

General Purpose Standing Committee No. 5

Abolition of the Hawkesbury-Nepean Catchment Management Trust

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Terms of Reference

The following terms of reference were referred to the Committee by Resolution of the Legislative Council on 7 June 2001 on the motion of the Hon Ian Cohen MLC:

1. That General Purpose Standing Committee No. 5 inquire into and report on the abolition of the Hawkesbury-Nepean Catchment Management Trust, and in particular:
 - (a) the reasons for the abolition of the Trust,
 - (b) the level and adequacy of the consultation undertaken on abolition of the Trust,
 - (c) whether any act or omission of the Trust may have impacted on the decision to abolish the Trust, and in particular the Trust's opposition to the proposed development of the ADI site at St Mary's and other major developments in the South Creek catchment of the Hawkesbury Nepean,
 - (d) the impact of the abolition of the Trust on the environment of the Hawkesbury Nepean Catchment,
 - (e) the effectiveness of the Trust in improving the health of the Hawkesbury Nepean Catchment,
 - (f) the effect of Government activities on the ability of the Trust to carry out its functions,
 - (g) the costs and benefits of transferring the functions of the Trust to the Department of Land and Water Conservation,
 - (h) the level of public confidence in the ability of the Department of Land and Water Conservation to carry out the functions and programs of the Trust,
 - (i) the appropriateness of the Department of Land and Water Conservation to implement the Hawkesbury Nepean Strategic Plan prepared by the Trust,
 - (j) the appropriateness of the Department of Land and Water Conservation to fulfil the major strategic role identified for the Trust in delivering the goals of the proposed Statement of Joint Intent for the Hawkesbury Nepean River System.¹

¹ *Minutes of the Proceedings of the Legislative Council*, No 105, 7 June 2001, Item No 4

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Chair's Foreword

This inquiry into the abolition of the Hawkesbury-Nepean Catchment Management Trust arose from the concerns expressed by many parts of the community when the then Minister for Land and Water Conservation, the Hon Richard Amery MP, announced that he had decided to abolish the Trust on 6 April 2001. This took effect from 11 April 2001.

The health of the Hawkesbury-Nepean catchment is of vital importance for environmental, economic and recreational purposes. For instance, the rivers provide 97% of Sydney's drinking water.

The Trust was a small organisation which worked in partnership with State and local government and the community to promote Total Catchment Management with the Hawkesbury Nepean. It was particularly successful at raising community awareness of catchment management issues through its education programs and newsletters. The Trust was also very effective at attracting additional contributions from different levels of government, businesses and volunteers for undertaking projects. It acted professionally and for the best interests of the catchment in commenting on planning proposals and advocating the catchment.

Abolishing the Trust removed a vital mechanism for community involvement in catchment management in the Hawkesbury Nepean. A key recommendation of the report is to re-establish community representation mechanisms.

The committee found that in making his decision to abolish the Trust, the Minister acted without seeking advice from his own Department or other government bodies working with the Trust. There was no community consultation or consultation with local government

The committee found that apart from some short term administrative savings realised from a reduced number of salaries and some overheads, the Minister's publicly stated reasons for abolishing the Trust are not borne out by the evidence.

The committee also heard many speculative reasons for the Minister's decision, including that the Trust was too outspoken in undertaking its advocacy role. There was not enough evidence for either supporting or ruling out these other reasons as influencing the decision.

The committee found that the major impact of the Minister's decision has been to damage the relationship between the community and the Department of Land and Water Conservation which now has the responsibility for the former Trust's projects. Possible consequences include a reduction in the number of volunteers willing to undertake vital catchment management projects. The report makes some recommendations about rebuilding volunteer networks.

The committee recommends that any savings from abolishing the Trust continue to be directed towards catchment management within the Trust area.

The committee considered that the current arrangements are unsatisfactory for implementing Total Catchment Management in the Hawkesbury Nepean. The report contains two recommendations designed to ameliorate this. Firstly, the report recommends establishing a "River Manager" who will be empowered to defend the rights of the river by ensuring all responsible authorities perform their roles adequately for the benefit of the catchment.

Secondly, the report recommends re-establishing the Trust in a form which incorporates the best features of the former Trust and more clearly defined performance indicators. The recommendation also provides that summary abolition of the Trust would be made more difficult by establishing the new Trust as a separate Act rather than by a Regulation.

I wish to extend my gratitude to all those who made submissions to the inquiry. The balanced discussion provided in this report is a reflection upon the valuable submissions received from both government agencies and from the community during the inquiry process.

Finally I would like to thank my fellow Members of the committee and the committee secretariat for their involvement during the Inquiry and in preparing this report. I particularly note the efforts of the committee's Senior Project Officer, Vicki Buchbach for writing a thorough and informative report, and to Acting Director, Steven Reynolds, and Committee Officer, Annie Marshall for their support to the inquiry.



Hon Richard Jones MLC
Chair

Summary of Recommendations

Finding 1 **31**

- (a) At the time of its abolition the Trust was performing its required regulatory roles within its budget allocation.
- (b) The committee has received no evidence that the direct impact of the Trust, or any other agency, on the catchment can be measured.
- (c) The committee considers that the Trust was highly successful at attracting additional financial or in-kind contributions from the Commonwealth and local governments, businesses and the community.
- (d) Consequently, the committee finds that there was no independent evidence to support the Minister's view that the Trust was ineffective and failed to provide "value for money".

Finding 2 **41**

The committee finds that the Minister failed to consult his Department, the community or other agencies in making his decision to abolish the Trust.

Finding 3 **55**

- (a) Other than savings in administrative costs, the committee does not believe that the publicly stated reasons for the Minister's decision to abolish the Trust are supported by persuasive evidence.
- (b) The committee has insufficient evidence to determine whether there are any further reasons for the abolition of the Trust other than those publicly stated by the Minister.
- (c) The committee has not received any persuasive evidence either to support or dispel the suggestion that the advocacy position of the Trust regarding the proposed redevelopment of the former Australian Defence Industries site at St Marys was a significant factor in the Minister's decision to abolish the Trust.
- (d) The announcement of the resignation of the former Chief Executive Officer of the Trust was the catalyst for the Minister's decision.

Finding 4 **67**

The most significant impact of the Minister's decision to abolish the Trust has been to damage the relationship between the Department of Land and Water Conservation and the community within the Hawkesbury-Nepean region.

Recommendation 1 **63**

The committee recommends that any annual savings in administrative overheads resulting from the abolition of the Trust be committed to expenditure on catchment management within the Hawkesbury-Nepean catchment.

Recommendation 2 **64**

The committee recommends the re-establishment of community representation so that the community can participate directly in catchment management issues in the Hawkesbury-Nepean.

Recommendation 3 **66**

The committee recommends that the Department of Land and Water Conservation re-establish a volunteer network in the Hawkesbury- Nepean by:

- (a) contacting all persons on the former Trust's mailing list,
- (b) consulting the contacts on the potential role for volunteers in catchment management, and

- (c) developing programs to address these volunteer needs.

Recommendation 4 69

The committee recommends that a River Manager for the Hawkesbury-Nepean Catchment be appointed to assist with the co-ordination of the many government agencies which have responsibilities within the catchment.

Recommendation 5 70

The committee recommends that the Government consult with appropriate State and local government bodies and the community in order to establish a new Catchment Management Trust for the Hawkesbury-Nepean which should:

- include the best features of the former Trust,
- have clearly defined responsibilities and performance requirements,
- be provided with adequate resources, and
- be established by a separate Act rather than by a Regulation.

Glossary

ADI	Australian Defence Industries
Catchment	A discrete geographical area of land whose boundaries are derived primarily from natural features such that surface water drains and flows to a river, stream, lake, wetland or estuary.
CMC	Catchment Management Committee – provided for under s 13 of the <i>Catchment Management Act 1989</i>
CSC	Catchment Support Committee – subcommittee established by the Hawkesbury-Nepean Catchment Management Trust in 2000 after the abolition of the CMCs.
CHANGE	Coalition of Hawkesbury and Nepean Groups for the Environment
DLWC	Department of Land and Water Conservation
DUAP	Department of Urban Affairs and Planning (now known as Planning NSW)
HNCMT	Hawkesbury-Nepean Catchment Management Trust, “the Trust”
HRC	Healthy Rivers Commission of New South Wales – an independent commission of inquiry established in 1996 as part of the Water Reform Program to make public inquiries into selected NSW river systems and to make recommendations to the Government on appropriate long-term approaches and strategies to achieve environmental, social and economic objectives for the systems.
Integrated catchment management	The coordination of activities that use, or impact on, natural resources within a water catchment, so that decisions on individual resources and areas within the catchment take full account of potential impacts on other resources and areas, and the health and wellbeing of communities within the catchment. This recognises the need for balance between protecting ecosystems and the productive use of resources.
Landcare	A national network of local community groups which address land degradation issues such as soil erosion and dryland salinity
MOSES	Movement Opposing Senseless Environmental Sacrilege
NCC	Nature Conservation Council of NSW Inc
NHT	Natural Heritage Trust – a Commonwealth government program established in 1996 with the aim of investing \$1.25 billion over five years in Australia’s natural resource base.
REP	Regional Environmental Plan
SREP 20	Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River. A Regional Environmental Plan made under the <i>Environmental Planning and Assessment Act 1979</i>
SOJI	Statement of Joint Intent
SHURE	Save the Hawkesbury’s Unique River Environment
The Trust	Hawkesbury-Nepean Catchment Management Trust
THREPS	The Hawkesbury River Environment Protection Society
TCM	Total Catchment Management defined in the <i>Catchment Management Act 1989</i> as “the coordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation”
WESROC	Western Sydney Regional Organisation of Councils

Chapter 1 **Background to the inquiry**

Establishment of the inquiry

1.1 On 7 June 2001 the Legislative Council resolved to refer the following terms of reference to the General Purpose Standing Committee No 5:

1. That General Purpose Standing Committee No. 5 inquire into and report on the abolition of the Hawkesbury-Nepean Catchment Management Trust, and in particular:
 - (a) the reasons for the abolition of the Trust,
 - (b) the level and adequacy of the consultation undertaken on abolition of the Trust,
 - (c) whether any act or omission of the Trust may have impacted on the decision to abolish the Trust, and in particular the Trust's opposition to the proposed development of the ADI site at St Mary's and other major developments in the South Creek catchment of the Hawkesbury Nepean,
 - (d) the impact of the abolition of the Trust on the environment of the Hawkesbury Nepean Catchment,
 - (e) the effectiveness of the Trust in improving the health of the Hawkesbury Nepean Catchment,
 - (f) the effect of Government activities on the ability of the Trust to carry out its functions,
 - (g) the costs and benefits of transferring the functions of the Trust to the Department of Land and Water Conservation,
 - (h) the level of public confidence in the ability of the Department of Land and Water Conservation to carry out the functions and programs of the Trust,
 - (i) the appropriateness of the Department of Land and Water Conservation to implement the Hawkesbury Nepean Strategic Plan prepared by the Trust,
 - (j) the appropriateness of the Department of Land and Water Conservation to fulfil the major strategic role identified for the Trust in delivering the goals of the proposed Statement of Joint Intent for the Hawkesbury Nepean River System.
2. That the committee report by Friday 30 November 2001.²

² *Minutes of the Proceedings of the Legislative Council*, No 105, 7 June 2001, Item No 4

Abolition of the Trust

- 1.2** On 6 April 2001, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, announced his decision to abolish the Hawkesbury-Nepean Catchment Management Trust.³ This was formalised by a proclamation on 11 April 2001.⁴
- 1.3** On 11 April 2001, the Hon Kevin Rozzoli MP, Member for Hawkesbury, proposed a no confidence motion in Minister Amery because of this action.⁵ This motion of no confidence was defeated on 28 June 2001.⁶ In the Legislative Council a motion of censure of Minister Amery was passed on 11 April 2001.⁷
- 1.4** On 14 November 2001, the Legislative Council agreed to a motion by the Hon Richard Jones MLC, the committee Chair, that the reporting date for the inquiry into the Hawkesbury-Nepean Catchment Management Trust be extended from 30 November 2001 to 27 February 2002.⁸

Conduct of the inquiry

- 1.5** The committee resolved to advertise its terms of reference, inviting public submissions in major metropolitan and local print media in the areas of Warragamba, Penrith, Richmond/Windsor, Brooklyn/Hornsby and Hawkesbury on 30 June 2001.
- 1.6** The committee received 47 submissions in response to its call for submissions. The authors of the submissions received are listed in [Appendix 1](#). The committee also held a public hearing on 3 December 2001, at Parliament House, Sydney. A list of the witnesses appearing at that hearing is at [Appendix 2](#).
- 1.7** The committee considered the Chair's draft report at its meeting on 11 March 2002 and agreed to adopt it as the committee's report. The Minutes of the Proceedings of the committee during this inquiry appear at [Appendix 3](#).

Report Structure

- 1.8** Chapter 2 describes issues related to catchment management generally and particular characteristics of the Hawkesbury-Nepean catchment.
- 1.9** Chapter 3 describes the roles and responsibilities of the Hawkesbury-Nepean Catchment Management Trust, "the Trust".

³ *Hawkesbury-Nepean Catchment Management Changes*, media release, the Hon Richard Amery MP, then Minister for Agriculture, Minister for Land and Water Conservation, 6 April 2001

⁴ *Catchment Management Act 1989 – Proclamation*, 11 April 2001

⁵ *Votes and Proceedings of the Legislative Assembly*, No 87, 11 April 2000, Item 16

⁶ *Votes and Proceedings of the Legislative Assembly*, No 104, 28 June 2001, Item No 4

⁷ *Minutes of the Proceedings of the Legislative Council*, No 99, 11 April 2001, Item Nos 12 and 14

⁸ *Minutes of the Proceedings of the Legislative Council*, No 131, 14 November 2001, Item No 3

- 1.10** Chapter 4 examines evidence concerning the effectiveness of the Trust in fulfilling its roles and responsibilities and discusses the impacts of its work on the Hawkesbury-Nepean catchment.
- 1.11** In Chapter 5 the process by which the Trust was abolished is examined, with particular consideration of the level and adequacy of the consultation with government bodies, the former Trustees and other stakeholders.
- 1.12** Chapter 6 examines public statements and other possible reasons for the Trust's abolition.
- 1.13** Chapter 7 discusses the impacts of the Trust's abolition including both short term effects and anticipated long term impacts. It describes the current institutional arrangements for managing the catchment and the level of acceptance these arrangements have met, including from local government and community groups.
- 1.14** Chapter 8 provides an evaluation of some of the options for the future management of the catchment.

Chapter 2 Catchment Management in the Hawkesbury-Nepean region

This Chapter discusses the principles of catchment management. It then describes the characteristics of the Hawkesbury-Nepean catchment and the factors leading to the establishment of the Trust.

