and
  - (d) the location of corridors and their proximity to the site, and
  - (e) the presence of suitable habitat on the site for threatened species, and the likelihood of those species being present, and
  - (f) bush fire hazard, and
  - (g) fauna species design measures, such as nesting sites, pervious fencing and predator protection.
- (2) The Council must not grant consent to development unless it is satisfied that the development, if carried out, will be consistent with the achievement of the objectives, principles and targets of this plan.

*Note: This plan recognises that development may result in a reduction in the provision of ecosystem services, thereby warranting the provision of replacement services. In accordance with the provisions of any applicable contributions plan, the Council may require payment towards the provision of replacement amenities and services under section 94 of the Act.*

## 25 Development requirements

- (1) In determining a development application, the Council is to take into consideration the requirements outlined in the following table.
- (2) Where there are no requirements in the Table that are relevant to an application, the Council is to determine appropriate site-specific measures.
- (3) Development applications are to be accompanied by information that addresses all issues identified in the Table as are relevant to the site.

*[Note: The following table shows consent requirements and development standards relating to specific activities or ecological settings. These requirements reflect ecologically sustainable development criteria and principles, and could include provisions relating to individual threatened species or their habitat. In specific local or regional circumstances, consideration could be given to defining development standards as averages rather than as minimums.]*

**TABLE**

Issue	Applicable requirements		
	Urban and modified areas	Transition areas	Natural areas (includes corridors)

Key biodiversity threats	Minimise introduction and escape of weed plants, avoid inappropriate earthworks and site drainage or off-site nutrient discharge	Ensure adequate design and siting of development and appropriate management of buffer	Minimise clearing and inappropriate bushfire regime (includes too frequent fire, lack of fire and fire at inappropriate seasons or intensities), avoid high grazing pressure and introduction of weeds
Native vegetation cover target for each allotment	X%	Subject to development assessment, except for identified corridors which seek to have X%	X%
Maximum site paved (impermeable) area target (includes roads for new subdivisions)	X% (except for commercial and industrial areas where no maximum applies on lots less than XXX square metres)	Subject to development assessment but must be minimised	X%
Earthworks and site disturbance	Erosion control and management measures required to the council's satisfaction	Measures must be taken to minimise	Prohibited, except in conjunction with an approved use or management plan
Water sensitive design	Optional but desired	Required. Maintain natural runoff, off-site infiltration and flow regime	Required
Subdivision layout to facilitate energy efficient building design (boundaries approx N, S, E, W)	Highly desirable	Highly desirable	Not applicable
Energy efficiency of development and activities	Maximise energy efficiency, and use renewable energy sources	Maximise energy efficiency, use renewable energy sources, and require on-site generation of at least X% of expected electricity consumption	Not applicable
Cultural plantings	Acceptable, but care must be taken to avoid escape and invasion by non-indigenous plants	Careful selection of species required to the council's satisfaction, and design of planting to ensure suitable managed buffers to natural areas	Prohibited, except in conjunction with an approved use or management plan
Road design	No special requirements	Road design must include water sensitive design features to the council's satisfaction	Permeable road surfaces required, no importation of fill from off the site
Connectivity	No special requirements	Maintain habitat connectivity between natural areas, generally a minimum of XXX metre wide corridor of native vegetation	Provide habitat areas as wide as possible
Corridors		Required to be identified in development applications for subdivision and where they are to be protected, shall be subject to an appropriate covenant as may be specified by the council	
Habitat	No special requirements	Reconstruction of habitat desirable where appropriate	Retention of old and dead trees with hollows, maintain understorey vegetation and native grasses

## 26 Existing uses

- (1) This clause applies to development comprising an existing use or other lawful purpose referred to in section 109 of the Act.
- (2) Subject to Division 10 of Part 4 of the Act, development to which this clause applies that involves:
  - (a) excavation, filling or dredging of land, or
  - (b) clearing of vegetation, or
  - (c) the destruction of or damage to trees, or
  - (d) removal of rock, soil, sand, gravel or similar materials, or
  - (e) extraction of water from a watercourse or aquifer, or
  - (f) disposal of waste, or
  - (g) the application of herbicides, or other harmful chemicals directly on riparian land,

must not be expanded beyond its actual physical extent as at the commencement of this plan, except with the consent of the Council.

- (3) Development to which this clause applies is subject to the development standards referred to in the Table to clause 25, irrespective of whether consent is required under subclause (2).

*[Note: This provision requires careful consideration and review.]*

## 27 Conservation incentive

- (1) Despite any other provision of this plan, the Council may consent to the carrying out of development on any land for any purpose if it is satisfied that the development will:
  - (a) bring about the public dedication of land of environmental significance for conservation purposes, or
  - (b) otherwise ensure that land of environmental significance is protected, enhanced or conserved on a perpetual basis.
- (2) When granting consent to development in accordance with this clause, the Council may:
  - (a) disregard any development standard or requirement contained in this plan or a development control plan, including any such provision relating to:
    - (i) minimum lot sizes, or
    - (ii) floor space ratios, or
    - (iii) car parking, or
    - (iv) landscaping, and
  - (b) transfer the development potential pertaining to land of environmental significance to any other land.
- (3) The Council must not grant consent under this clause unless it is satisfied that:
  - (a) achievement of the outcomes referred to in paragraphs (1)(a) or (b), in relation to the land of environmental significance:
    - (i) is necessary having regard to the targets referred to in clause 17, and
    - (ii) cannot be reasonably achieved by any other means, and
  - (b) the development will not adversely affect the environmental values of land and its surroundings (including at locations to which development potential is transferred), and
  - (c) the relevant public authority has advised the Council that it is prepared to accept transfer of the land to its responsibility (where the development seeks to bring about the public dedication of land of environmental significance for conservation purposes), and
  - (d) the land of environmental significance will be the subject of a public positive covenant under section 87A of the *Conveyancing Act 1919* or a conservation agreement (where the development seeks to otherwise ensure that the land is protected, enhanced or conserved on a perpetual basis).
- (4) Prior to granting consent under this clause, the Council must make available for public inspection a report that addresses the matters referred to in subclause (3).
- (5) Development referred to in this clause is identified as advertised development for the purposes of the definition of **advertised development** in section 4(1) of the Act.