Principles of catchment management

- 2.1** A “catchment” refers to the area of land from which ground and surface water naturally drain into a waterway and its tributaries. Land and water usage practices within a catchment can affect the quality of that waterway and, in particular, can have unforeseen impacts on downstream activities. An example of negative impacts includes excessive water extraction upstream which reduces the level of water flowing downstream, which can lead to algal blooms. Another example is sewage run-off into a creek affecting the quality of water supplies in a major river into which it flows which, in turn, may affect estuarine activities such as oyster farming.⁹
- 2.2** “Catchment management” refers to the coordination of activities that use, or impact on, natural resources within a waterway’s catchment, so that decisions on individual resources and areas within the catchment take full account of potential impacts on other resources and areas, and the health and wellbeing of communities within the catchment. This recognises the need for balance between protecting ecosystems and the productive use of resources.
- 2.3** Because the areas of catchments are not generally related to administrative boundaries, there can be problems managing environmental issues on a catchment basis, particularly for large and complex catchments. For example the Murray-Darling River system, which extends through four states and numerous local government areas, is currently presenting significant catchment management challenges as activities in one part of the system can cause major problems in another part. A recent study estimated that, if current trends of increasing salinity and water diversion for irrigation continue, Adelaide’s drinking water will not be fit for human consumption by 2020.¹⁰
- 2.4** A recent Commonwealth Parliamentary report into catchment management identified the difficulty of coordinating activities across jurisdictional boundaries as a major problem for catchment management generally. This can lead to a lack of shared information, unnecessary duplication of effort and poorly directed projects.¹¹ This report also highlighted the importance of involving local governments in developing programs for

⁹ *Co-ordinating Catchment Management: Report of the inquiry into Catchment Management*, House of Representatives Standing Committee on Environment and Heritage, December 2000, p25

¹⁰ *Our Vital Resources: National Action Plan for Salinity and Water Quality in Australia*, The Hon John Howard MP, p 1, cited in *Co-ordinating Catchment Management: Report of the inquiry into Catchment Management*, House of Representatives Standing Committee on Environment and Heritage, December 2000, p 3

¹¹ *Co-ordinating Catchment Management: Report of the inquiry into Catchment Management*, House of Representatives Standing Committee on Environment and Heritage, December 2000, p70-71

managing catchments and emphasised that effective catchment management also depends on empowering local communities to contribute to catchment management. In the context of recommending the establishment of local catchment management authorities, the report stated:

Effective catchment management rests upon the involvement of local communities. Support for catchment management is generated and programs motivated at the local and regional level. It is essential that appropriate institutional arrangements are implemented that empower communities.¹²

Catchment Management in New South Wales

Catchment Management Act 1989

2.5 In New South Wales, catchment management is administered by the Minister for Land and Water Conservation through the Department of Land and Water Conservation (DLWC).

2.6 Although other legislation related to planning and environmental protection are relevant to catchment management, the primary Act is the *Catchment Management Act 1989* (the Act). This Act establishes the principle of “Total Catchment Management” which is defined in section 4 as:

The co-ordinated and sustainable use and management of land, water, vegetation and other natural resource on a water catchment basis so as to balance resource utilisation and conservation.¹³

2.7 The objects of this Act are:

- (a) to co-ordinate policies, programs and activities as they relate to total catchment management; and
- (b) to achieve active community participation in natural resource management; and
- (c) to identify and rectify natural resource degradation; and
- (d) to promote sustainable use of natural resources; and
- (e) to provide stable and productive soil, high quality water and protective and productive vegetation cover within each of the State’s water catchments.¹⁴

Differences between Trusts and Catchment Management Committees

2.8 The Act then provides that these objects are to be given effect by establishing a network of Catchment Management Committees (CMCs) and through Catchment Management Trusts to manage and promote catchment health in particular areas.¹⁵

¹² *Co-ordinating Catchment Management: Report of the inquiry into Catchment Management*, House of Representatives Standing Committee on Environment and Heritage, December 2000, p112

¹³ *Catchment Management Act 1989*, s4

¹⁴ *Catchment Management Act 1989*, s5(1)

- 2.9** Although the Act provides that both Trusts and CMCs are to consist of representatives of landholders, local government and state government, these two types of bodies have slightly different functions and powers. CMC members are appointed by the responsible Minister and are responsible to a State Catchment Management Co-ordinating Committee while Trusts are corporations and their members are appointed by the Governor. While their operations are subject to the control of the Minister, Trusts have greater powers than CMCs including the ability to appoint staff, enter into contracts, deal with real estate, and establish catchment management trust funds. Trusts have greater independence from the Department of Land and Water Conservation than CMCs which depend on the Department for administrative and financial support.¹⁶
- 2.10** The Act provides that before recommending the establishment of a Trust, the Minister should assess whether establishing a Trust is warranted according to the following criteria:
- (a) the degradation of natural resources with the area concerned is adversely affecting the community; and
 - (b) the land holders, land users and the community who utilise and derive benefit from those resources have a joint responsibility to deal with the degradation; and
 - (c) the formation of a Trust is the most appropriate means of achieving equitable cost sharing; and
 - (d) there is clear support by the land holders, land users and the community for the formation of a Trust.¹⁷
- 2.11** Examples of Trusts are the Hunter Catchment Trust and the former Hawkesbury-Nepean Catchment Management and the Upper Parramatta River Catchment Management Trusts. Examples of Catchment Management Committees are the Coxs and Wollondilly Rivers Catchment Management Committees.

The Hawkesbury-Nepean Catchment

The Geographic Area

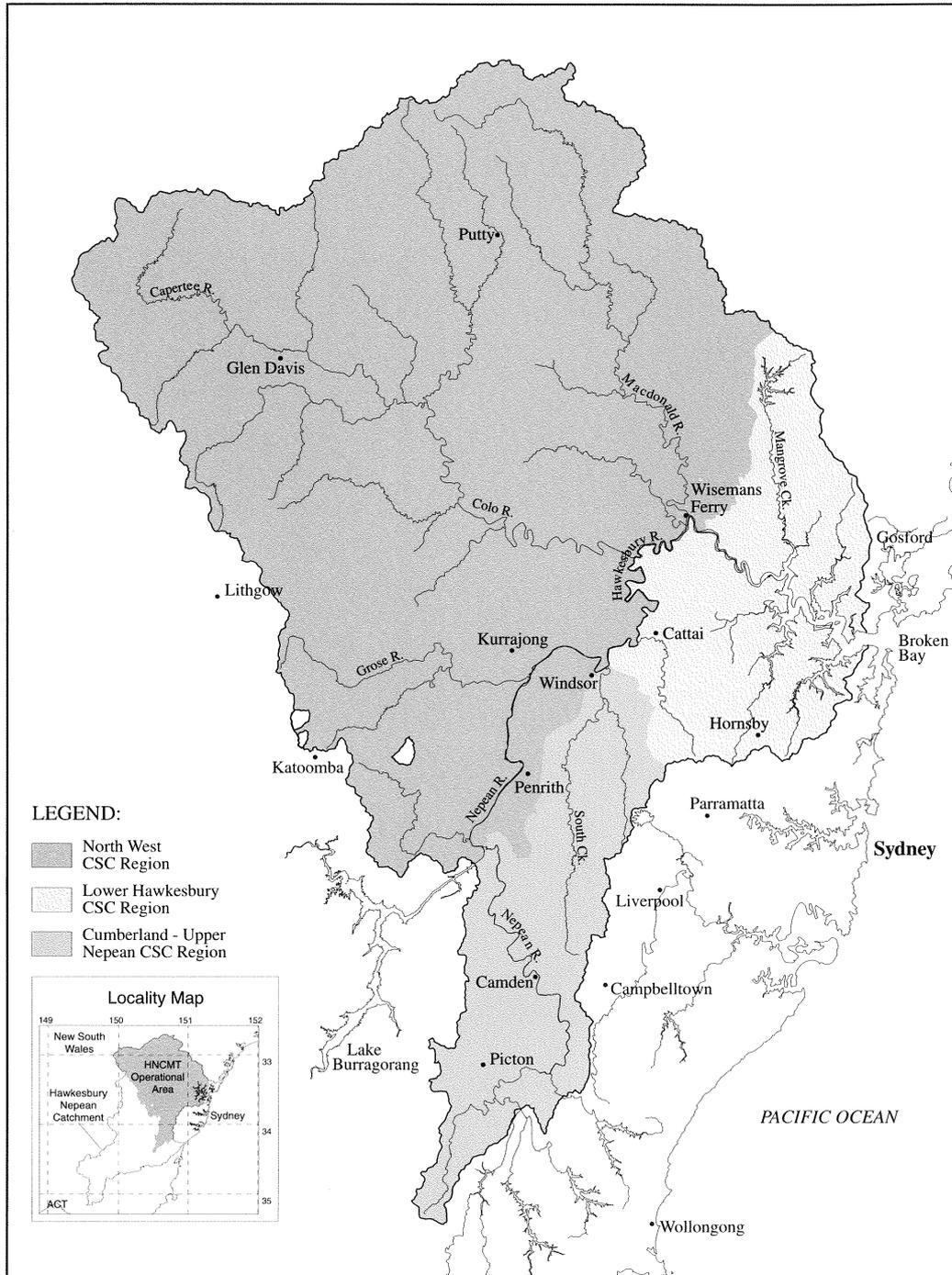
- 2.12** The catchment of the Hawkesbury and Nepean Rivers covers some 22,000 square kilometres and encompasses Goulburn, Lithgow and the Blue Mountains before reaching the coast at Broken Bay. Besides the main rivers, other major watercourses include the Coxs, Colo and Wollondilly Rivers. (See **Figure 2.1** for a map of that part of the catchment covered by the Trust from 1999.)

¹⁵ *Catchment Management Act 1989*, s5(2)

¹⁶ *Catchment Management Act 1989*, s27, s33

¹⁷ *Catchment Management Act 1989*, s21(2)

Figure 2.1 Map of Former Trust area¹⁸



18 Copied from *draft Strategic Plan for the Management of the Hawkesbury-Nepean Catchment and Review System*, Hawkesbury-Nepean Catchment Management Trust, October 2000

2.13 Most of this area is forested, around a third of it is used for agriculture and less than 10% is urbanised. Key features of the catchment are that:

- it produces some 10% of New South Wales's agricultural output including a large proportion of the fresh fruit and vegetables consumed in the metropolitan area,
- the Nepean River valley is the major source of sand, gravel and soil for the Sydney construction industry,
- the river provides a significant recreational resource for thousands of people,
- the area includes a large portion of the Blue Mountains World Heritage area,
- the area is expected to absorb most of Sydney's future population expansion.¹⁹

Environmental Pressures on the Hawkesbury-Nepean catchment

2.14 This catchment is large and complex and is affected by a variety of pressures from a wide range of human activities. For instance water quality is compromised by run-off from stormwater and sewage effluent, both from septic systems and treated wastewater from 19 sewage treatment plants. In some areas, reduced flows from upstream storage have led to algal blooms. Other problems affecting river health in the Hawkesbury-Nepean are:

- related to weed infestation such as willows,
- erosion caused by removal of riverside vegetation,
- extractive industries, and
- some recreational pursuits.²⁰

2.15 Throughout the 1980s there was an increasing official recognition of the decline in quality of the river system and increased activity by local community groups. This led to the then Department of Planning developing the first environmental plan for the system, the Sydney Regional Environmental Plan 20 in 1989 (SREP 20). This was a plan made under the *Environmental Planning and Assessment Act 1979* to consider and assess the environmental impacts of potential developments and activities on the catchment prior to the granting of approval.²¹

Managing the Hawkesbury-Nepean catchment

2.16 Managing these pressures in a coordinated fashion was difficult because several State government agencies besides the Department of Land and Water Conservation had a role

¹⁹ *Regulatory Impact Statement for HNCMT Regulation, 1999*, Department of Land and Water Conservation, p 6, *Independent Inquiry into the Hawkesbury Nepean River System: Final Report*, Healthy Rivers Commission of New South Wales, 1998, p 2

²⁰ *Independent Inquiry into the Hawkesbury Nepean River System: Final Report*, Healthy Rivers Commission of New South Wales, August 1998, pp 2-3, *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, p 6

²¹ *Submission No 31*, Ms Elizabeth Hanlon, Appendix 2

in the catchment including the Environment Protection Authority, the Department of Agriculture and Sydney Water Corporation (as they are now called). In addition the catchment included either part or all of 26 local government areas²². Local government made efforts to coordinate activities through the Joint Councils River Committee and, after 1989, the Nepean Hawkesbury Catchment Management Council.²³ However, as one submission to this inquiry commented:

Protection of the Hawkesbury-Nepean River and its catchment is carried out by a multiplicity of government agencies and local councils. Prior to the Trust being established in 1993, their various projects and programs appeared to be totally devoid of coordination. Without an integrated strategic approach, it was not surprising that the River was in a deplorable condition and the catchment was degrading. Contamination was high, riverbank problems existed everywhere and development was often uncontrolled.²⁴

- 2.17** In 1991 the then NSW Government established the Hawkesbury-Nepean Task Force consisting of representatives from community groups, agencies, and state and local government. The Task Force was required to identify the major problems of the Hawkesbury-Nepean Rivers system and develop a co-ordinated and integrated response.²⁵
- 2.18** The Task Force recommended establishing a Trust to cover the entire catchment of the Hawkesbury-Nepean River system with wide ranging purposes. Functions were to include revising Sydney Regional Environment Plan 20 (SREP 20). The Task Force recommended that the Trust also have a concurrence role in SREP 20.²⁶ The proposal to establish a Trust was strongly supported by local community groups.

²² *Independent Inquiry into the Hawkesbury Nepean River System: Final Report*, Healthy Rivers Commission of New South Wales, August 1998, p 2

²³ *Submission No 47*, Councillor Robert Bell, Gosford City Council and former Trustee, p 1

²⁴ *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 1

²⁵ *Directions Towards a Sustainable Future for the Hawkesbury-Nepean*, Hawkesbury-Nepean Task Force, November 1991, p 2

²⁶ *Directions Towards a Sustainable Future for the Hawkesbury-Nepean*, Hawkesbury-Nepean Task Force, November 1991 pp 4-5. A concurrence role would mean that the Trust would need to agree with the nature of proposed developments before the consent authority could grant them approval.

Chapter 3 Powers and Functions of the Trust

This Chapter describes the powers and functions of the Hawkesbury-Nepean Catchment Management Trust, “the Trust”, and how these changed over the almost eight years of its operation. It also briefly outlines some of the major roles and activities the Trust performed.

The 1993 Trust regulation

3.1 The Trust was established by its inclusion in Schedule 1 to the *Catchment Management Act 1989* and by the *Hawkesbury-Nepean Catchment Management Trust Regulation 1993* made under this Act. This Regulation provided that the purpose of the Trust was to encourage the protection of the Hawkesbury and Nepean River system through facilitating ecologically sustainable development and resource use, and fostering orderly and proper physical, environmental and socio-economic planning as the basis of well-being of the people and all life within the Trust area.²⁷ The Regulation came into operation on 1 July 1993.²⁸

3.2 As well as the general powers of Trusts included in the Act, Regulation 6 provided the Hawkesbury Nepean Catchment Management Trust with additional functions relating to:

- preparing advice on environmental planning instruments in the Trust area,
- preparing advice on environmental planning studies,
- advising the Director of Planning on matters that should be addressed in an environmental impact study,
- exercising functions relating to the granting of concurrence to a development if empowered to do so by a planning instrument made under the *Environment Planning and Assessment Act 1979*,
- formulating guidelines for developers and consent authorities,
- undertaking educational activities,
- maintaining data on the trust area, and
- facilitating research.²⁹

Reviews affecting Trust activities: 1993 - 1999

Internal Review

3.3 The operations of the Trust were affected by a number of reviews of the Trust’s operations and by external changes to natural resource and environmental management in New South Wales.

²⁷ *Hawkesbury-Nepean Catchment Management Trust Regulation 1993*, Reg 4

²⁸ *Hawkesbury-Nepean Catchment Management Trust Regulation 1993*, Reg 2

²⁹ *Hawkesbury-Nepean Catchment Management Trust Regulation 1993*, Reg 6

- 3.4** There was an internal review of the Trust's operations in 1995/96 which focussed on the Trust's membership, structure and the roles of its supporting bodies. The Trust implemented the recommendations from this review in 1996/97.³⁰

Review of Total Catchment Management

- 3.5** A further review of the Trust's structure involving community consultation was conducted, in conjunction with a broader state-wide review of Total Catchment Management (TCM) in 1997/98 by the Department of Land and Water Conservation. The TCM review considered that that Catchment Management Committees (CMCs) and Trusts should be more strategic in focus rather than trying to compete with local authorities and other groups working on resource management. The review recommended that the role of CMCs and Trusts should be to coordinate and influence catchment activities and highlighted a need for greater integration of natural resource and environmental management. This review also recommended that no additional Trusts be established unless there were an exceptional need to establish a trust to meet particular clearly defined objectives.³¹
- 3.6** As a result of this review, the Government disbanded 43 CMCs from 31 December 1999. This included seven CMCs in the Trust area.³²

Atech Review and Regulation Impact Review

- 3.7** A comprehensive review of the Trust's operations was undertaken by the Department of Land and Water Conservation during 1999 as the Trust's regulation was due to lapse on 31 August 1999. The Department commissioned an independent economic study by the Atech Group into the effectiveness of the Trust.³³ This then informed a regulation impact review coordinated by the Department. As a result of this review, a new regulation, the *Hawkesbury Nepean Catchment Management Trust Regulation 1999*, came into force on 1 September 1999.

1999 Regulation

- 3.8** Under the new regulation, the Trust was given a significant new purpose of "advocating the catchment system and providing advice on the catchment system".³⁴ The new regulations also provided the Trust with some new additional responsibilities including:

³⁰ *Submission No 31*, Ms Elizabeth Hanlon, Appendix 2

³¹ *Hawkesbury Nepean Catchment Management Trust Regulation 1999, Regulatory Impact Statement*, Department of Land and Water Conservation, June 1999, pp 5-6

³² *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, Hawkesbury-Nepean Catchment Management Trust p 52. The Trust later established three community based Catchment Support Committees from July 2000.

³³ *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, May 1999, p5

³⁴ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999*, Reg 4(a)(i)

- the development, implementation and monitoring of a strategic plan for the catchment and the preparation of reports on the state of the catchment,
- reporting on the state of the environment in the catchment every four years, and
- reporting on the Trust's performance each year against performance indicators agreed on by the Minister and the Trust.³⁵

3.9 The new regulations did not contain concurrence powers for the Trust in relation to planning instruments under the *Environmental Planning and Assessment (EPA) Act 1979*. However the Regulatory Impact Statement of the revised Regulation noted that these powers had never been used because necessary amendments to the EPA Act were not introduced.³⁶ A full copy of the 1999 Regulation appears at [Appendix 4](#).

Changes to Trust Area

3.10 The boundaries of the area in which the Trust should operate were the subject of repeated debates. The 1993 regulation defined the area of the Trust's operation as the whole of the Nepean River system and catchment and the part of the Hawkesbury River System below the wall of the Warragamba Dam, excluding Brisbane Water and Pittwater.³⁷ Prior to its establishment and during the 1995/96 review of the Trust, there were recommendations that the Trust area cover the entire catchment.

3.11 In the 1998 review of Total Catchment Management, and in the 1999 review of the Trust's Regulation there were also proposals to extend the catchment which were not progressed because of opposition from community groups. It was also considered undesirable for the Trust area to overlap the area covered by the Sydney Catchment Authority.³⁸ The establishment of the Authority led to the removal of some upstream areas in the 1999 regulation so that the Trust area then covered:

- the whole of the Nepean River system and catchment (excluding the catchment area above Pheasants Nest Weir and Broughtons Pass Weir) and
- that part of the Hawkesbury River system and catchment below the wall of Warragamba Dam (excluding Brisbane Water, Pittwater, the catchments for the

³⁵ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999*, Regs 6-7

³⁶ *Hawkesbury Nepean Catchment Management Trust Regulation 1999, Regulatory Impact Statement*, Department of Land and Water Conservation, June 1999, p14

³⁷ *Hawkesbury-Nepean Catchment Management Trust Regulation 1993*, Reg 5(1)

³⁸ Evidence of Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean, Department of Land and Water Conservation, 3 December 2001, p 61, *Hawkesbury-Nepean Catchment Management Trust Regulation, Regulatory Impact Statement*, DLWC, June 1999, p 24. The Sydney Catchment Authority was established in 1999 to manage Sydney's water supply and regulate activities within the catchment areas to improve water quality, protect public health and the environment. <http://www.sca.nsw.gov.au/>

Lake Medlow and Greaves Creek Dams, the lower, Middle and Upper Castle Creek Dams and Woodford Creek Dam).³⁹

3.12 A map of this area is included in **Chapter 2**.

Healthy River Commission Inquiry and the Statement of Joint Intent

3.13 The Trust also received some additional responsibilities as a result of the 1998 Healthy Rivers Commission inquiry into the health of the Hawkesbury Nepean Rivers.⁴⁰ The Commission made recommendations relating to improving the health of the rivers, including objectives for water quality, riverine corridors, sewage and urban stormwater, weed control and data management. It was also critical of the lack of co-ordination between many government agencies. After consideration by the Government, a Statement of Joint Intent was developed to commit the relevant parties to undertaking certain activities to address the problems identified during the review. This Statement was signed on 12 March 2001.

3.14 The major role assigned to the Trust was to develop a strategic plan for the lower Hawkesbury-Nepean Catchment incorporating all the Healthy River Commission findings and, in particular, an integrated approach to stormwater management. The Trust was also asked to assist in developing a riverine corridor policy for the state and assist in monitoring the implementation of the Statement of Joint Intent.⁴¹

3.15 The Statement also gave effect to an inquiry recommendation to create a Hawkesbury Nepean River Management Forum, with representation by the Trust, to advise the Minister on appropriate environmental flow provisions for inclusion in the Sydney Catchment Authority's water licence.⁴²

Major Tasks of the Trust

3.16 Over the almost eight years of its operations, the Trust undertook a wide range of activities to implement Total Catchment Management within the Trust area. The following is a brief discussion of some of the major tasks.

Planning issues

3.17 The Trust worked with the Department of Urban Affairs and Planning on a review of the Sydney Regional Environmental Plan 20 (SREP 20) for the Hawkesbury Nepean. After its

³⁹ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999*, Regulation 5

⁴⁰ *Independent Inquiry into the Hawkesbury Nepean River System, Final Report*, Healthy Rivers Commission of New South Wales, August 1998

⁴¹ *Statement of Joint Intent for the Hawkesbury Nepean River System*, Healthy Rivers Commission of New South Wales, pp 5-6

⁴² *Statement of Joint Intent for the Hawkesbury Nepean River System*, Healthy Rivers Commission of New South Wales, p 36

gazetted in 1997, the Trust was assigned a number of tasks in the Action Plan, such as advising on environmental and land use issues in the catchment at a regional level, and monitoring the implementation of the Plan's catchment management actions.⁴³

- 3.18** After the Trust's Regulation was amended in 1999, the Trust developed its new advocacy function by developing a number of formal advocacy positions on important environmental issues such as riverbank management, in-stream extraction of sand and gravel and plans to redevelopment of the former Australian Defence Industries site at St Marys.⁴⁴

Community consultative structures

- 3.19** The Trust supported seven local Catchment Management Committees with funding and organisational support. After these were abolished in 1999, the Trust established three regional Catchment Support Committees in order to continue involve the local community in catchment management issues.⁴⁵

Local Government Co-ordination

- 3.20** The Trust established and supported a Local Government Reference Group in 1998 to strengthen its partnerships with local government and improve communication on catchment management issues across local government boundaries.⁴⁶
- 3.21** The Trust also provided guidance to local councils in performing their environmental responsibilities through developing guidelines to assist councils with their State of the Environment reporting. The Trust also established and facilitated an on-site wastewater working group to assist local government in managing small-scale sewage treatment facilities and on-site sewage treatment as a way to advance on-site wastewater management planning across the catchment.⁴⁷

Strategic Plan for Catchment

- 3.22** Under the 1999 revision of its Regulations the Trust was responsible for developing a Strategic Plan for the catchment. As noted above, this was also a responsibility under 2001 Statement of Joint Intent for the Hawkesbury Nepean. After significant research and consultation the Trust completed a draft Strategic Plan which it submitted to the Minister for consideration in October 2000.⁴⁸

⁴³ *The Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy 1997*, Department of Urban Affairs and Planning, p 17, p 4

⁴⁴ *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 5

⁴⁵ *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, Hawkesbury-Nepean Catchment Management Trust, p 48

⁴⁶ *Submission No 31*, Ms Elizabeth Hanlon, App 4, p 6

⁴⁷ *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 11, pp 7-8

⁴⁸ Evidence of Ms Jenny Smith, former Trustee, 3 December 2001, p 13

Support for community and volunteer groups

- 3.23** The Trust worked with local secondary and tertiary education institutions to educate students on a range of catchment issues including through excursions, developing a range of education kits and providing research information.⁴⁹
- 3.24** The Trust developed and managed programs and projects in partnership to address weed infestation, such as the provision of start up funding for the Hawkesbury Nepean Aquatic Weeds Taskforce and it initiated a number of local weed control strategies.⁵⁰
- 3.25** The Trust formed partnerships with local businesses through such activities as the Roofs for Revegetation project which involved businesses growing native plants on roofs prior to their use in riverbank revegetation.⁵¹
- 3.26** The Trust co-ordinated the assessment of application for funding under the Commonwealth's Natural Heritage Trust Fund and assisted community groups and local government develop their projects and applications in order to ensure that these funds were directed to address the highest priority problems.⁵² In 1999/2000 the Trust managed \$1.07 million of Natural Heritage Trust funding.⁵³
- 3.27** The Trust provided support to Regional Habitat Committees within the catchment including Bushcare and Landcare Groups. There were some 2,500 volunteers working on local habitat rehabilitation projects during 1999/2000. The Trust also worked to strengthen Streamwatch volunteer groups which are volunteer groups working on monitoring water quality. There were an estimated 5,000 members of 168 Streamwatch groups in 1999/2000.⁵⁴

Structure of the Trust: 2001

2000/2001 Budget

- 3.28** The Trust received an annual allocation of \$3.588 million from the New South Wales Treasury from 1993 until its abolition. It also received additional funds for projects from a variety of sources including the Commonwealth Natural Heritage Trust fund and contributions from local government. In his letter to the Premier regarding the abolition of the Trust, the then Minister for Land and Water Conservation, the Hon Richard Amery MP, estimated that these additional contributions brought its annual budget to between \$4

⁴⁹ *Submission No 31*, Ms Elizabeth Hanlon, App 4 p 7

⁵⁰ *Submission No 31*, Ms Elizabeth Hanlon, App 4 p 8

⁵¹ *Submission No 37*, Ms Jenny Smith et al, p 11, pp 7-8

⁵² *Submission No 31*, Ms Elizabeth Hanlon, App 4 p 7

⁵³ *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, Hawkesbury-Nepean Catchment Management Trust, p 68

⁵⁴ *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, Hawkesbury-Nepean Catchment Management Trust, pp 15-16

million and \$5 million.⁵⁵ The Trust's 2000/2001 Business Plan estimated that its budget would have been \$5.946 million.⁵⁶

3.29 The Trust also received significant in-kind contributions from businesses and volunteers, which it estimated to be worth about \$9.5 million in 2000/2001.⁵⁷ One of the debates during this inquiry was the value of the in-kind support the Trust was able to attract from volunteers and community groups. (See Chapter 4)

Staffing

3.30 At the time of its abolition, the Trust had 19 Trustees (out of a possible total of 22) representing:

- state agencies including the Departments of Agriculture, the Environment Protection Authority, National Parks and Wildlife Service, the Department of Land and Water Conservation.
- community environmental representatives
- landholders and
- the Aboriginal community.

3.31 Three local government representatives were provided for in the Trust structure but new appointments had not been made by the Government at the time of the Trust's abolition.

3.32 The Trust also had 60 staff of whom 28 were full time, 4 were long term temporary employees and 28 were temporary, casual or contract staff.⁵⁸ An organisational diagram of the Trust is at **Figure 3.1**.

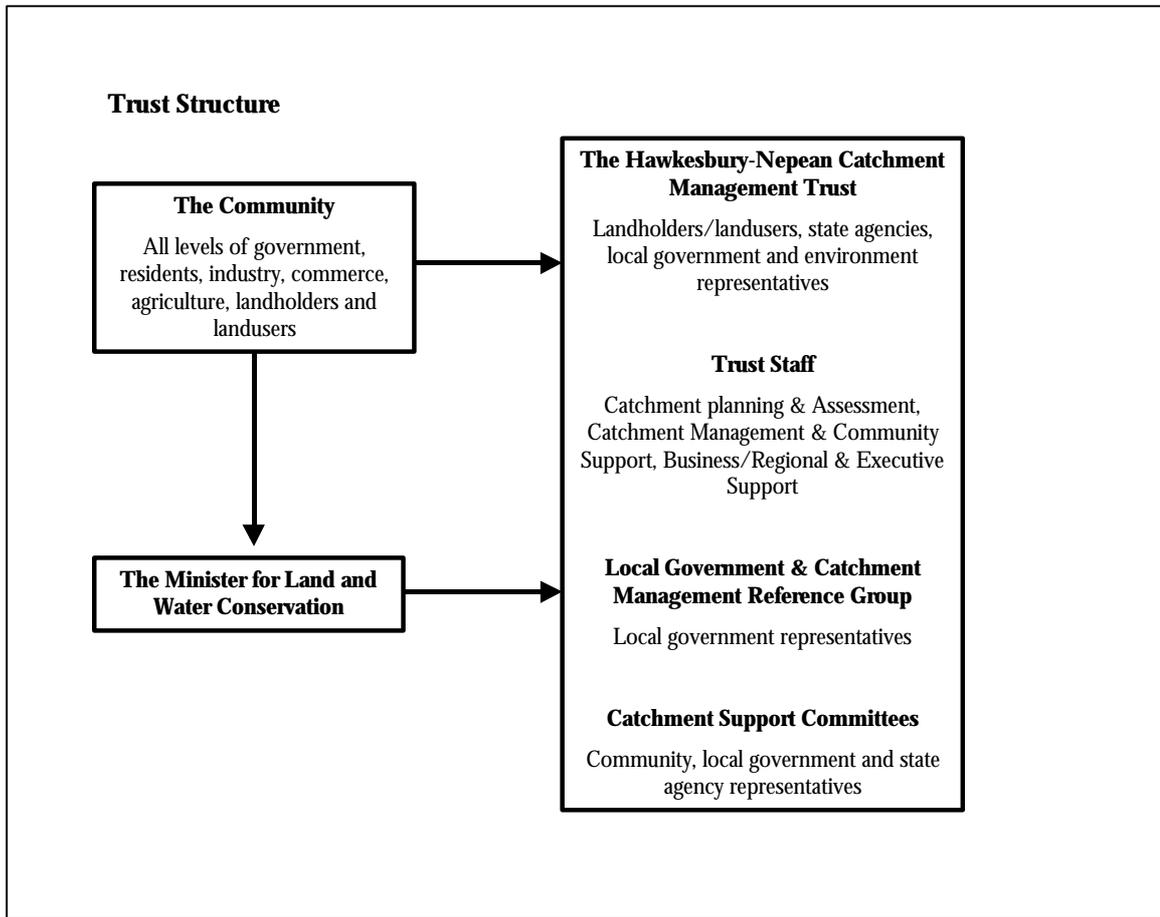
⁵⁵ Correspondence from the Hon Richard Amery MP, Minister for Agriculture, Minister for Land and Water Conservation, to the Premier, 13 March 2001, tabled in Legislative Council 7 June 2001, p 2

⁵⁶ *Hawkesbury Nepean Catchment Management Trust Business Plan 2000/2001*, Hawkesbury-Nepean Catchment Management Trust, p 11

⁵⁷ *Hawkesbury Nepean Catchment Management Trust Business Plan 2000/2001*, Hawkesbury-Nepean Catchment Management Trust, p 11

⁵⁸ *Submission No 30*, the Hon Richard Amery MP, then Minister for Agriculture, Minister for Land and Water Conservation, p 7

Figure 3.1 Trust Structure⁵⁹



⁵⁹ *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999-2000*, Hawkesbury-Nepean Catchment Management Trust, p 8

Chapter 4 Effectiveness of the Trust

This Chapter discusses the terms of reference related to the effectiveness of the Hawkesbury-Nepean Catchment Management Trust, “the Trust”, in improving the health of the Hawkesbury Nepean Catchment and the effect of Government activities on the ability of the Trust to carry out its functions. There are significant difficulties in measuring the impact of a body such as the Trust because of the complex nature of catchment management.