*[Note: 'Land of environmental significance' is defined in the dictionary. Further provisions could put into effect mechanisms listed in Tables 5.5 and 5.6 of the Guide. The*

*above clause is an example of a possible bonus or transferable development rights clause.]*

## **28 When is concurrence of another authority required?**

- (1) The Council may only grant consent to development on protected land with the concurrence of the Director-General of the Department of Land and Water Conservation.
- (2) The Council may only grant consent to development on land within Zone No. .... with the concurrence of the Director-General of the Department of Urban Affairs and Planning.
- (3) In deciding whether to grant concurrence to proposed development under this clause, the public authority concerned must take into account the objectives and principles specified in Part 2 of this plan.
- (4) Concurrence is not required if the land is subject to a management plan that is in force, the public authority concerned has agreed in writing to the management plan, and the proposed development is in accordance with the management plan.

## **29 Designated development**

Development involving any of the following is declared to be designated development for the purposes of the Act:

- (a) the clearing of vegetation over an area of more than ..... hectares, or
- (b) the carrying out of development on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, as in force immediately prior to the commencement of this plan and identified in Schedule 2.

*[Note: This clause requires adaptation to suit local circumstances. Thresholds could vary according to zones or other geographically defined areas.]*

## **30 Management plans**

- (1) Where the council considers it necessary or desirable to provide more detailed provisions than are contained in this plan, it may prepare or cause to be prepared a management plan in respect of the management of land, its ecosystems and native vegetation.
- (2) A management plan shall be not inconsistent with the objectives or principles of this plan, and shall be used to promote development that is consistent with those objectives or principles.
- (3) A management plan may identify a specified area or class of land as being a natural area for the purposes of this plan.
- (4) A management plan may provide that development of a specified type or class, when carried out in accordance with specified standards or requirements, is development that does not need development consent.
- (5) A management plan:
  - (a) shall be of no effect for the purposes of this plan unless the Council has approved the plan, and
  - (b) continues to have effect for so long as the Council approval specifies.
- (6) An approval referred to in subclause (5) shall not be granted for a term exceeding 10 years.
- (7) A management plan may include a plan prepared under any other law, provided that the requirements of this clause are satisfied.

- (8) In preparing a management plan, the council may consult or require that consultation occur with particular interested parties in the community.
- (9) The granting of approval to a management plan is to only occur after the plan has been exhibited for public comment and any submissions considered by the Council.

### 31 Assessment of activities by determining authorities

A determining authority must not:

- (a) carry out an activity, or
- (b) grant an approval in relation to an activity,

unless it has had regard to the objectives, principles and targets of this plan, and it is satisfied that the activity, if carried out, will be consistent with the achievement of those objectives, principles and targets.

*Note: For example, a public authority should not disturb native vegetation on land to which the plan applies unless it will be consistent with this plan.*

### 32 Suspension of certain laws, etc.

- (1) For the purpose of enabling development to be carried out in accordance with this plan or with a consent granted under the Act,
  - (a) the operation of any covenant, agreement or similar instrument imposing restrictions on development, and
  - (b) sections XX of the ..... Act 19...
 shall not apply to the development (to the extent necessary to serve that purpose).
- (3) Pursuant to section 28 of the Act, before the making of this plan, the Governor approved of subclauses (1) and (2).

*[Note: For example, the approval provisions of the Rivers and Foreshores Improvement Act 1948 could be incorporated into the LEP to simplify administration and integrated development assessment.]*

## Part 4 - Management planning

### Simplified outline of this Part

*This part outlines generic land management issues and guidelines that are to be applied generally throughout the area, and which are to be documented in greater detail in site-specific management plans prepared under this plan.*

### 33 Key management issues affecting biodiversity

- (1) Key management issues affecting biodiversity within the area are identified as follows:
  - (a) fire management, including appropriate bushfire regimes (frequency, seasonality and intensity),
  - (b) financial incentives for management and conservation of biodiversity,
  - (c) the provision of direct linkages between management plans, covenants, property agreements and development proposals,
  - (d) vegetation clearing,
  - (e) stormwater management in transition areas adjacent to natural areas,

- (f) weed control and control of introduced plants,
  - (g) feral animal control, including foxes, cats, dogs and pigs,
  - (h) grazing practices in natural areas, including the types of animals grazed and the intensity and frequency of grazing.
- (2) A management plan prepared under this plan is to address each of the issues identified under subclause (1).

### 34 Management guidelines

- (1) Guidelines for the management of land within urban, transitional and natural ecological settings are as identified in the Table to this clause.
- (2) A management plan prepared under this plan is to be generally consistent with the management guidelines applicable to the land.