Views on Trust Effectiveness

Minister’s view of Trust

- 4.1** There were differing views on the effectiveness of the Trust expressed during the inquiry. In March 2001, the then Minister for Land and Water Conservation, the Hon Richard Amery MP, stated in a letter to the Premier, that:

The HNCMT (the Trust) has had only limited success in resolving the significant and long-term problems associated with the health of the river system and its catchment. Its role has been duplicated and confused as far as the community is concerned by the expansion of other institutional arrangements in the catchment such as the Sydney Catchment Authority. And, quite frankly, I believe the Trust has failed to provide value for money.⁶⁰

- 4.2** Chapter 3 discussed duplication of the Trust’s role by the Sydney Catchment Authority and noted that when the Trust regulation was amended in 1999, the Trust area was changed so that it did not overlap with that of the Sydney Catchment Authority which covers the upper part of the catchment. The Sydney Catchment Authority shares some similar functions with the former Trust such as educating the community about the catchment but, fundamentally, the role of the Authority is to manage the bulk water supply to Sydney. It is not clear what other institutional arrangements would overlap the work of the Trust.

- 4.3** The other two aspects of the Minister’s view which will be examined in this chapter are:

- the improvements to the catchment made by the work of the Trust, and
- the cost effectiveness of the Trust in performing its agreed activities.

Local government view

- 4.4** The work of the Trust was considered valuable by local government groups. For instance Dr Margaret Ferrara representing the Western Sydney Regional Organisation of Councils, (WESROC) told the committee:

⁶⁰ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture, Minister for Land and Water Conservation, to the Premier 13 March 2001, tabled in the Legislative Council 7 June 2001

The Trust was instrumental in the setting up of the original state of environment report formats for WESROC and for all of its member councils and WESROC's state of environment report I think is considered as state of the art on a State basis. It is very highly regarded. The Trust was actually one of the driving forces behind those state of the environment reports and methods. It has contributed very widely on environmental issues. Basically, when the Trust formed, the Hawkesbury-Nepean had some major problems - it still does have some major problems, but it had some extremely severe problems - and the level of awareness has risen dramatically both in the private sector and within councils so that the catchment area is now looked at very, very carefully with regard to any developments, et cetera, in council. It has had a massive effect. It was used as a resource for any council development, there was always a check-back with Hawkesbury-Nepean Catchment Management Trust on what their advice would be, what effect that would have if it was in the catchment area, so there was a very strong relationship in that regard.⁶¹

- 4.5** However Councillor Robert Bell of Gosford City Council and a former Trustee identified some initial resistance to the Trust from local government which he eventually succeeded in addressing. He also noted that the Trust had failed to take advantage of the opportunity to raise standards for soil erosion control. He stated in his submission:

Over the years of operation of the Trust there have been complaints from Trustees and community people who became Trustees about the Trust. At times I felt the Trust was being torn between the desire to make real change and the perceptions that it must respond to rising expectation of CMCs it created under no direction from Government and the need to do valuable research into the fundamentals of catchment management.⁶²

Environment Protection Authority view

- 4.6** The Committee also heard that the Environment Protection Authority (EPA) considered the Trust effective in undertaking its tasks. Mr Warren Hicks, Manager of Sydney Catchments for the EPA stated:

The EPA considers that the Hawkesbury-Nepean Catchment Management Trust played an important role in conducting education and community participation on issues affecting the Hawkesbury-Nepean catchment. The Trust was also effective in strategic planning with the development of the draft strategic plan providing a useful foundation for future catchment management action.⁶³

I think the Trust also coordinated some good programs, such as the keep soils on the site program, which was funded by the Storm Water Trust, and it coordinated

⁶¹ Evidence of Dr Margaret Ferrara, Western Sydney Regional Organisation of Councils, 3 December 2001, p 30

⁶² *Submission No 47*, Councillor Robert Bell, Gosford City Council and a former Trustee, p 6

⁶³ Evidence of Mr Warren Hicks, Manager Sydney Catchments, Environment Protection Authority, p 37

that and promoted it well. There were a number of issues, a number of pieces of work like that, which the Trust was effective in achieving.⁶⁴

Former Trustees' view

- 4.7** When asked about the effectiveness of the Trust, Mr Peter Davey, the former Chief Executive Officer, stated:

I think what needs to be borne in mind is that the Trust itself was a unique organisation. It was not a river manager, and that point needs to be made clear. It was not a management organisation. The reason why it was able to perform the role it did was because it was not burdened with or assigned the traditional management responsibilities that normally rest with local government or with State agencies. That is why it was able to maintain that independent role. So to that extent it did not have a traditional management function. It had a coordination, an advocacy function and so forth, but it delivered a whole range of programs to those organisations that did have that management role.⁶⁵

Community View

- 4.8** The committee heard from a wide range of community and environment group members that the Trust was a highly effective organisation at supporting volunteers, and at educating and empowering the community. For instance, Ms Elspeth Murphy of the Movement Opposed to Senseless Environmental Sacrilege (MOSES) described the situation experienced by the community since the Trust was abolished, stating in a submission:

We believe the abolition of the Trust has implications for the natural ecology, public health, and social wellbeing within the catchment. Its coordinating, advocacy, and advisory roles have gone – local government and the Department of Land and Water Conservation (DLWC) have other, sometimes conflicting responsibilities, and do not have the broad range of expertise the Trust encompassed....The two-way education and information exchange has gone – the news letters and forums have stopped and the Catchment Support Committees were abandoned. They have since re-formed independently, but work in isolation. Environment groups no longer have the “one stop shop” advice resource. We are back to the fragmentation of the past!...The Trust had gained the confidence of environmentalists, landowners, and industry, and received support in the form of substantial contributions and volunteer labour from these sources. This is likely to diminish or disappear.⁶⁶

- 4.9** Dr John Powell, Convenor of The Hawkesbury River Environment Protection Society (THREPS) stated in his submission:

⁶⁴ Evidence of Mr Warren Hicks, Manager Sydney Catchments, Environment Protection Authority, p 42

⁶⁵ Evidence of Mr Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 12

⁶⁶ *Submission No 19*, Ms Elspeth Murphy, Movement Opposed to Senseless Environmental Sacrilege (MOSES), p 2

There is now simply a vacuum where the Trust stood. Its expertise has been dispersed and lost, its voice as an advocate for the catchment is silent, its role as a watchdog is vacant, its monitoring tasks are no longer being carried out, its productive relationship with local government is no longer in place, and its important function as a creator and store of information has ceased. These are all highly significant losses to the catchment. As far as our Society is concerned the clock has been turned back a decade. In common with other community groups we are now obliged to rely solely upon our own very limited resources. It is undeniable that the creation of the Trust relieved community groups of a great deal of responsibility as they were able to rely upon the integrity and independence of the Trust as an advocate for the health of the catchment and, in addition, they were able to seek advice from the Trust and draw upon its expertise.⁶⁷

Impact of Trust on catchment health

4.10 There is evidence that some parts of the catchment have severe environmental problems.⁶⁸ Several submissions to the inquiry pointed out that the Trust had contributed to improvements in the Hawkesbury-Nepean catchment through encouraging revegetation of riverbanks, managing weeds and reducing the number of sources of pollution. For instance, one stated:

By the early 1990s and under the control of the Nepean-Hawkesbury Catchment Management Council, the River was in a deplorable condition. This body consisted of representatives of Local Government and operated with rather meagre manpower resources and a lack of any community involvement. Contamination was high, riverbank problems existed everywhere, development was often uncontrolled and totally uncoordinated between the many Departmental and Local Government authorities involved. The Trust was able to make substantial improvements in these and in other areas and it had gained the trust and confidence of landowners, industry and environmentalists alike. Sadly DLWC does not enjoy that confidence and more sadly the Catchment is rapidly slipping back.⁶⁹

4.11 However the committee could not locate any firm quantifiable evidence regarding the effect of the Trust's work on catchment health. This situation was exacerbated by the lack of baseline data on catchment health prior to the establishment of the Trust against which it would be possible to compare the current situation.⁷⁰

4.12 It is also hard to attribute changes in catchment health directly to the work of the Trust because, as noted in Chapter 3, the Trust did not have regulatory functions and therefore was not directly responsible for addressing such issues as reducing sources of pollution.

⁶⁷ *Submission No 16*, Dr John Powell, The Hawkesbury River Environment Protection Society, p 1

⁶⁸ *Independent Inquiry into the Hawkesbury Nepean River System: Final Report*, Healthy Rivers Commission of New South Wales, 1998, p2

⁶⁹ *Submission No 43*, Dr Max Hatherly, p2

⁷⁰ *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, May 1999, p 8

4.13 The Regulatory Impact Statement for the amendments to the Trust's Regulation in 1999 summarised further difficulties in assessing the impact of the Trust:

- There are substantial gaps in the understanding of the relationship between different actions and the resulting impacts on the environment
- There are a large number of players in the catchment and it is not easy to isolate the contributions that can be attributed to the Trust. The work of the Trust is dominated by facilitative activities; it seldom undertakes works that have a direct impact on physical changes in the catchments
- It is the nature of the Trust's work for there to be significant lags between the activities and catchment impacts
- Taking the historical situation, it is not sufficient to compare catchment conditions in 1993 (when the Trust was set up) with conditions now (in 1999), since there have been major changes in the intervening years over which the Trust has had little influence. For example the population in the catchment has increased by about 15 per cent. Natural events like a long drought or severe bush fires can also confuse the picture.⁷¹

4.14 It is more helpful in assessing the effectiveness of the Trust to examine the evidence that it was performing its defined functions.

Evidence of effectiveness of Trust in performing its functions

4.15 As noted in Chapter 3, the Trust performed a number of activities in delivering its Total Catchment Management functions. The committee heard that the Trust was highly effective and well regarded in its performance of its roles in relation to:

- Advocating the catchment,
- Forming partnerships with government and the community,
- Providing planning advice and performing its strategic planning role for the catchment,
- Establishing one of the most comprehensive networks of catchment care community groups, and
- Leveraging around \$4 of direct and in kind funding support for every dollar it received from the NSW Treasury.⁷²

Advocacy

4.16 After the Trust was given the purpose of advocating the catchment in the 1999 amendments to its regulation, it developed advocacy positions in relation to the former Australian Defence Industries site at St Marys in the South Creek catchment; the proposed

⁷¹ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999, Regulatory Impact Statement*, DLWC, June 1999, p 18

⁷² Evidence of Mr Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 3

second Sydney airport site; and for in-stream extraction of sand and gravel. In a number of submissions the Trust's advocacy role was highlighted as something essential to improving the health of the catchment. Mr Peter Davey, the former Chief Executive of the Trust emphasised the seriousness with which the Trust treated this purpose:

Recognising the enormous development pressures on the catchment and the key components of the Hawkesbury-Nepean, which are under significant environmental stress, the Trust had a strong and justifiable commitment to advocacy. This meant speaking authoritatively for, defending and promoting the Hawkesbury-Nepean in clear and public ways so as to improve its management and health.

Indeed, this advocacy role was a defined responsibility within the Trust Regulation. Moreover, it was a role that all informed sections of the community expected us to fill. The critical point for the committee to consider is that although the range of key issues raised by the trust in its advocacy role had elements of controversy, whether in relation to ADI, in stream extraction, storm water and waste water management, or the protection of aquatic habitat, the Trust formulated its responses based on the best available information in full consultation with key stakeholders and always in the interests of the Hawkesbury-Nepean.⁷³

Forming Partnerships with the community and local government

4.17 Another key strength of the Trust was in forming partnerships both with the community and various levels of government to develop programs for improving the catchment. As the former Trustees pointed out in their submission:

It is important to emphasise that such environmental degradation in the Hawkesbury-Nepean, or in any other location is caused by inappropriate behaviour on individuals, either acting alone or in groups. It can be caused by groups involved in industrial, commercial, agricultural and land development activities but also by individuals in their employment, domestic and leisure activities. Whilst government agencies and councils have achieved some level of success in modifying the behaviour of major groups involved in industrial, commercial, agricultural and land development activities, they appear to have had much less success in modifying the behaviour of individuals and small business operators in the community. Degradation caused by domestic, agricultural and commercial backyard activities is significant and poorly addressed by conventional bureaucratic processes.

Upon being set up, the Trust was able to engage closely with concerned individuals in the community and, by working through their networks, it was possible to gradually influence behavioural change in the wider community. Consequently, the Trust was able to contribute to substantial improvements in environmental quality and natural resource management. Unlike the agencies and councils, it was able to gain the trust and confidence of landowners, industry and environmentalists alike.⁷⁴

⁷³ Evidence of Mr Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 6

⁷⁴ *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 1

4.18 As Hornsby Shire Council commented in a submission to this inquiry:

The Trust through its network of Catchment Management Committees, provided the essential focus for effective liaison between all stakeholders having an influence over total catchment management. The Catchment Management Committees were particularly effective as a forum for learning and decision-making with all parties benefiting from this experience....The Trust served another important role in that it provided a focus for regular policy development which would otherwise not have been possible.⁷⁵

Effectiveness of strategic planning function

4.19 A major project of the Trust prior to its abolition was the development of a draft Strategic Plan for the lower Hawkesbury-Nepean Catchment. This was provided to the Minister in October 2000.

4.20 The committee notes that the then Minister commended this work in his press release announcing the Trust's abolition.⁷⁶ The Plan distils a complex set of issues into a comprehensive plan for all parties to work on improving catchment health. It has been highly regarded by both local government and community groups. For instance Mr Alan Stoneham, Director, City Planning for Penrith City Council was concerned that the abolition of the Trust may lead to delays in implementing the plan, stating in his submission:

Much work has gone into the preparation of this important plan for the future management of the catchment. I understand that the Department of Land and Water Conservation may now be reviewing this plan, but many of the longer-term strategic elements are being removed with the preference now being for on-the-ground works.⁷⁷

4.21 Dr John Powell of The Hawkesbury River Environment Protection Society (THREPS) suggested it was superior to any plans produced by regulatory authorities stating:

There may have been some resentment of the fact that a minor entity such as the Trust should have succeeded in producing such a plan while the agencies, as a collectivity, had failed to do so despite having had many years to address these issues.⁷⁸

⁷⁵ *Submission No 10*, Mr John Muirhead, Mayor, Hornsby Shire Council, p 1

⁷⁶ Evidence of Ms Jenny Smith, former Trustee, and Mr Peter Davey, former Chief Executive of the Trust, 3 December 2001, p 14. The Department of Land and Water Conservation has stated that they are working on recasting this plan in a way to match the guidelines for Catchment Blueprints being prepared for other catchments in the State. This process may not be a reflection on the quality of the former Trust's work in developing the draft Strategic Plan as it notes that the guidelines were developed after the Trust was well advanced in preparing its plan.