**TABLE**

<b>Issue or activity</b>	<b>Guideline</b>	<b>Applicability</b> (U-urban and modified, T-transitional, N-natural)
<b>Connectivity</b>	Connectivity (including proximity to conservation reserves and seasonal requirements) should be considered for individual native species that are known to occur on a site.	T, N
<b>Habitat</b>	The maximum proportion of natural habitat possible should be retained on sites.	T, N
<b>Native vegetation cover target for each allotment</b>	Each development application should specify the native vegetation cover that is to be retained, and the measures that could be applied to ensure this.	T, N
<b>Impermeable surface area</b> (includes roads for new subdivisions)	Natural off-site hydrological conditions should be retained by incorporating appropriate design features in developments.	U, T
<b>Earthworks and site disturbance</b>	Earthworks and site disturbance should be minimised, and all fill used on a site should preferably be derived from that site alone.	U, T, N
<b>Water sensitive design</b>	Water sensitive design features should be integrated into all development to minimise off-site nutrient flow.	U, T
<b>Road design</b>	Road lengths should be minimised. Design should promote energy efficient lot layout and appropriate water management.	U, T
<b>Bush fire management</b>	Design and siting of buildings should be in accordance with published design guides.	T, N
<b>Energy efficient subdivision design</b>	Urban subdivision boundaries should be oriented within 10 degrees of true north, south, east and west, to allow for optimum solar access and design.	U, T
<b>Artificial wetlands</b>	Natural drainage systems are preferred. Artificial wetlands, should only be constructed if they are integrated with site landscaping and can be readily maintained.	U, T, N
<b>Agricultural chemicals</b>	Use of potentially harmful herbicides, pesticides or other artificial chemicals in natural areas or corridors is generally not acceptable, and should be discouraged.	T, N
<b>Habitat corridors</b>	Habitat corridors are to preferably have a minimum width of XXX metres	T, N
<b>Bushrock removal</b>	Bushrock removal should not be undertaken under any circumstances, except within 3 metres of buildings in conjunction with construction works.	T, N
<b>Bush fire hazard reduction</b>	Bush fire hazard reduction measures shall take into account habitat requirements for native species and the appropriate fire regimes required for the survival and continued functioning of native vegetation.	U, T, N
<b>Removal of dead trees &amp; vegetation</b>	Dead and fallen vegetation that is important for fauna must not be disturbed or removed from the site, unless undertaken for bushfire hazard reduction purposes.	T, N
<b>Cultural plantings</b>	Plantings should take into account potential for invasion into natural areas, and habitat potential for non-indigenous animals.	U, T
<b>Compensatory habitat</b>	Where the principle of no net loss is applied in accordance with the targets in clause 17, a requirement to provide compensatory habitat may be imposed. Such habitat should have the floristics, structure and other features of the habitat which will be lost or modified.	T, N

<b>Pest species control</b>	Management measures are to be undertaken in conjunction with adjoining T, N landholders to ensure that pest animal and plant populations are effectively controlled.
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*Note: The issues and land management activities described in the Table provide an indication of the types of guidelines that could be included in a management plan. However, management plans should be more specific so as to inform landholders how they should be applied in practice.*

### 35 Links to other plans

*[Note: Other types of management plans may be required by the council in connection with the development of specific areas or sites. These include stormwater management plans, erosion and sediment control plans or site-specific Koala management plans. These may be incorporated in, or referred to, in a management plan prepared under the provisions of this plan.]*

## Part 5 - Monitoring and reporting

### Simplified outline of this Part

*This part make provision for monitoring and reporting on the extent to which the objectives and targets of this plan are being achieved, and nominates specific biodiversity indicators. These results are to be published in the Council's State of the Environment Report.*

### 36 Monitoring of implementation of plan

The Council is to regularly monitor the extent to which the objectives and targets of this plan are being achieved.

### 37 Monitoring of biodiversity indicators

- (1) The following indicators are to be monitored by the authorities specified in the Table below.
- (2) Targets relating to indicators referred to in the Table may be adopted by resolution of the Council.

**TABLE**

Indicator	What it shows	Monitoring method	Who will conduct monitoring	Frequency
Area of native vegetation cleared annually	Extent of loss of biodiversity	Development information application	Council; Dept of Land & Water Conservation	Annual
Area of land zoned for urban purposes with native vegetation cover	Potential clearing	Development information and site inspection	Council	Annual
Field population surveys for species identified in policy plan	Population change for important species	Species-specific survey and monitoring	Council and community organisations	Monthly monitoring, annual reporting

*[Note: More indicators could be added to this Table. Councils should ensure that they have sufficient resources to meet the monitoring and reporting obligations under this clause.]*

### 38 Reporting requirements

Results of the monitoring referred to in clauses 36 and 37 are to be included in the Council's annual report as to the state of the environment referred to in section 428(2)(c) of the *Local Government Act 1993*.

# Dictionary

**biodiversity** 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,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**bush fire** (or wild fire) means any unplanned fire in vegetation.

**bush fire hazard reduction** means a reduction or modification (by controlled burning or mechanical or manual means) of material that constitutes a bush fire hazard, and where the main purpose is to reduce such hazard.

**bush fire regime** means the pattern of occurrence of fire, and specifically its regularity, periodicity, seasonality, spatial extent, patchiness and intensity.

**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.

**classified natural area** means an area of community land that has been classified as a natural area under Part 2 of Chapter 6 of the *Local Government Act 1993*.

*Note: community land should be categorised as a natural area if the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore.*

**clearing** means any one or more of the following:

- (a) cutting down, felling, thinning, logging, or removing native vegetation
- (b) killing, destroying, poisoning, ringbarking, uprooting, or burning of native vegetation
- (c) severing, topping or lopping branches, limbs, stems or trunks of native vegetation
- (d) substantially damaging or injuring native vegetation in any other way, or
- (e) substantially damaging or injuring any vegetation (whether or not native) on protected land in any way.

**connectivity** means the degree of interconnection of habitat utilised by a particular species.

**conservation priority** means the level of priority that is to be given to protecting the biodiversity present within a particular site or area.

*Note: conservation priority depends on irreplaceability and vulnerability. Irreplaceability refers to having few spatial options for achieving conservation targets, whilst highly vulnerable means being in need of urgent conservation.*

**critical habitat** has the same meaning as in the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

**cultural planting** means landscaping, gardening, cultivation or related activities resulting in the deliberate establishment of non-indigenous plants on land.

**development** is as defined in the *Environmental Planning and Assessment Act 1979*.

**ecological processes** means those processes that play an essential role in maintaining the integrity and continuity of an ecosystem.

*Note: important ecological processes include water and nutrient cycling, the flow of energy, and evolution by natural selection.*

**ecologically sustainable development** refers to development that uses, conserves and enhances the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future can be increased.

**ecosystem** means a dynamic complex of plant, animal, fungal and microorganism communities and associated non-living environment interacting as an ecological unit.

**Ecological community** (or community) is an assemblage of species occupying a particular area. 'Endangered ecological community' is defined under the Threatened Species Conservation Act.

**emergency** has the same meaning as in the *State Emergency and Rescue Management Act 1989*.

**environmental weed** is a plant that spreads and invades native vegetation.

**farm dam** means a constructed artificial water storage designed primarily for agricultural or domestic purposes.

**fragmentation** means the process of progressive loss and isolation of habitat leading to reduction in habitat connectivity for some species.

**habitat** means an area or place occupied by a species, population or ecological community.

*Note: habitat may be occupied permanently, periodically or occasionally.*

**habitat corridor** means an area or network of areas of native vegetation or habitat that enables migration, colonisation or interbreeding of plants and animals between two or more larger areas of habitat.

*Note: habitat corridors may consist of a sequence of discontinuous areas of habitat (such as feeding trees, caves, wetlands and roadside vegetation).*

**habitat value** means the extent to which an area is capable of supporting large numbers of a range of species

*Note: habitat value is related to the extent of vegetation diversity (both species and structure), and the availability of resources such as nesting places, food and protection from predators, as required by each species present.*

**home range** means the area used by a species for day to day activities on a seasonal basis such as feeding, breeding and nesting.

**introduced species** means a species that is not locally indigenous.

**land of environmental significance** means any land that comprises:

- (a) critical habitat, or any other land identified as habitat for threatened species, populations or ecological communities, or
- (b) land subject to a recovery plan or a threat abatement plan that specifies measures to be taken in respect of the land, or
- (c) land identified by this plan as a habitat corridor, as shown by distinctive marking on the map; or
- (d) land within an environmental protection zone, or

- (e) land within ..... metres of any river, stream, creek, lake, estuary, lagoon or other water body, or
- (f) land comprising a wetland, or
- (g) land which is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or which is known to contain a relic within the meaning of that Act.

**locally indigenous species** means a species that occurs naturally within the ..... local government area, and which has genetic material deriving from that area.

**management plan** means a plan referred to in clause 30 of this plan that specifies a program of action for the management of land, its ecosystems and native vegetation.

[Note: Clause 30 enables management plans to be combined with similar plans prepared under other laws. Possible examples include:

- a plan of management for community land under Part 2 of Chapter 6 of the Local Government Act 1993
- a plan of management relating to a Crown reserve under the Crown Lands Act 1989
- a plan of management relating to a wildlife refuge under the National Parks and Wildlife Act 1974
- a plan of management relating to a conservation agreement under the National Parks and Wildlife Act 1974
- a bushfire management plan under the Rural Fires Act 1997
- a management statement relating to land held under community title under the Community Land Development Act 1989
- a management plan prepared as a condition of development consent
- a management plan prepared by or on behalf of a landowner.]

**migratory fauna** means fauna that move from one location to another, then return to the same location on a seasonal, or annual basis.

**native vegetation** means vegetation that is indigenous to the land to which the plan applies, comprising species that existed in NSW before European settlement, and includes dead trees and fallen logs.

**natural area** means land that is:

- (a) dedicated or reserved under the *National Parks and Wildlife Act 1974*, or
- (b) subject to a conservation agreement under the *National Parks and Wildlife Act 1974*, or
- (c) within Zone No. 7(a) Environmental Protection, or
- (d) identified as a natural area in a management plan prepared under clause 30 of this plan and which is in force.

**nomadic fauna** means species which move widely in response to availability of resources, such as food or nesting sites, but do not necessarily return to the same location on a regular basis.

**plant (or vegetation) community** means a group of organisms living together in a definable region or habitat defined by its vegetation.

**population** means a group of organisms, all of the same species, occupying a particular area.

**prescribed burn** means a planned fire ignited by a land manager either in accordance with a fuel management plan or for ecosystem management purposes.

**protected fauna** means fauna of a species not named in Schedule 11 of the *National Parks and Wildlife Act 1974*.

**protected land** means land that, immediately prior to the commencement of this plan, is State protected land within the meaning of the *Native Vegetation Conservation Act 1997*, and shown by distinctive marking on the map.

**public authority** is as defined in the *Environmental Planning and Assessment Act 1979*.

**rare species** means a species considered to be unusual or present in small numbers, usually but not necessarily due to a population decline.

**recovery plan** has the same meaning as in the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

**rehabilitation** means the restoration or repair of a system to a former condition.

*Note: rehabilitation may take several forms including regeneration, restoration or reconstruction. It may require the implementation of a range of rehabilitation techniques such as revegetation, weed control or the like.*

**riparian land** means any land which adjoins, directly influences, or is influenced by a body of water.

*Note: riparian land includes land immediately adjacent to small creeks and rivers, river banks, intermittent streams or gullies, and areas surrounding lakes and wetlands on river floodplains which interact with the river during floods. Where appropriate to the local or regional context a distance from the banks may be specified.*

**saltmarsh** means a coastal wetland subject to tidal flooding and vegetated by grasses, herbs and low shrubs that are tolerant to high salinity.