⁷⁷ *Submission No 46*, Mr Alan Stoneham, Director City Planning, Penrith City Council, p 1

⁷⁸ *Submission No 16*, Dr John Powell, The Hawkesbury River Environment Protection Society, p 1

Empowering the Community

- 4.22** The committee also heard that the Trust was particularly effective in empowering the community to work for environmental improvements by providing people with planning and other useful information. Dr John Powell of the Hawkesbury-Nepean River Environment Protection Society told the committee:

There was a proposal several years ago to build a very large development above the water near Brooklyn at Kangaroo Point, which fortunately was finally knocked back, but we were able to draw on the Trust there. The Trust was opposed to it and we were able to get a good deal of assistance from them on planning and technical matters and so on. It is very important to realise, I think, that the Trust had very considerable expertise in a number of areas, including planning, and community groups generally are not very well informed about the State's complex planning laws and a phone call often was able to give us the information that we wanted, so we found that was very important.⁷⁹

- 4.23** Some members of the community and community environment groups have told the committee how effective the Trust was in providing assistance on particular environmental issues, particularly when the regulators were not helpful in addressing concerns. For instance, the Coalition for Hawkesbury and Nepean Groups for the Environment stated in their submission that:

CHANGE has always been grateful to the Trust for the position it took on the Castlereagh Toxic Tip. The Trust was the very first public organisation to support our position that the Tip was unacceptable and lobby for its closure.⁸⁰

- 4.24** The Turnballs Arm Landcare Group told the committee they were grateful for the support of the Trust in their efforts to have authorities close down the Blaxland Ridge Sewage Ponds.⁸¹ The Trust was also commended for assisting a cut flower grower from a non-English speaking background in managing a dispute concerning damage to his property from unauthorised landfill and an inappropriately constructed dam on neighbouring land.⁸²

Cost Effectiveness/Value for money

Overheads

- 4.25** Representatives of the Department of Land and Water Conservation have provided some support for the Minister's view that the Trust did not provide "value for money". In a tabled statement Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, said that

⁷⁹ Evidence of Dr John Powell, The Hawkesbury River Environment Protection Society, 3 December 2001, pp 75-76

⁸⁰ *Submission No 24*, Coalition of Hawkesbury and Nepean Groups for the Environment (CHANGE), p 3

⁸¹ *Submission No 27*, Ms Sue Gleeson, Turnballs Arm Landcare Group

⁸² *Submission No 28*, Mr George de Pasquale, *Submission No 29*, Mr Fred Haskins, Attachment 1

the Department of Land and Water Conservation had repeatedly expressed concerns about the funding balance of the Trust:

I wish to make the point that DLWC through its Regional Director, Axel Tennie has been very clear in articulating concerns to the HNCMT Executive regarding its future directions and concerns of Government regarding the Trust's delivery of its functions....The Trust Board and its Executive considered both these documents. They flag serious concerns regarding budget bias toward overheads in favour of resource improvement initiatives.⁸³

4.26 Mr Axel Tennie, Regional Director of the Sydney South Coast for the DLWC and a former Trustee provided the committee with a number of statistics showing that in comparison to other models of catchment management, the Trust budget was skewed heavily towards salaries and overheads costs, which represented 64% and 11.4% of their Treasury allocation respectively.⁸⁴ Mr Tennie was particularly critical that the Trust established seven Catchment Management Committees within the Trust area stating:

The Trust once established took upon itself to ignore the Government's previous assessment and appointed 7 catchment management committees within creeks and tributaries of the trust's area of operation, a decision which was contrary to the Government's original decision to reject CMCs as an appropriate structure. This decision by the Trust did help it to divest itself of an embarrassment of accumulated recurrent funds in its start-up phase.⁸⁵

4.27 The committee notes that under section 13 of the *Catchment Management Act 1989*, the Minister is responsible for deciding to establish Catchment Management Committees. It is unclear how the Trust could have appointed seven CMCs without the support of the Government at the time of their establishment.

4.28 The committee also heard detailed refutation of the DLWC comments about the allocation of the Trust budget. Mr William Blunt, formerly chair of the Berowra Catchment Management Committee, stated:

At the height of probably 1996-97 we in fact had three people on staff at the Hornsby Office. One of those was Daylon Cameron, full-time coordinator for the catchment management committee. Of his time probably 70 percent was actually project related, directly related to organising, facilitating, managing on ground projects. We also had Peter Cove as a project officer. Probably 100 percent of his time was involved in similar activities, actually organising projects, actually out there in the field doing project work. We also had a secretary there supporting the catchment committee and probably 60 percent of her time was actually actively involved in managing, coordinating, facilitating projects and so

⁸³ Statement tabled by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, Department of Land and Water Conservation, 3 December 2001, p 2

⁸⁴ *Hawkesbury-Nepean Trust*, Mr Axel Tennie, Regional Director, Sydney-South Coast, DLWC, tabled by Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, Department of Land and Water Conservation, 3 December 2001, pp1-2

⁸⁵ *Hawkesbury-Nepean Trust*, Mr Axel Tennie, Regional Director, Sydney-South Coast, tabled by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, Department of Land and Water Conservation, 3 December 2001, p 3

forth, but when you read through the financial papers or the financial reports for the Catchment Management Trust in those years those salaries would probably be seen as overheads. However, most of that work undertaken by those three people was directly related to projects. So to pick up a financial report, maybe as the minister has done, would present a misleading picture of things. You actually have to hop in and see what the roles of those particular people were.⁸⁶

4.29 This interpretation was confirmed by the work undertaken by the Atech Group to support the 1999 review of the Trust's regulation. Atech analysed the costs attributed to particular Key Result Areas (KRA) in the 1998-99 Trust Business Plan:

The study team sought the Trust's response to several issues arising from this review the Business Plan. First, KRAs relating to business planning and support absorb 40 per cent of the Trust's resources. This would be excessive if it related solely to the administrative overheads of the Trust. The Trust has explained that this interpretation is wrong. It has provided alternative figuring that puts the Trust's administrative costs at about 11 per cent of the Trust's total resources. Further, this figuring has been confirmed by a recent evaluation of the Trust's corporate and administrative services by Public Works; only marginal opportunities for improvements were identified. The apparently large allocation to overheads reflects the Trust's practice of only allocating to projects such costs that can be unequivocally identified to those projects. All of the costs of business planning, reporting, management, and human resource development are reported separately. As a general rule, no more than 30-35 per cent of any staff members' time cannot be allocated to specific projects.⁸⁷

4.30 The Trust's budget covered a number of functions which would otherwise need to be performed and funded by other agencies. For instance, as the Regulatory Impact Statement for the 1999 amendments to the Regulation stated:

The Trust's income overstates the cost to the community of the Trust as some of these costs would be incurred even in the absence of the Trust. For example, CMC funding in the existing trust area comes from the Trust allocation and amounts to approximately \$1.6 million per year (this is comparable to the funding received by CMCs in other parts of the State which receive allocations from the DLWC).⁸⁸

4.31 According to a former Trustee, the Hon Kevin Rozzoli MP, the Trust contributed almost \$500,000 out of its own funding towards the formulation of the Sydney Regional Environmental Plan No 20 (No 2), a task which otherwise would have been performed by the Department of Urban Affairs and Planning. The Trust was unique in performing the regional assessment role for Natural Heritage Fund projects at no further cost to the government.⁸⁹

⁸⁶ Evidence of Mr William Blunt, Association for Berowra Creek, 3 December 2001, p 80

⁸⁷ *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, 1999, p 16

⁸⁸ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999: Regulatory Impact Statement and Proposed Regulation*, DLWC, June 1999, p 6

⁸⁹ Evidence of the Hon Kevin Rozzoli MP, Member for Hawkesbury and a Former Trustee, 3 December 2001, p 19

Managing within Budget

- 4.32** A number of submissions pointed out that the Trust was successful in keeping within its budget in contrast to the Department of Land and Water Conservation which had significant budget over runs in recent years.⁹⁰ The former Trustees' submission also noted that, as the State Treasury contribution of \$3.588 million remained at the same level over the life of the Trust, this declined in real terms and the Trust was able to take on additional functions and perform effectively within the same allocation.⁹¹

On-Ground Works

- 4.33** Previous reviews of the Trust recommended redirecting its operations towards a more strategic focus rather than involvement in on-ground project work. For instance, the Atech Group's economic analysis examined the appropriateness of the Trust's activities and found that, overall, the Trust performed well, with more than 90% of the projects meeting the study's assessment criteria. It recommended, however, that the Trust have a more strategic focus and that its role should be to coordinate, influence and integrate natural resource activities rather than undertake on-ground works.⁹²

Leverage

- 4.34** The committee heard that the Trust had significant success in leveraging both in kind and cash contributions to deliver its projects. In particular the Trust was successful in educating and motivating volunteers into how to improve the catchment. For instance one submission commented:

The Trust had a huge volunteer base of at least 7,000 volunteers. Multiply this by the networks of the volunteers, their families and their friends, and importantly, their children, and you would have some understanding of the value of this group in their efforts to improved to the health of the catchment in which they were involved. Dump this group, take away their aspirations and their hope of "being useful" in the scheme of improving the environment , and you have killed the most valuable tool the Trust had.⁹³

- 4.35** The committee notes that the Department of Land and Water Conservation disputes the estimates of the former Trust that 7,000 people were involved in Bushcare, Landcare and Streamwatch programs across the Trust area. However as 6,000 people were on the mailing list for *Riverpost*, the Trust's regular newsletter, the Trust was clearly communicating with a large number of community members.⁹⁴

⁹⁰ *Submission No 16*, Dr John Powell, The Hawkesbury River Environment Protection Society, p 1

⁹¹ *Submission No 37*, Ms Jenny Smith et al, former Trustees, pp 12-13

⁹² *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, May 1999, p 14, p2 2

⁹³ *Submission No 35*, Mrs Jean Bolton, Association for Berowra Creek, p 5

⁹⁴ Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, p 63, also p 72

4.36 The former Trustees estimated, based on estimates about the value of volunteers' labour and donated goods and funds, for every dollar the Trust received from Treasury, it received \$4.30 from the community.⁹⁵ The committee heard that the community and local businesses would be unwilling to contribute at such levels to programs managed by a government authority:

I think the special nature of the Trust which enabled it to do that leverage was because of its independent, seemingly independent, nature. It had this persona in the community and it was able to bring together a lot of different groups to do joint projects. I think the other factor which people were willing to sort of contribute to the Trust was that they knew there was an ongoing commitment there and I think the amount of money that came in was, as I say, mainly in kind, but it was because the community had confidence that those projects had a committed management, if you like.⁹⁶

4.37 In contrast, this view was disputed by Ms Susan Kemp, formerly deputy Director-General of the Department of Land and Water Conservation who stated that the Department did not consider the Trust's leveraging performance to be unusual:

Certainly we were always aware of the leverage, but then other groups across the State are also very, very successful in leveraging dollars, so it was not as though the Trust in my mind stood out any differently, bearing in mind issues of the population that had access to, the businesses it had access to, compared to say west of the Dividing Range where there is not the critical mass there.⁹⁷

Actions of the government affecting activity of the Trust

4.38 The committee did not receive much evidence regarding government actions affecting or impeding the work of the Trust. Several factors hampered the Trust in effectively carrying out its functions.

Delays in appointing new trustees

4.39 The committee heard that the Local Government and Shires Association of New South Wales was concerned that despite repeated requests, new Trustees were not appointed to fill vacancies on the Trust because of delays in government processes.⁹⁸

4.40 The committee notes with some concern that during a delay of 15 months in appointing new Trustees, local government was not formally represented on the Trust.

⁹⁵ *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, May 1999, p 13

⁹⁶ Evidence of Ms Jenny Smith, former Trustee, 3 December 2001, p 18

⁹⁷ Evidence of Ms Susan Kemp, formerly deputy Director-General, DLWC, 3 December 2001, p 46

⁹⁸ Evidence of Mr David Hale, Senior Policy Officer Water, Local Government and Shires Association of New South Wales, 3 December 2001, p 26

Removal of concurrence powers

4.41 Another aspect of government activity that may have affected the operations of the Trust was the removal of the original concurrence powers for the Trust. Some submissions have indicated that the Trust was not as effective as it might have been because the second version of the Hawkesbury Nepean Regional Environment Plan (SREP 20) was gazetted without granting the Trust concurrence powers (because of a government decision to streamline planning processes). However other submissions have stated that the Trust was able to indicate support or otherwise for proposed developments without formal powers.⁹⁹ Some submissions have pointed out that not having any regulatory powers assisted the independence of the Trust in performing its role. For example, Dr John Powell of The Hawkesbury Environment Protection Society (THREPS) stated:

Although many people, including ourselves, were disappointed that the Trust was not given any 'teeth', it may well be that this was an advantage. Lacking any regulatory powers it was not seen as being in any way threatening and could talk and work with everyone including agencies, industry, business, and the community at large. As it was not required to ensure compliance with any regulations it had to rely in persuasion and education rather than a big stick.¹⁰⁰

4.42 Another commented:

Whereas a Government department would not release information contrary to programmes they wish to proceed with, HNCMT can act independently of political programmes to involve the community in its concerns and has done without favour because of its independence.¹⁰¹

Working with multiple agencies

4.43 Many government agencies have some role in catchment management in the Hawkesbury Nepean, creating potential "turf wars". The committee heard some comments that there was some initial resistance to the work of the Trust by government authorities although over time the Trust gained the trust of agencies and was effective in working with them:

We in fact spent three to four years overcoming what is commonly called the turf protection amongst all of the agencies and so forth. Quite often the agencies would fail to attend CMC meetings. They would have constant changes in membership and so forth. They would not respond to questions. They failed to provide human resources for many of the projects and the committees and working parties and things which we were trying to establish in those early years....

I think over the last couple of years the Trust has managed to overcome a lot of problems which were inherent at the very start and we have seen the Trust now over the last couple of years in particular really start to get runs on the board and really

⁹⁹ *Submission No 12*, Ms Wendy McMurdo, Save the Hawkesbury's Unique River Environment, pp 2-3

¹⁰⁰ *Submission No 16*, Dr John Powell, The Hawkesbury River Environment Protection Society, p 2

¹⁰¹ *Submission No 2*, Mr John Phillips

start to make a significant contribution which the community, as a whole, was really starting to support. It is a great pity that has now come to an end.¹⁰²

Conclusion

- 4.44** The committee considers that it is not possible from the available information to quantify the effect of the Trust on improving the health of the Hawkesbury-Nepean catchment. Nor is it possible to quantify the impact of any other agency.
- 4.45** On the evidence it has received, the committee believes the Trust did effectively undertake its regulatory functions. It is clear that the Trust was highly effective at forming partnerships with the community and local government. It was particularly successful at motivating volunteers and raising awareness of catchment management issues in order to work towards improving catchment health.
- 4.46** The committee has received conflicting evidence on whether the Trust provided “value for money”. The committee considers that the Trust was highly successful at attracting additional financial or in-kind contributions from the Commonwealth and local governments, businesses and the community.
- 4.47** The committee has not received persuasive evidence to support the Minister’s view of the Trust regarding cost-effectiveness. The different mix of administrative costs compared to other catchment management bodies was related to the different functions it performed, particularly in relation to its managing several Catchment Management Committees and undertaking its strategic planning role. There is some evidence that this effectiveness was hindered somewhat by some activities of government such as delays in appointing new trustees and “turf wars” between agencies.

Finding 1

- (a) At the time of its abolition the Trust was performing its required regulatory roles within its budget allocation.
 - (b) The committee has received no evidence that the direct impact of the Trust, or any other agency, on the catchment can be measured.
 - (c) The committee considers that the Trust was highly successful at attracting additional financial or in-kind contributions from the Commonwealth and local governments, businesses and the community.
 - (d) Consequently, the committee finds that there was no independent evidence to support the Minister’s view that the Trust was ineffective and failed to provide “value for money”.
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¹⁰² Evidence of Mr William Blunt, Association for Berowra Creek, 3 December 2001, p 77

Chapter 5 Consultation process for abolishing the Trust

The terms of reference for this inquiry require the committee to examine the level and adequacy of the consultation undertaken on the abolition of the Trust.