**species** means a group of organisms capable of interbreeding freely with each other but (usually) not with members of other species, and includes any recognised sub-species and taxon below a sub-species, and any recognisable variant of a sub-species or taxon.

**species composition**, in relation to the floristics of a plant community, means the number, type and relative proportion of different species occurring on a site or in an area.

**temporary activities** means activities that, in the opinion of the Council, are ecologically reversible in the short term and have no adverse environmental impact.

**threat abatement plan** has the same meaning as in the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

**threatened fauna** means fauna species listed on Schedules 1 (Endangered) or 2 (Vulnerable) of the *Threatened Species Conservation Act 1995*.

**threatened species** means a species specified in Part 1 or 4 of Schedule 1 or in Schedule 2 of the *Threatened Species Conservation Act 1995*, being a species considered to be at risk of becoming extinct, or of becoming endangered and.

**threatening process** means a process that threatens, or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities.

**transition area** means land that is not a natural area or an urban area.

**urban and modified area** means land that:

- (a) is within a residential, commercial, industrial, rural or special uses zone, however described, and

- (b) is not land of environmental significance, and
- (c) is used for urban or intensive agricultural purposes as at the commencement of this plan.

**vegetation structure** means the pattern of the height, form and density of vegetation.

**watercourse** means a stream of water or channel whether perennial or intermittent and any branch or other stream into or from which any such stream flows, and in the case of a stream running to the sea or into any coastal bay or inlet or coastal lake, includes the estuary of the stream influenced by tidal waters.

**weed** means a plant declared to be a noxious weed within the ..... local government area under the *Noxious Weeds Act 1993*.

**wetland** means land periodically or permanently inundated with water, comprising emergent aquatic vegetation dominated by characteristic wetland species.

**wetland margin** means the area which drains directly into a wetland, not including the wetland itself.

## References

[Note: The plan could identify relevant resource documents which should be referred to in determining development applications under the plan provisions.]

## Schedule 1 - Zone table

[Note: a range of environmental protection zones are commonly incorporated in local environmental plans. These generally specify zone objectives and permissible types of development.]

Zone No. 1            XXXXXXXX

### 1. Zone objectives

The objectives for development carried out within this zone are:

- (a) XXXXXXXXX;
- (b) XXXXXXXXX.

### 2. Development prohibited and presumed inconsistent with zone objectives

Development for the purposes of:

XXXXXXXXXXXXXXXXXXXX

Zone No. 2            XXXXXXXX

### 1. Zone objectives

The objectives for development carried out within this zone are:

- (a) XXXXXXXXX;
- (b) XXXXXXXXX.

### 2. Development prohibited and presumed inconsistent with zone objectives

Development for the purposes of:

XXXXXXXXXXXXXXXXXXXX

Zone No. 3            XXXXXXXX

### 1. Zone objectives

The objectives for development carried out within this zone are:

(a) XXXXXXXX;

(b) XXXXXXXX.

### 2. Development prohibited and presumed inconsistent with zone objectives

Development for the purposes of:

XXXXXXXXXXXXXXXXXXXX

## Schedule 2 - Exempt development

Column 1 Development	Column 2 Circumstances in which exempt
<b>Ancillary works</b> Carrying out of landscaping, gardening, paving, driveways, pathways, drainage, filling, excavation, erosion and sedimentation control works, pollution control works or laying or repairing underground services that is ordinarily incidental or ancillary to the use of the land, where that use: - has been permitted by an existing development consent or complying development certificate; or - is a lawful existing use (as defined in section 106 of the <i>Environmental Planning and Assessment Act 1979</i> ).	<b>Ecological setting</b> <ul style="list-style-type: none"><li>The land is located within a urban area.</li><li>If the land is located within a natural area or a transitional area, all works are carried out in accordance with a management plan that is in force under clause 30 of this plan.</li></ul> <b>Siting</b> <b>Trees</b> <ul style="list-style-type: none"><li>Filling or excavation is located at least 0.9 metres from any property boundary.</li><li>Consent has been given by the Council for the pruning, cutting down, removal or destruction of any trees subject to a tree management order.</li></ul> <b>Dimensions</b> <ul style="list-style-type: none"><li>Maximum excavation depth of 0.5 metre below existing ground level (excluding temporary excavations for underground services).</li><li>Maximum filling height of 0.5 metre above existing ground level.</li><li>Maximum area for excavation, filling or paving of 50 square metres.</li></ul> <b>Paving</b> <ul style="list-style-type: none"><li>The percentage of the allotment area that comprises surfaces permeable to rainwater is at least 20 per cent.</li></ul> <b>Water pollution</b> <ul style="list-style-type: none"><li>Adequate measures are carried out to prevent sediments, weed material or other pollutants from entering drains or watercourses.</li></ul> <b>Stormwater</b> <ul style="list-style-type: none"><li>Works do not restrict the flow of stormwater or floodwaters.</li><li>Overland stormwater flow is not directed to buildings, bushland or adjoining properties.</li></ul> <b>Public roads</b> <ul style="list-style-type: none"><li>Works carried out within a public road have been approved by the Council or other relevant roads authority under the <i>Roads Act 1993</i>.</li></ul>

XXXXX

[Note: This Schedule should list various types development of minor environmental significance that are 'exempt development' within the meaning of the Act. Such development may be carried out without development consent, and is not subject to Part 5 of the Act.]

### 10.3 Sample provisions for issue-specific LEPs

This section outlines sample issue-specific planning provisions that could be included in existing local environmental plans.

Equally, the sample planning provisions could be included in a regional environmental plan (REP) or a regional vegetation management plan (RVMP), as well as other applications where regulation of land use is necessary to achieve desired environmental planning outcomes.