This Chapter describes the process leading up to the abolition of the Trust and discusses the level of and adequacy of consultation undertaken with State and local government, the former Trustees and the community. The next Chapter considers the reasons for the abolition of the Trust.

Process of abolishing the Trust

5.1 The first written evidence of the process of abolishing the Trust available to the committee is letter of 13 March 2001 from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, to the Premier outlining his proposal to abolish the Trust. This is reproduced in full in [Appendix 5](#). In this letter Minister Amery stated:

The Chief Executive Officer of the Trust (Peter Davey) has signalled his intention to resign in early to mid-April this year. For reasons detailed herein, this occasion is a good trigger to abolish the Trust and to implement arrangements that will deliver real outcomes in terms of improving the fundamental health the river system and its catchment.

I want to emphasise that this change will also save the NSW Government in excess of \$1 million annually.¹⁰³

5.2 This was signed only six days after Mr Peter Davey, then Chief Executive Officer of the Trust, had informed the Trustees that he intended to resign.¹⁰⁴ On 3 April 2001 the Premier replied to Minister Amery's letter and agreed to his proposal.¹⁰⁵ This is also reproduced in full in [Appendix 5](#).

5.3 The first public communication about the abolition of the Trust was a press release by Minister Amery of 6 April 2001 outlining the new arrangements for catchment management in the Hawkesbury-Nepean.¹⁰⁶

5.4 On 11 April 2001, the Governor signed a proclamation under the *Catchment Management Act 1989* which abolished the Trust and transferred its assets, rights and liabilities to the

¹⁰³ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, to the Premier, 13 March 2001, tabled in the Legislative Council, 7 June 2001

¹⁰⁴ Statement by Mr Axel Tennie, Regional Director, Sydney-South Coast Office, Department of Land and Water Conservation, included with correspondence from Mr Bernie Bugden, Landscape Manager, Hawkesbury-Nepean, DLWC, to committee Director, 21 December 2001

¹⁰⁵ Correspondence from the Hon Bob Carr MP, Premier of New South Wales, to the Hon Richard Amery MP, 3 April 2001, tabled in the Legislative Council, 7 June 2001

¹⁰⁶ *Hawkesbury-Nepean Catchment Management Changes* media release, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, 6 April 2001

Department of Land and Water Conservation.¹⁰⁷ Also on 11 April 2001, Minister Amery signed letters to the former Trustees notifying them that the new arrangement for managing the catchment necessitated abolishing the Trust and thanking them for their efforts.¹⁰⁸

Level of Consultation about abolition of the Trust

Trustees, Trust staff and community groups

- 5.5** The committee was told by the former Trustees that neither they nor the Trust's staff was given any prior warning of the Trust's abolition. Nor did they have an opportunity to comment on the proposal to abolish the Trust.¹⁰⁹ Mr Peter Davey, the former Chief Executive Officer, indicated that the Trustees received no indication that the Minister was unhappy with their performance, stating in evidence:

I would say that we did not essentially have, to use your word, a conflict with Government. At least there was no indication given to the Trust, either to myself, to the chair, or to trustees, that there was a conflict of any kind on any issue. We expressed views very responsibly. Those views were taken into account, but there was never any sort of orange light go on to say from Government: Hey, you are going too far with this. You are stepping out of line.

We were always conscious that we worked within a regulation which defined our operations. We were never told that we were working outside that regulation and we were never given any feedback from the Minister or indeed from other Ministers that our work wasn't other than consistent, innovative and making a difference.¹¹⁰

- 5.6** Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean for the Department of Land and Water Conservation, implied that the Minister had earlier expressed his lack of satisfaction with the Trust's performance in delivering on-ground projects at a meeting in 1998, stating:

I understand that the former Minister, Mr Amery, had also personally expressed similar concerns to the Trust Board at a Trust meeting at Windsor, which I understand was in May 1998, in terms of distribution of dollars compared to overheads and on-ground works.¹¹¹

¹⁰⁷ *Catchment Management Act 1989 – Proclamation*, 11 April 2001

¹⁰⁸ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, to former Trustees, 11 April 2001, tabled in Legislative Council 7 June 2001

¹⁰⁹ Evidence of Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 20

¹¹⁰ Evidence of Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 12

¹¹¹ Evidence of Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean, Sydney-South Coast Region, Department of Land and Water Conservation, 3 December 2001, p 62

5.7 It would be reasonable for the Trustees to consider this advice of the Minister's concerns, expressed in 1998, would have been overtaken by the 1999 review of the Trust's Regulation (See Chapter 4).

5.8 Some of the former Trustees stated in their submission:

There was no consultation with the Trust or its staff in the decision to close the Trust. The Trust was dealt with as if it was a mere subcommittee of the DLWC, rather than a partnership with Government, appointed by the Governor.

Neither was there public consultation. This was in contrast to the very wide consultative process that occurred when the Trust was established. For a body that was essentially all about consultation, that had many strands of consultation woven through its Regulation and in many of its statutory functions, the absence of consultation seems incongruous.....No consultation was attempted with any organisation. There was no attempt to negotiate a different outcome, retaining the Trust structure and its important networking and linkage capability. Nor was there any attempt to explore different ways of operating.¹¹²

Department of Land and Water Conservation

5.9 The Hon Kevin Rozzoli MP, a former Trustee, suggested that senior levels of the Department of Land and Water Conservation must have been consulted on the decision to abolish the Trust, stating:

We have found that, in the rank and file of the Department of Land and Water Conservation, there was as much shock and surprise and dismay at what happened with the Trust as there was anywhere else and therefore the determination of this decision making process must have been at a very senior level. On the record, all people disavowed knowledge that it was going to happen, but you cannot be at that very senior level without having some very clear understanding of what was going on and I think it would be very much in the inquiry's interest to pursue that.¹¹³

5.10 However the committee heard that staff of the Department of Land and Water Conservation, who were to take over the work and staff of the Trust, were not consulted on the Trust's abolition. In particular, Ms Susan Kemp, the former deputy Director-General of the Department who was responsible for managing the implementation of the transition process, stated that the Department was not consulted and she was not aware of anyone in the Department providing advice on the costs and potential savings realisable to the Minister.¹¹⁴

5.11 Mr Axel Tennie, Regional Director of the Sydney-South Coast Office for DLWC and a former Trustee, who at times had a robust working relationship with some of the other

¹¹² *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 13

¹¹³ Evidence of the Hon Kevin Rozzoli MP, former Trustee, 3 December 2001, p 22

¹¹⁴ Evidence of Ms Susan Kemp, formerly deputy Director-General Department of Land and Water Conservation, 3 December 2001, p 54

Trustees, has stated in response to questions about whether the Department advised the Minister to abolish the Trust:

As a previous custodian of half the state's catchment management committees and the Chair and Deputy Chair of other Trusts and Committees, in particular the Hawkesbury-Nepean Flood Implementation Strategy and the Upper Parramatta River Catchment Trust I was in a position to make some comparative observations on the operational proficiency of these bodies.

While it is clear from the line of questioning that I am being targeted as the catalyst for the Trust's demise, may I say that all my verbal and written concerns regarding the Trust's high fixed cost, low discretionary mode of operations were only between the Trust's Board/Chair and me as a Trustee. This correspondence was privileged and went nowhere else.

I have never briefed anyone on closing the Trust down. In fact my internal memos to the Trust which Mr Bugden tabled at the hearing on 3 December were written 4 years ago as a Trustee who had concerns about the Trust's sustainability if it did not change focus and were based on my exposures to the modus operandi of the previously mentioned committees and Trusts on which I sat.¹¹⁵

5.12 Mr Bernie Bugden, Landscape Manager for the Hawkesbury-Nepean, Department of Land and Water Conservation, told the committee in a written statement that the Director-General did not provide any written or verbal briefing to the Minister's officer immediately prior to the decision. Nor did either the Director-General or the Regional Director provide information prior to the Minister's letter in March 2001, nor to the Premier's office prior to his agreement to the proposal in April 2001.¹¹⁶ Mr Bugden stated that he only learned of the proposal to abolish the Trust on 5 April 2001.¹¹⁷

5.13 The committee concludes that on the evidence the decision was made at a Ministerial level without direct input from the Department of Land and Water Conservation.

Consultation with other State Government agencies

5.14 It is clear that in his letter of 13 March 2001, Minister Amery sought the agreement of the Premier to his proposal to abolish the Trust. However this letter commenced with the statement:

Further to our discussion in November last year when the Statement of Joint Intent for the Hawkesbury-Nepean River System was being considered by

¹¹⁵ Correspondence from Mr Axel Tennie, Regional Director Sydney-South Coast Office, DLWC, appended to correspondence from Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean DLWC, to committee Director, 21 December 2001

¹¹⁶ Correspondence from Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean DLWC, to committee Director, 21 December 2001, p 2

¹¹⁷ Evidence of Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean, Department of Land and Water Conservation, 3 December 2001, p 60

Cabinet, I am writing to advise that I intend to abolish the Hawkesbury-Nepean Catchment Management Trust (HNCMT).¹¹⁸

5.15 This may mean that the Minister and the Premier discussed abolishing the Trust at that time. If so, no records of such a discussion were available to the committee. Alternatively, it may simply mean that the Trust's work was discussed in the context of discussing the Statement of Joint Intent.

5.16 The committee was presented with no evidence that Ministers other than the Premier were consulted on their views. The former Trustees stated in their submission that:

Neither Minister Debus nor Minister Yeadon, who were both closely involved with the Trust and had publicly expressed their appreciation for its efforts on many occasions, knew of the Minister's intentions beforehand. Neither was it put to Caucus until after the decision had been announced.¹¹⁹

5.17 The committee also heard that the staff of other agencies were not consulted. Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean for the Department of Land and Water Conservation, told the committee that:

I am advised the Department is not aware of any consultation with other State agencies with whom the Trust interacted to ascertain their views on the Trust role in catchment management and whether the Trust should continue its operations.¹²⁰

5.18 Mr Warren Hicks, Manager Sydney Catchments in the Environment Protection Authority and a former Trustee, stated in evidence that he was surprised by the Trust's abolition and was not personally consulted.¹²¹ If the Minister for the Environment was consulted there was clearly no advice sought from the staff member with the most directly relevant experience of the potential impacts of the proposal.

Local government

5.19 The committee heard that local councils in the Trust's area were also not consulted about the Trust's future. Mr Bernie Bugden told the committee that:

I am advised the Department is not aware of any consultation that took place with Local Government authorities within the Trust's area to ascertain their views as to

¹¹⁸ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation to the Hon Bob Carr MP, Premier of New South Wales, 13 March 2001, tabled in the Legislative Council, 7 June 2001

¹¹⁹ *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 13

¹²⁰ Correspondence from Mr Bernie Bugden Landscape Manager Hawkesbury-Nepean, DLWC, to committee Director, 21 December 2001, p 3

¹²¹ Evidence of Mr Warren Hicks, Manager Sydney Catchments, Environment Protection Authority, 3 December 2001, p 38

the value of the Trust's role in catchment management and whether the Trust should continue its operations, prior to the decision to abolish the Trust.¹²²

5.20 However Councillor Robert Bell of Gosford City Council and a former Trustee indicated in his submission that there may have been some speculation about the future of the Trust, commenting:

It was common knowledge that the Trust had not received word on funding up until the Trust was dissolved on the 6th of April.¹²³

5.21 Other local government representatives who were less closely connected to the Trust's operations expressed surprise at the decision. Camden Council stated in their submission that no local councils in the catchment area or local government associations, including the Trust's Local Government Reference Group had been consulted.¹²⁴ Dr Margaret Ferrara, of Baulkham Hills Council and a representative of the Western Sydney Regional Organisation of Councils, told the committee:

The abolition of the Trust was received with surprise and dismay due to the complete lack of consultation with the Trust itself, with councils, with WESROC and any other regional organisation, or the community.¹²⁵

We had no indication whatsoever prior to the abolition of the Trust. We had no indication of any concerns or issues that the Government had with the way that the Trust was managed and none had been raised with us prior to the abolition of the Trust.¹²⁶

5.22 Mr David Hale, Senior Policy Officer Water, Local Government and Shires Association indicated in evidence that the Local Government Association was not consulted in advance of the announced abolition of the Trust stating:

At its meeting of 6 April 2001 the executive of the Local Government Association considered a report that there were fears that the future of the Trust may be uncertain. The executive resolved to support the continuation of the Trust.¹²⁷

¹²² Correspondence from Mr Bernie Bugden, Landscape Manager, Hawkesbury-Nepean, DLWC, to committee Director, 21 December 2001, p 3

¹²³ *Submission No 47*, Councillor Robert Bell, Gosford City Council, p 3

¹²⁴ *Submission No 7*, Council of Camden, p 2

¹²⁵ Evidence of Dr Margaret Ferrara, Baulkham Hills Council, Representative of the Western Sydney Regional Organisation of Councils, 3 December 2001, p 25

¹²⁶ Evidence of Dr Margaret Ferrara, Baulkham Hills Council, Representative of the Western Sydney Regional Organisation of Councils, 3 December 2001, p 26

¹²⁷ Evidence of Mr David Hale, Senior Policy Officer Water, Local Government and Shires Association, 3 December 2001, p 25

Adequacy of level of consultation

5.23 The committee acknowledges that under the *Catchment Management Act 1989*, the Trust was under the control of the then Minister and he was within his powers to advise the Governor to abolish the Trust without requiring a formal consultative process.

5.24 However the committee was able to identify two impacts resulting from the lack of consultation by the Minister with his own Department, the Trustees and Trust staff, local government and the community:

- administrative problems caused by a lack of planning for transitional arrangements, and
- a reduction of the level of trust in the Minister and his Department held by the community.

Administrative arrangements

5.25 The committee notes that there was no planning for the administrative change of absorbing the Trust staff into the Department until after the Trust was abolished. As will be discussed in Chapter 7, at very short notice the Trust staff were relocated to the Department of Land and Water Conservation's Penrith office and some agreed to accept redundancy packages. As well as personal and professional upheaval, any management and administrative inefficiency caused could have been ameliorated with advance warning and time to plan properly for the change. For instance, Ms Susan Kemp, former deputy Director-General of the Department, told the committee that the Department had no analysis of the possible level of savings to be realised from the abolition of the Trust until after the abolition.¹²⁸

5.26 Other impacts included potential gaps in delivery of programs during the transition phase and a lack of information available to the public about on-going programs. These impacts will also be examined in Chapter 7.

5.27 Of particular concern is where the Trust was working with other agencies which were not given advance warning of the abolition. For instance the Trust was about to commence delivering a major stormwater education project in the Blue Mountains for the Environment Protection Authority (EPA). Mr Warren Hicks, Manager Sydney Catchments for the EPA, told the committee that alternative arrangements needed to be made for another project, stating in evidence:

The EPA worked closely with the trust on relevant issues that the EPA was developing to protect the environment. For example, the EPA has a high priority major project to develop new strategies to control diffuse source water pollution. This includes the EPA developing a pilot nutrient trading scheme for the South Creek catchment. Early in 2001 the EPA approached the Trust to determine its interest in forming a partnership with the EPA in developing the pilot nutrient trading scheme. Following discussions, the Trust agreed to help manage

¹²⁸ Evidence of Ms Susan Kemp, formerly deputy Director-General Department of Land and Water Conservation, 3 December 2001, p 52

community participation in this EPA project. The pilot scheme however will continue to be developed by the EPA. In the absence of the Trust, the EPA will be conducting the community participation in consultation with other relevant Government agencies and local councils.¹²⁹

5.28 Mr Peter Davey, the former Chief Executive Officer of the Trust, pointed out that the Trust's work was connected to and valued by other portfolios, stating in his submission:

Abolition of the Trust completely disregarded the significant recent decision by the Cabinet Standing Committee on the Environment and the support the Trust enjoyed amongst other Ministers.