The issues addressed by the provisions are:

- habitat corridors
- tree preservation
- biodiversity conservation incentive
- native vegetation management
- management plans
- subdivision of rural land
- habitat protection for individual species.

When applying the provisions, reference should always be made to the applicable objectives, and the relationship and consistency of the provisions with and other provisions in the plan, as well as other environmental planning instruments.

The sample LEP provisions have been prepared for advisory and guidance purposes only. They are intended to promote discussion, and to increase awareness of the scope available within existing legislation.

The sample LEP provisions should only be applied after the legislative, administrative and ecological setting has been taken into account. When applying these provisions, refer to Parts 2, 3, 4 and 5 of the Guide. Where numbers or proportions are included in the provisions, these should be taken as indicative only. Councils should arrive at appropriate numerical values or conservation targets based on local conditions and circumstances.

Explanatory notes are shown within text boxes or brackets in [*italic type*].

## 1 Relationship with other environmental planning instruments

- (1) This plan amends *State Environmental Planning Policy No . . . . .* —  
 . . . . . by omitting from Schedule X the matters  
 XXXXXXXXXXXXX.
- (2) This plan repeals all requirements for development consent for clearing of land (excluding wetlands) and tree preservation controls in all local environmental plans and regional environmental plans applying within the . . . . . local government area.
- (3) This plan does not affect the operation of . . . . . *Regional Environmental Plan 199*...
- (4) This plan does not apply to land dedicated or reserved under the *National Parks and Wildlife Act 1974*.

## 2 Habitat corridors

### Objectives

- (1) The objectives of this clause are:
  - (a) to retain bushland in parcels of a size and configuration which will, as far as possible, enable the existing plant and animal communities to survive in the long term, and
  - (b) to protect rare and threatened flora and fauna species, and
  - (c) to protect habitats for native flora and fauna species, and
  - (d) to identify, maintain and, where appropriate, revegetate habitat corridors between remnant areas of bushland, and
  - (e) to protect bushland and existing landforms for their scenic values, and to retain the unique visual identity of the landscape, and

- (f) to promote the management of bushland in a manner which is compatible with its conservation.

#### Definition

- (2) In this clause, **habitat corridor** means land shown by distinctive marking on the map.

*Note: Corridors are an additional control 'layer' that overlays others controls, such as zones identified by this or other environmental planning instruments.*

#### Land to which clause applies

- (3) This clause applies to all land that:
- (a) is within a habitat corridor, or
  - (b) adjoins such a corridor.

#### Control of development within & adjoining habitat corridors

- (4) In relation to land to which this clause applies:
- (a) a person must not carry out development, and
  - (b) the council must not grant development consent,
- contrary to any requirement specified in the Table to this clause.

#### Assessment of activities by determining authorities

- (5) A determining authority must not:
- (a) carry out an activity, or
  - (b) grant an approval in relation to an activity,
- on land to which this clause applies unless it has considered the aims and objectives of this plan, and it is satisfied that the activity is consistent with those aims and objectives.

*Note: This clause affects the assessment of proposals under Part 5 of the Act.*

### TABLE

Category of land	Specific objectives	Development requiring consent or approval	Additional requirements
Land within a habitat corridor	<ul style="list-style-type: none"> <li>(a) To minimise fragmentation of and disturbance to native vegetation.</li> <li>(b) To permit development only if it is compatible with the preservation of native vegetation and maintenance of natural processes.</li> <li>(c) To limit the density of development so as to allow fauna and plants to move between areas of native vegetation.</li> <li>(d) To minimise the introduction (whether intentional or otherwise) of non-indigenous flora and fauna.</li> <li>(e) To provide effective links between areas of native vegetation throughout the region.</li> <li>(f) To revegetate land to maintain and increase fauna habitat.</li> <li>(g) To ensure clearing or other development takes into account the objectives of this plan, and that measures are taken to implement the objectives.</li> </ul>	All development, and management plans	<ul style="list-style-type: none"> <li>(a) In determining a development application or considering whether to approve a management plan, the Council must consider: <ul style="list-style-type: none"> <li>- the purpose and local and regional significance of the corridor, and</li> <li>- the potential impact on the function of the corridor, including effect on species likely to utilise the corridor, and</li> <li>- mitigation measures required to ameliorate any impacts.</li> </ul> </li> <li>(b) Consent or approval may only be granted where the Council is satisfied that: <ul style="list-style-type: none"> <li>- to do so would be consistent with the general objectives of this clause and the specific objectives of this Table, and</li> <li>- native vegetation within the corridor will not be adversely affected as a consequence of disturbance, introduction of non-indigenous plants or animals, or any other impact.</li> </ul> </li> <li>(c) Where general and specific objectives are inconsistent with each other, those relating to biodiversity conservation are to have higher priority than those relating to other issues such as scenic amenity.</li> </ul>

Land adjoining a habitat corridor	(a) To provide a buffer that protects native vegetation within the corridors from disturbance. (b) To protect significant native vegetation outside reserves.	All development management plans	& (a) In determining a development application or considering whether to approve a management plan, the Council must consider: <ul style="list-style-type: none"> <li>- the purpose and local and regional significance of the corridor, and</li> <li>- the potential impact on the function of the corridor, including effect on species likely to utilise the corridor, and</li> <li>- mitigation measures required to ameliorate any impacts.</li> </ul> (b) Consent or approval may only be granted where the Council is satisfied that to do so would be consistent with the general objectives of this clause and the specific objectives of this Table. (c) Where general and specific objectives are inconsistent with each other, those relating to biodiversity conservation are to have higher priority than those relating to other issues such as scenic amenity. (d) Earthworks or landfilling must not be carried out within 10 metres of any streambank; such land is to be managed or restored as a native vegetation area. (e) The Council must not consent to the erection of any building unless adequate measures have been taken to minimise the risk of damage in the event of a bushfire, after taking into account the likely effect of hazard reduction measures.
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### 3 Tree preservation

#### Objective

- (1) The objective of this clause is to repeal existing tree preservation provisions, and to extend controls to the clearing of native vegetation generally, including but not limited to, trees.