I particularly note the decision by the Cabinet Standing Committee to approve a Statement of Joint Intent (SOJI) which directed key agencies and the Trust to implement a range of significant actions resulting from the Healthy Rivers Commission inquiry.....It is difficult to make sense of the abolition action in circumstances where:

- A Cabinet Committee (of which Minister Amery is a member) assigned major new responsibilities to the Trust
- Minister Debus made a substantial grant to the Trust (only days before) to develop and deliver stormwater education as part of the Government's \$15m Urban Run-off Control Program for the Blue Mountains
- Minister Kim Yeadon in his capacity as Minister for Western Sydney continually expressed support for the Trust and acknowledged its important contribution to developing community/government partnerships to improve the health of the Hawkesbury-Nepean.¹³⁰

5.29 The committee considers that it would have been preferable if agencies which worked with the Trust had been consulted or at least given advance notice in order to develop an appreciation of the impacts of the decision on their operations.

Loss of goodwill

5.30 The Trust was an organisation that operated through developing partnerships with community groups. For instance the Trust coordinated large networks of volunteers to undertake Landcare, Bushcare and Streamwatch projects. These depend on having developed a high degree of goodwill in the community. In addition, the Trustee and members of various Trust subcommittees were largely donating their time.

5.31 The committee received 45 of submissions from individuals and community environment groups who were opposed to the Minister's decision to abolish the Trust but were also particularly concerned about the lack of consultation undertaken prior to the announced

¹²⁹ Evidence of Mr Warren Hicks, Manager Sydney Catchments, Environment Protection Authority, 3 December 2001, pp36-37

¹³⁰ *Submission No 5*, Mr Peter Davey, Former Chief Executive Officer, Hawkesbury-Nepean Catchment Management Trust, p 1

abolition. Some suggested that this lack of consultation has reduced the level of trust in the government generally.

- 5.32** The committee considers that this could have been avoided if the Minister had undertaken better consultation in making the decision. As Mr Peter Davey, the former Chief Executive Officer of the Trust, told the committee:

There was certainly no consultation and from a community view it was an absolute disaster to have years of consultation to set the Trust up, to have Government appointments, Governor appointments and so forth, and then just a letter of dismissal without consultation at the end if that is the way community-Government partnerships develop, the Government needs to go back and have a much stronger look.¹³¹

- 5.33** In his letter endorsing Minister Amery's proposal to abolish the Trust, the Premier stated:

Nevertheless, I understand that the Trust is popular with its local community, and has a relatively high profile. I would ask that you manage the abolition in such a way that it is made clear to the community that the Government remains fully committed to improving the riparian health of the Hawkesbury-Nepean, and will redeploy the Trust's resources, both human and financial, to this end. In particular, I ask that you liaise closely with the relevant local council and State Government representatives, so that this message can be conveyed to the community.¹³²

- 5.34** A key part of the resources of the Trust was the goodwill it had built up with the community. The committee does not consider the former Minister followed the Premier's direction to consult the community on the abolition of the Trust. As a result the former Minister jeopardised that continued goodwill from the community of the Hawkesbury-Nepean region.

Conclusion

- 5.35** The committee concludes that the level of consultation undertaken in relation to abolishing the Trust was not adequate. Essentially the only consultation of which there is evidence was between the Minister and the Premier.
- 5.36** The committee is particularly concerned that this lack of consultation could have affected the operations of other agencies which worked with the former Trust, as well as potentially causing gaps in managing projects with other community and local government partners in the unexpected and unplanned transition phase after the Trust's abolition.
- 5.37** As noted in submissions, such abrupt decisions made in the absence of public consultation have the potential to erode trust with the community. To abolish an organisation working to bring diverse community participants together and reliant on the goodwill of parties to

¹³¹ Evidence of Mr Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 16

¹³² Correspondence from the Hon Bob Carr, Premier of New South Wales, to the then Minister for Agriculture, Land and Water Conservation, 3 April 2001, tabled in the Legislative Council, 7 June 2001

donate their time and effort to deliver the majority of projects, risks losing much goodwill in the community. Potentially this could lead to reductions in the level of improvement in the health of the catchment in the future.

- 5.38** The Department of Land and Water Conservation is to continue the Trust's work. It has to deal with community groups who are now suspicious of the Department because of a decision in which Department officers played no part. The decision to abolish the Trust was a Ministerial initiative, acting with inadequate consultation with the community, other agencies or with his own Department.

Finding 2

The committee finds that the Minister failed to consult his Department, the community or other agencies in making his decision to abolish the Trust.

Chapter 6 Reasons for the abolition of the Trust

The terms of reference for this inquiry require the committee to examine:

- the reasons for the abolition of the Trust, and
- whether any act or omission of the Trust may have impacted on the decision to abolish the Trust, and in particular the Trust's opposition to the proposed development of the ADI site at St Mary's and other major developments in the South Creek catchment of the Hawkesbury-Nepean.

Minister's reason for abolition of the Trust

Public Statements

6.1 As stated in the previous Chapter, the decision to abolish the Trust was a Ministerial initiative. On 6 April 2001, the Hon Richard Amery MP, then Minister of Land and Water Conservation, issued a press release which gave the following reasons for abolishing the Trust:

He was looking to implement more cost-effective administrative arrangements for the river system, which will free up additional money for on-ground works. This will be achieved by integrating the work of the Hawkesbury-Nepean Catchment Management Trust into the Department of Land and Water Conservation.

"The Trust has done a very good job in relation to community education and strategic planning," he said. "Now I believe it is time to hand the process over to the Department of Land and Water Conservation. More focus can then be given to implementation and on-ground activities.

"It is timely that this change occurs now as the Chief Executive Officer, Peter Davey, has signalled his intention to resign and move on."¹³³

6.2 In his letter of 13 March 2001 informing the Premier that he intended to abolish the Trust ([Appendix 5](#)), Minister Amery gave similar reasons and suggested that the way the Trust's budget was allocated was not appropriate:

The Trust's considerable resources have been substantially devoted to inappropriate staffing levels. In 1999/2000, for example, the Trust spent close to 60 per cent of its total income on salaries and wages. The Trust has in the past employed up to thirty-six equivalent full-time staff, including the Chief Executive Officer at top salary level SES 2, in seven locations across the catchment.

The annual report for 1999/2000 shows that the Trust spent \$78,654 for rent, \$69,834 for meetings, \$38,310 for cleaning, \$37,033 for insurance, \$31,400 for postage and \$23,936 for publications. Compare all of this with the very modest

¹³³ *Hawkesbury-Nepean Catchment Management Changes*, media release, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, 6 April 2001

sum of \$69,285 provided in grants to local groups for on-the-ground community projects.¹³⁴

6.3 In summary, the Minister's stated reasons for his decision to abolish the Trust at that time were:

- the opportunity to save in excess of \$1 million in administrative costs,
- the small proportion of the Trust budget spent on on-the-ground projects in contrast to salaries, and
- as described in Chapter 4, the ineffectiveness of the Trust in improving catchment health.

6.4 The decision of the Chief Executive Officer to resign in April 2001 appeared to provide a convenient trigger for the decision.

Other Reasons

6.5 The committee notes that the majority of submissions and witnesses were critical of the Minister for abolishing the Trust for these reasons. Because they did not accept the validity of the Minister's publicly stated reasons, they suggested other explanations. The most significant alternative reasons were:

- the Trust's advocacy role, particularly in relation to the former Australian Defence Industries (ADI) site at St Marys,
- the Government wanting to "dumb down" Total Catchment Management, and
- the independence of the Trust.

6.6 For instance, the Coalition of Hawkesbury and Nepean Groups for the Environment (CHANGE) suggested in their submission that the visible success of the Trust was the reason for its abolition, stating:

We suspect that the real reasons were all financial. The Government could see that the Trust was an effective model and they were being subjected to considerable pressure from Catchment Management Boards around the State for similar resources. It was easier to abolish the Trust than it was to provide effective catchment management throughout the State.¹³⁵

6.7 The Hills Greens submission was indicative of those who thought that decision to abolish the Trust was the result of the Trust's advocacy positions, particularly in relation to the proposal to redevelop the former Australian Defence Industries site at St Marys. They commented:

The timing of the closure of the Trust coincides too closely with the decision to develop the ADI site which was undertaken with consensus from the State

¹³⁴ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, to the Premier, 13 March 2001, tabled in Legislative Council, 7 June 2001

¹³⁵ *Submission No 24*, Coalition of Hawkesbury and Nepean Groups for the Environment, p 2

Government. The Trust was totally opposed to this development and had developed an Advocacy Position on the ADI site. The Trust and Trust staff were vocal in their support for the ADI Residents Action Group's activities in trying to stop the development of the site. The Kellyville/Rouse Hill development is speeding ahead with State Government approval. Many environmental issues, particularly protection of Cattai Creek, were being raised by local resident groups who were being assisted by the Trust to be heard at local and State Government level. Was this interfering with State Government's development agenda?¹³⁶

Why was the Trust Abolished?

On-ground projects

6.8 It is true that the Trust did not allocate a high proportion of its budget to direct funding of on-ground projects. The Trust's *Annual Report* of 1999/2000 identified only \$69,285 in grants to community projects, which is less than the previous year when \$117,723 was spent on such grants.¹³⁷

6.9 As early as 1997, Mr Axel Tennie, Regional Director of the Sydney-South Coast Office of the Department of Land and Water Conservation and a former Trustee, was trying to persuade the Trust to increase the level of funding spent on on-ground works. On 1 April 1997 Mr Tennie wrote to Mr Peter Davey, then Acting Chief Executive of the Trust, suggesting that the balance of the Trust's budget be altered to increase the amount of funding available for projects, commenting:

Considering that the Hawkesbury Nepean River has been studied to death (ie it is not as if we don't know what any of the problems are!), it is [incumbent] in the Trust to fundamentally review its funding mix to maximise its discretionary resource improvement dollars through joint venture/collaborative dollar multiplier initiatives which deliver incremental resource improvement. To that end it is recommended that the Trust critically re-assess its funding mix before July 1997 and devise in a new disbursement formula which redistributes our current \$3.5M budget to more appropriately reflect the river/catchment's remediation needs.¹³⁸

6.10 After the abolition of the Trust the Department of Land and Water Conservation indicated that they thought the Trust should have funded more on-ground works. For instance a Local Government representative told the committee:

¹³⁶ *Submission No 34, The Hills Greens, p 2*

¹³⁷ *Hawkesbury-Nepean Catchment Management Trust Annual Report 1999/2000, Hawkesbury-Nepean Catchment Management Trust, p 66. However this was not a consistent trend as in 1997/98, \$41,856 was spent on such community grants - Hawkesbury-Nepean Catchment Management Trust Annual Report 1998/1999, Hawkesbury-Nepean Catchment Management Trust, p 62*

¹³⁸ Correspondence from Mr Axel Tennie, Regional Director, Sydney-South Coast Office, DLWC and former Trustee, to Mr Peter Davey, former Chief Executive Officer of the Trust, 1 April 1997, tabled by Mr Bernie Bugden, 3 December 2001

We were informed by DLWC that they were setting up, or taking over the Trust in order to move into a more action oriented situation, I think is the best you could describe it. They thought that the Trust did too much in the way of research and policy and too little in the way of action.¹³⁹

6.11 Ms Susan Kemp, former deputy Director-General of DLWC also gave evidence that the Trust's work should be replaced with on-ground activity:

I guess if you look at the statistics of the funding and the way those funds were spent, that does shed some light on that. Here was an organisation that had done a very good job and a very necessary job, but it was an organisation with about 36 full-time staff, almost an equal number of temporary staff and where a lot of that investment by the Government every year was largely spent on buildings and staff and publications, at a time when there needed to be more actions on the ground and more funding provided on the ground. There was clearly an opportunity to free up some of that funding to go to local governments, and to work with local government to actually achieve greater outcomes on the ground.¹⁴⁰

6.12 Some submissions have commented (incorrectly) that the Trust was prevented by its Regulation from undertaking on-ground projects out of its own funds.¹⁴¹

6.13 However Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean for the Department of Land and Water Conservation, has suggested to the committee that because the Trust was empowered under section 27(1) of the *Catchment Management Act 1989* to undertake on-ground works it was obliged to do so.¹⁴² In subsequent correspondence in response to a question in relation to the Trust's performance, Mr Bugden stated:

The intent of the 1999 Regulation was to enhance the level of delivery of on-ground activity. This Regulation was a performance based instrument that sought to promote increased on-ground activities by targeting priority issues identified in the "strategic plan", and linking future reporting and program fine tuning to program monitoring that was linked to key environmental indicators (Clause 7(1)(f)). On ground outcomes were already supported by Section 27 of the *Catchment Management Act 1989*.¹⁴³

6.14 However the Atech Group economic evaluation of the Trust's operations, undertaken to support the DLWC review of the Trust's Regulation in 1999, pointed out that the Trust's resources were limited and should not be used in indiscriminate on-ground works:

It would be inappropriate for the Trust to persevere with a response that lacks a driver, for example on the understanding that it needs to "do what it can" or "do

¹³⁹ Evidence of Dr Margaret Ferrara, Baulkham Hills Shire Council and representative of Western Sydney Regional Organisation of Councils, 3 December 2001, p 33

¹⁴⁰ Evidence of Ms Susan Kemp, former Deputy Director General of the Department of Land and Water Conservation, 3 December 2001, p50

¹⁴¹ *Submission No 34*, The Hills Greens, p 1

¹⁴² Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, p 69

¹⁴³ Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director, 25 January 2002, p 3

its bit” however inadequate. There are two temptations that need to be resisted in this situation. The first is to attempt to ‘buy’ the cooperation of resource managers, for example, by providing seed capital or other forms of small scale subsidy. The Trust does not have the resources that would be needed to take that approach....The Trust’s activities should be a judicious mix of (a) projects to directly facilitate the adoption of improved resource management structures within the existing policy and organisational framework, and (b) activities aimed at improving the policy and organisational framework itself.¹⁴⁴

6.15 The committee notes that although the Trust was empowered under the *Catchment Management Act 1989* to undertake on-ground works, it was not obliged to devote a fixed proportion of its budget to such purposes. However, although the Trust had considerable discretion in deciding how to spend its funding, its tasks were defined in its business plan which was subject to ministerial approval. In the most recent review of the Trust’s operations, it had been criticised for directing resources to on-ground works when there were more strategic objectives to meet. It is likely there were tensions at Ministerial and Departmental level about the Trust’s priorities. However the committee did not receive persuasive evidence that the lack of on-ground works was the main reason for the Trust’s abolition.

6.16 As Mr Davey commented above, the former Trustees quite clearly considered their role to be broader than funding on-ground projects. Dr John Powell, a member of The Hawkesbury River Environment Protection Society (THREPS) also told the committee:

Our view of that, Mr Chairman, is that it is just complete nonsense, as was pointed out earlier by the Committee. It was never the trust's responsibility to engage in vast on ground works. That was DLWC and other agencies' job. We always took the view that the trust should be a strategic body that took a big picture view of the catchment, engaged in long-range thinking, looked many years ahead and so on, got agencies, councils working together and so on, which it had substantial success in doing, so this seems to be largely an invention of senior bureaucrats in DLWC.¹⁴⁵

6.17 On the basis of the evidence, the committee does not consider that the failure of the Trust to allocate its limited resources to deliver on-ground catchment management projects was a sufficient reason for it to be abolished.

Opportunity to make administrative savings

6.18 As is discussed in detail in Chapter 7, the abolition of the Trust led to immediate administrative savings of \$1 million and the Department has identified annual savings of around \$1 million. These savings arose mostly from reductions in salaries for Trust staff.