#### Application of provision

- (2) This clause applies to all land other than:
- (a) land identified as a habitat corridor in clause 2, or
  - (b) land adjoining such land.

*Note: Provisions applying to the clearing of native vegetation within or adjoining a habitat corridor are outlined in clause 2.*

- (3) This clause applies to the following trees:
- (a) native or introduced trees exceeding 5 metres in height, being the distance measured vertically between the horizontal plane of the base of the tree which is immediately above the ground and the horizontal plane of the uppermost point of the tree, or
  - (b) individual trees, gardens or native vegetation listed in any Significant Tree and Garden Register or Development Control Plan that has been adopted by resolution of the Council for the purposes of this clause.

#### Consent for destruction of trees

- (4) The ringbarking, cutting down, poisoning, topping, lopping, removing, injury, and wilful destruction of any tree or vegetation to which this clause applies is prohibited, except with the consent of the Council.
- (5) For the purpose of this clause, wilful destruction or injury to a tree includes earthworks or drainage works carried out immediately adjoining the base of the tree.
- (6) Consent is not required if:
- (a) the tree is dead or dangerous and poses an immediate threat to life or property,
- or

- (b) the tree is a declared noxious weed under the *Noxious Weeds Act 1993*, or
- (c) the tree is less than five metres from a building or work that has been approved by the Council, or
- (d) the tree is a fruit or other tree that requires an annual pruning, or is within a timber plantation, or
- (e) the tree represents a bush fire hazard causing immediate risk to life or property, or removal is authorised or required by a bush fire management plan made under to the *Rural Fires Act 1997*.
- (f) the tree is of a species identified in a development control plan as having potential to cause damage to foundations and sewer lines, or is of a species that is identified in such a plan as an undesirable species, being a species with characteristics that may cause poisoning, weed invasion, adverse health effects, or the like.

*Note: For reference, see Wyong LEP 1991 Amendment No 108 - GG 6/8/99. Many Councils are also broadening the provisions of TPOs to include 'native vegetation' as distinct from 'trees'.*

#### 4 Biodiversity conservation incentive

##### Objective

- (1) The objective of this clause is to promote biodiversity conservation outcomes through the flexible operation of regulatory controls.

##### Definitions

- (2) In this clause, **land of environmental significance** means any land that comprises:
  - (a) critical habitat, or any other land identified as habitat for threatened species, populations or ecological communities, or
  - (b) land subject to a recovery plan or a threat abatement plan that specifies measures to be taken in respect of the land, or
  - (c) land identified by this plan as a habitat corridor, as shown by distinctive marking on the map; or
  - (d) land within an environmental protection zone, or
  - (e) land within ..... metres of any river, stream, creek, lake, estuary, lagoon or other water body, or
  - (f) land comprising a wetland, or
  - (g) land which is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or which is known to contain a relic within the meaning of that Act.

##### Incentive

- (3) Despite any other provision of this plan, the Council may consent to the carrying out of development on any land for any purpose if it is satisfied that the development will:
  - (a) bring about the public dedication of land of environmental significance for conservation purposes, or
  - (b) otherwise ensure that land of environmental significance is protected, enhanced or conserved on a perpetual basis.
- (4) When granting consent to development in accordance with this clause, the Council may:
  - (a) disregard any development standard or requirement contained in this plan or a development control plan, including any such provision relating to:

- (i) minimum lot sizes, or
  - (ii) floor space ratios, or
  - (iii) car parking, or
  - (iv) landscaping, and
- (b) transfer the development potential pertaining to land of environmental significance to any other land.

#### Conditions precedent for granting consent

- (5) The Council must not grant consent under this clause unless it is satisfied that:
- (a) achievement of the outcomes referred to in paragraphs (3)(a) or (b), in relation to the land of environmental significance:
    - (i) is necessary having regard to the objectives of this plan, and
    - (ii) cannot be reasonably achieved by any other means, and
  - (b) the development will not adversely affect the environmental values of land and its surroundings (including at locations to which development potential is transferred), and
  - (c) the relevant public authority has advised the Council that it is prepared to accept transfer of the land to its responsibility (where the development seeks to bring about the public dedication of land of environmental significance for conservation purposes), and
  - (d) the land of environmental significance will be the subject of a public positive covenant under section 87A of the *Conveyancing Act 1919* or a conservation agreement (where the development seeks to otherwise ensure that the land is protected, enhanced or conserved on a perpetual basis).

#### Public consultation

- (6) Prior to granting consent under this clause, the Council must make available for public inspection a report that addresses the matters referred to in subclause (3).
- (7) Development referred to in this clause is identified as advertised development for the purposes of the definition of **advertised development** in section 4(1) of the Act.

*[Note: Further provisions could put into effect mechanisms listed in Tables 5.5 and 5.6 of the Guide. The above clause is an example of possible transferable development rights clause.]*

## 5 Native vegetation management

### Objective

- (1) The objectives of this clause are:
- (a) to specify principles that will guide the assessment of development applications relating to land on which there is native vegetation, and
  - (b) to establish a consent and assessment process for native vegetation management appropriate to the local area.

### Land to which clause applies

- (2) This clause applies to land on which there is native vegetation, as identified on the map by distinctive marking.

### Principles for native vegetation management

- (3) When determining a development application relating to land to which this clause applies, the Council must consider the following principles:
- (a) access to areas of native vegetation (including construction of roads and tracks) should be avoided as far as possible, except where a new access replaces a current access, and is consistent with the principles of this plan,
  - (b) land containing native vegetation, as identified on the map, should be maintained so as to enable the long term conservation of biodiversity on the land,  
*[Note: for example, via a property agreement or a conservation agreement.]*
  - (c) the perimeter of urban development adjoining native vegetation should be minimised in terms of length and should have regard to natural ecological boundaries, such as water catchments, rather than cadastral boundaries,
  - (d) any subdivision layout should take into account future land management activities, such as needs for bushfire control, weed control and land stability,
  - (e) native vegetation should be maintained in large and contiguous areas rather than small, fragmented ones, as this increases the vegetation's long-term viability and simplifies management,
  - (f) measures should be taken to prevent damage to life and property from bushfires, and to ensure that bushfire management is compatible with the protection of biodiversity,
  - (g) all development and activities should be undertaken in a manner that minimises the area, degree, and duration of disturbance, and any restoration is to be undertaken using resources sourced from the site or nearby (for example, soil and seed),
  - (h) pollution and waste disposal are major factors leading to weed invasion and degradation of native vegetation, and new development should ensure that adequate pollution and waste management controls are designed and implemented to prevent degradation of native vegetation,
  - (i) development on adjoining land should incorporate adequate measures to prevent adverse impacts from changes in surface and subsurface water flows on native vegetation,
  - (j) disturbed areas are to be regenerated with locally indigenous species wherever possible, and measures are to be taken in the design of development and regeneration programs (such as control of disturbance, nutrient minimisation, etc) to ensure that this occurs,
  - (k) management of native vegetation should retain the distribution, abundance and diversity of native species and communities presently existing on the land and, where appropriate, regenerate or restore pre-existing natural communities,
  - (l) protection of native fauna requires protection and enhancement of habitat,
  - (m) threatened native fauna species will utilise most native vegetation from time to time, and any activities undertaken on the land should be carried out in a manner that ensures that animals are not adversely affected by the activity,
  - (n) the role of wetlands in sediment and nutrient filtration should be supported by not clearing, filling or draining in and around wetlands,
  - (o) existing areas of native vegetation should be retained to provide fauna and flora habitat, and to retain visual amenity,

- (p) streams should be allowed to respond to hydrological changes with minimum interference, such as by allowing locally indigenous riparian vegetation to regenerate naturally,
- (q) development should not have adverse effect on the habitat of threatened species, and should as far as possible benefit such species,
- (r) objectives relating to maintaining and enhancing scenic quality should not take priority over biodiversity conservation objectives.
- (s) landscape design should be integrated with both the retention of local biodiversity and water management,
- (t) trees should be retained as far as possible, except where they may damage or interfere with buildings, improvements and utilities.

## 6 Management plans

### Objective

- (1) The objective of this clause is:
  - (a) to provide a documented link between the development assessment process and ongoing land management activities, and
  - (b) to provide a framework for the preparation of plans of management for implementing plan objectives.

### Making and effect of management plans

- (2) Where the council considers it necessary or desirable to provide more detailed provisions than are contained in this plan, it may prepare or cause to be prepared a management plan in respect of the management of land, its ecosystems and native vegetation.
- (3) A management plan shall be not inconsistent with the objectives or principles of this plan, and shall be used to promote development that is consistent with those objectives or principles.
- (4) A management plan:
  - (a) shall be of no effect for the purposes of this plan unless the Council has approved the plan, and
  - (b) continues to have effect for so long as the Council approval specifies.
- (5) An approval referred to in subclause (4) shall not be granted for a term exceeding 10 years.
- (6) A management plan may include a plan prepared under any other law, provided that the requirements of this clause are satisfied.

### Public consultation

- (7) In preparing a management plan, the council may consult or require that consultation occur with interested parties in the community.
- (8) The granting of approval to a management plan is to only occur after the plan has been exhibited for public comment and any submissions considered by the Council.

## 7 Subdivision of rural land

### Objective

- (1) The objective of this clause is to ensure that proposals for the subdivision of rural land make adequate provision for biodiversity conservation.

#### Land to which clause applies

- (2) This clause applies to land within a rural or environment protection zone.

#### Requirements for subdivision of land

- (3) Before granting consent to the subdivision of land to which this clause applies, the Council must be satisfied that, to the fullest extent possible or practical, allotment boundaries follow ecological, catchment, topographical or other natural boundaries that facilitate long-term protection of biodiversity values and conservation management.
- (4) A development application for the subdivision of land to which this plan applies must be accompanied by a draft management plan.

*[Note: Subdivision of land is often an irreversible precursor to development and biodiversity impacts. It is therefore essential for the nature of biodiversity on a site to be assessed at the subdivision stage. This clause imposes requirements that are appropriate on land having significance (or potential significance) for biodiversity conservation.]*

### 8 Protection of habitat for [species xxxx]

*Note: In some situations it will be appropriate for planning instruments to include species-specific requirements for threatened species. For example, performance criteria for development proposals could be specified, and a plan may require that development applications must demonstrate that they are consistent with those criteria.*

*Recovery plans prepared for particular species, populations or ecological communities may provide guidance on appropriate criteria. Guidelines or measures that could be specified in a management plan could relate to the following issues:*

- prevention of removal of specified preferred habitat types for a particular species*
- prescription of species-specific habitat corridor retention guidelines to maintain connectivity*
- design guidelines for fences or location of roads*
- prohibition of specified activities such as introduction of non-native species, or broadacre use of chemicals or fertilisers,*
- restriction of development to defined building envelopes, including requirements for imposition of restrictions on title,*
- minimum development application information requirements, including survey, reporting and monitoring requirements.*