6.19 As explained in the next Chapter, the committee considers that there is sufficient evidence that cost cutting is a plausible explanation for the Minister’s decision to abolish the Trust.

¹⁴⁴ *Economic Assessment of the Hawkesbury-Nepean Catchment Management Trust*, Atech Group, May 1999, p 11

¹⁴⁵ Evidence of Dr John Powell, The Hawkesbury River Environment Protection Society, (THREPS) 3 December 2001, p 80

ADI Site and Trust's advocacy role

6.20 As noted in Chapter 3, when the Trust's Regulation was amended in 1999, it was given a new purpose of achieving a healthy and productive Hawkesbury-Nepean Catchment system by "advocating the catchment system and providing advice on the catchment system".¹⁴⁶

6.21 In a submission to this inquiry, six of the former Trustees questioned whether performing this function in relation to the proposed redevelopment of the former ADI site at St Marys contributed to the Minister's decision to abolish the Trust:

The Premier's letter of response to Minister Amery (of 3 April 2001) coincided with the Trust having just written to the Premier about the ADI site. The Trust was concerned that the release in December 2000 of the Western Sydney draft salinity hazard map demonstrated the ADI site as a high hazard. The Trust, therefore, had sought assurance from the Premier that the impacts of tree removal, increased imperviousness, and pooling of water on salinity levels on and off the ADI site had been adequately considered, especially in the light of the Premier's memorandum 2001/2. This memorandum required consideration of salinity impacts on Cabinet proposals involving natural resource management or new development. It also required discussion of any impacts in Cabinet Minutes. Had the Trust uncovered a fatal flaw in the proposal to develop the ADI site? ...There was a community expectation that the Trust had a role of "keeping the bastards honest". Perhaps the Government did not feel it sat comfortably with this level of accountability?¹⁴⁷

6.22 Maciej Jarecki, a community member, commented:

It would appear that the timing of the closure of the Trust is too closely linked to the decision to develop the ADI site to believe any of the reasons issued by Minister Amery that (a) the Trust's work was complete and (b) that only \$79,000 (sic) in on-ground works had been carried out. therefore the Trust had "not been doing its job". One has only to look at the Trust's Advocacy position on the ADI site to see that they were in conflict with government views.¹⁴⁸

6.23 The committee heard that it was inevitable that in fulfilling this purpose at times the Trust would be in conflict with government policies. Ms Elizabeth Hanlon described how the process worked in her submission:

The Trust and the South Creek Catchment Management Committee (CMC) developed an advocacy position on the redevelopment of the former ADI site which essentially stated that the site should be declared a reserve to protect and enhance the quality of the catchment and creek. This was in contrast to the State Government's decision which at the time was to prepare a Regional Environmental Plan (REP). The advocacy position was used to help support the arguments of Penrith City Council and environmental interest groups. It also resulted in significant responses from the proponents, Lend Lease, and some State and Federal Members of Parliament. In the interests of protecting the

¹⁴⁶ *Hawkesbury-Nepean Catchment Management Trust Regulation 1999, Reg 4(1)(a)(i)*

¹⁴⁷ *Submission No 37, Ms Jenny Smith et al, former Trustees, p 22*

¹⁴⁸ *Submission No 41, Maciej Jarecki, p 1*

catchment's ecological values and improving its water quality, the Trust and CMC continued to advocate for the site to be declared a reserve or do a lesser amount of development.

The Trust and South Creek CMC however also recognised that the State Government had committed to the preparation of an REP for redevelopment of the site, and as such, indicated they would continue to participate in the planning process, with the aim of achieving best environmental practice and processes.¹⁴⁹

6.24 Mr Peter Davey, former Chief Executive Office of the Trust, also stated in relation to the Trust's advocacy positions:

Well, in part of my introductory statement I did indicate that the Trust had, probably over the second half of its life, become aware of the need to speak out in informed responsible ways about important catchment health issues and had taken quite a deliberate decision that where it believed the interests of the catchment needed to be expressed in a public way that we would do that.

Where it conflicted with Government policy, it was made clear that we were expressing a view that Government may not totally agree with. Wherever possible we did not contradict Government policy. For example, I know that there has been mention made of the Trust's position on the Australian Defence Industries site. If you look carefully at our position on that, it states quite clearly that our preference was that the site be retained because of its unique environmental and ecological values.

It also said that if Government for a whole range of other reasons, decides to develop that site, it needs to be undertaken in a very strict environmentally sensitive way within a nest of integrated plans. It did not absolutely rule it out, it simply said our first preference was that the site should not be developed, but if it is going to be developed it has to be done according to very strict environmental standards and with transparency.¹⁵⁰

6.25 In subsequent correspondence Mr Davey also emphasised that the Trust acted responsibly in developing its advocacy positions. For instance it consulted with appropriate agencies:

It was a clear and absolute requirement of the Trust Board that in formulating a Trust "Advocacy Position" policy all key stakeholders must be consulted, including the provision of drafts for consideration and comment.

Given the above and the significance of ADI, the Trust would have at the very least, formally sought comments and input from DLWC, the Minister's own department.

Further it is highly likely that during briefing sessions with the Minister's advisers, both the Trust Chair and myself would have discussed ADI and the formulation of the Trust's position.¹⁵¹

¹⁴⁹ *Submission No 31*, Ms Elizabeth Hanlon, p 6

¹⁵⁰ Evidence of Mr Peter Davey, former Chief Executive Officer of Trust, 3 December 2001, p 12

¹⁵¹ Correspondence from Mr Peter Davey, former Chief Executive of the Trust, to committee Chair, 11 December 2001

6.26 In the hearing, Mr Davey indicated that the view of the Trust was closer to Penrith City Council's position of little or no development than to Blacktown City Council who supported extensive development of the St Marys site.¹⁵² However, the Hon Kevin Rozzoli MP, another former Trustee, commented that the advocacy positions taken by the Trust were explicitly non-party political:

We were very careful as a Trust to not join in what I might call the political dogfight over issues. We never went along and held up a placard that said the trust opposes the ADI. We also tried to be as objective as we possibly could on these issues, as we were with the second airport issue, which was another very big issue in the area, as we were with issues of extractive industry where we took a slightly divergent line to government agencies in some respects. But in many cases, following the consultation process between the Trust and government agencies, government agencies in fact amended the thrust of what they were doing more in line with what we were promoting than the position they started from.¹⁵³

6.27 On this basis, the committee considers that the Trust did not act outside of its powers in developing advocacy positions in relation to developments of the former ADI site at St Marys and other developments in the South Creek catchment such as the proposed second Sydney airport. It is clear that the Trust's actions in undertaking its defined purpose of advocating the catchment should not have contributed to its abolition. It is not clear from the evidence whether the Trust's advocacy did in fact contribute to its abolition.

“Dumbing Down” Catchment Management

6.28 As noted above, some submissions identified opposition to the Trust by the members of the Department of Land and Water Conservation (DLWC) as a potential factor in the Minister's decision to abolish the Trust and suggested that the Department may have even prompted the decision. It was argued that the strategic planning work and the unusual structure of the Trust enabled more sophisticated catchment management than occurred elsewhere in the State. On this argument, rather than adequately resource other areas the Minister chose to abolish the Trust. For instance Mr Max Hatherly, a highly experienced community environment group member, commented in his submission that:

The only reason I find plausible is that senior officers of the Department of Land and Water Conservation were worried about foreseen difficulties in meeting the levels of management required in the draft Strategic Plan and the increasing strength of the Trust's advocacy position in major issues such as the development of the ADI site and internal budgetary problems.¹⁵⁴

6.29 Maciej Jarecki, a community member, also commented:

¹⁵² Evidence of Mr Peter Davey, former CEO of Trust, 3 December 2001, p 21. It was put to Mr Davey that there were differing views on the ADI site among different councils, and that in particular, Blacktown Council, which adjoins the then Minister's electorate, was a strong supporter of development.

¹⁵³ Evidence of the Hon Kevin Rozzoli MP, Member for Hawkesbury and former Trustee, 3 December 2001, p 22

¹⁵⁴ *Submission No 43*, Dr Max Hatherly, p 1

Rather than any act or omission of the Trust causing its abolition, I would rather believe that Minister Amery's own department was being shown up in its failings by the work of the Trust. This is particularly so with regard to community education and awareness. The Trust has been successful on a number of occasions in working with individuals and community groups where the DLWC and NSW Agriculture have been unable to.¹⁵⁵

6.30 Dr Powell of the Hawkesbury River Environment Protection Society (THREPS) also considered it significant that the draft Strategic Plan for the Hawkesbury Nepean Catchment was delivered to the Minister shortly before the Trust was abolished. His submission stated that:

Implementation of this Plan would have wide-ranging implications for a number of government agencies and there may have been some resentment of the fact that a minor entity such as the Trust should have succeeded in producing such a plan while the agencies, as a collectivity, had failed to do so despite having had many years to address these issues.¹⁵⁶

6.31 As discussed in Chapters 4 and 7, the Trust had prepared a draft Strategic Plan for the lower Hawkesbury Nepean Catchment after lengthy public consultation. This was forwarded to the Minister who commended the Trust's achievement in performing this work in his public statements about the Trust.¹⁵⁷ After the abolition of the Trust the Department of Land and Water Conservation advised the Local Government Advisory Group on how to convert the draft Strategic Plan to a "Catchment Blueprint" similar to those being prepared by Catchment Management Boards throughout the State. The guidelines for "Catchment Blueprints" were published after the Trust's work on the draft Strategic Plan was well advanced.

6.32 The former Trustees told the committee that they were very concerned about the further revision of the former Trust's plan because the changes reduced the number of catchment targets from 13 to four and subordinate targets are reduced from 45 to 18. They considered this an oversimplification of the very complex issues in this particular catchment.¹⁵⁸ They were also very concerned that the draft Blueprint was developed without direct community consultation. Ms Jenny Smith told the committee:

Considering the mood of the community out there, to not involve the community at this stage is probably extremely unwise and I just have to leave it like that, I think. I think the process, all the hard work which has gone into determining what required actions are needed in the catchment to deliver the outcomes that everybody had agreed needed to be delivered, to jeopardise that by excluding the

¹⁵⁵ *Submission No 41*, Maciej Jarecki, p 1

¹⁵⁶ *Submission No 16*, The Hawkesbury River Environment Protection Society, p 1

¹⁵⁷ *Hawkesbury-Nepean Catchment Management Changes*, media release, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, 6 April and correspondence to former Trustees, 11 April 2001

¹⁵⁸ Evidence of Mr Peter Davey, former Chief Executive Officer of the Trust, 3 December 2001, p 14, Evidence of Ms Jenny Smith, former Trustee, 3 December 2001, p 15

community is extremely unwise. That is what the trust was good at, bringing that mixture together.¹⁵⁹

6.33 Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean for the Department of Land and Water Conservation, told the committee that this number of targets and priority actions was consistent with the number used in other Catchment Blueprints.¹⁶⁰

6.34 Mr Peter Davey, former Chief Executive Officer of the Trust told the committee this process is symptomatic of the statewide dilution of Total Catchment Management:

I guess there are a number of ways to address that. If I might perhaps make the observation, we would certainly like the Trust to be reinstated but the reality is that this Government has clearly, in our view, dumbed-down catchment management across the State. It has essentially done away with all the catchment management committees. It has got catchment management boards that are boards in name only, they are essentially advisory committees to Government. It has dumbed-down the process and it is translating what we understood to be a partnership into essentially a one-way street. It is not a partnership at all. It has dumbed-down the strategic planning process because it cannot handle too much complexity, it only wants a small number of targets to go for. In that kind of environment, I cannot see that this Government would allow the Trust to be reborn.¹⁶¹

6.35 There is no persuasive evidence that the Trust's work on strategic planning was a reason for the Trust to be abolished. The committee notes however that the Trust was a unique body in New South Wales in terms of resources and scope of functions.

Independence of Trust/ Refusal to take direction

6.36 A number of submissions have suggested that the Department of Land and Water Conservation was opposed to the Trust's existence because of its independence. For example in his submission, Dr John Powell of The Hawkesbury River Environment Protection Society (THREPS) stated:

We are at a loss to explain the Minister's decision but suspect that it may have arisen from long standing opposition to the Trust from within his own department. There are several pieces of evidence to support this view. The lengthy delay in establishing the Trust suggests that there was a reluctance on the part of some bureaucrats to welcome the creation of a body which they may have perceived as a competitor.¹⁶²

6.37 The committee heard from the Department and Land and Water Conservation that the Trust did not respond well to external change or take direction well. For instance Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean for the Department and Land

¹⁵⁹ Evidence of Ms Jenny Smith, former Trustee, 3 December 2001, p 15

¹⁶⁰ Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, Department of Land and Water Conservation, 3 December 2001, p 66

¹⁶¹ Evidence of Mr Peter Davey, former Chief Executive of the Trust, 3 December 2001, pp 22-23

¹⁶² *Submission No 16*, Dr John Powell, The Hawkesbury River Environment Protection Society, p 2

and Water Conservation, suggested in evidence that the Trust had the opportunity to take advantage of advice on guidelines for preparing “Catchment Blueprints” prior to the finalisation of the draft Strategic Plan (because some staff had attended workshops) and that the Department did not consider that the Trust had accepted this advice sufficiently.¹⁶³ However the committee notes that the Minister commended the Trust for performing its work on the draft Strategic Plan.

6.38 Mr Bugden also stated in evidence:

Despite these reviews and recommendations, the Hawkesbury-Nepean Catchment Trust, it was believed, resisted management and corporate change to some extent within itself and was not seen to be a proactive change agent for discernible incremental in a physical environment.¹⁶⁴

6.39 The Trust was an unusual organisation. Only two other catchment management Trusts were established in New South Wales: the Upper Parramatta River Catchment Trust and the Hunter Catchment Management Trust. Currently only the Hunter Catchment Management Trust remains.¹⁶⁵ In most other parts of New South Wales there are now Catchment Management Boards which replaced Catchment Management Committees. As described in Chapter 2 these organisations had fewer powers than catchment management Trusts and the Department of Land and Water Conservation provided their funding directly and supported their operations with Departmental staff.

6.40 The committee believes the independence of the Trust structure was a source of friction between it and the Department. It is not clear to what extent this contributed to the Trust’s abolition.

Lack of community/ local government support

6.41 Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean for the Department of Land and Water Conservation, suggested that there was a lack of community support for the Trust, stating in evidence:

On two occasions Government determined, with advice from DLWC, to broaden the area of operations of Hawkesbury-Nepean Catchment Management Trust to more effectively deliver its total catchment management purpose.

Following the review of TCM in New South Wales during 1998, the Government approved the Trust area of operations to be expanded include the Cox’s River and Wollondilly catchments upstream of the former trust area. Secondly, following the 1999 Hawkesbury-Nepean Catchment Management Trust Regulation Review, Government initially approved its expansion to cover the estuarine areas of Pittwater and Brisbane Waters.

¹⁶³ Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, Department of Land and Water Conservation, 3 December 2001, pp 66-67

¹⁶⁴ Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, Department of Land and Water Conservation, 3 December 2001, p 61

¹⁶⁵ The Hon Richard Amery MP, *Catchment Management Amendment Bill 2001* Second Reading Speech, 17 October 2001

On both these occasions it was the community, not State Government agencies, which pressured Government to reverse its decision.¹⁶⁶

6.42 This perspective was countered by Mr Michael Deane, of Save the Hawkesbury's Unique River Environment (SHURE), who said that what he and others had objected to was the lack of consultation:

At the time in 1999 he referred to the Brisbane Water and Pittwater CMCs. I was regional strategist for the Central Coast Regional Catchment Committee which was a precursor to the current catchment boards. We did not oppose the role of the Trust at all, and I think it is almost offensive for Mr Bugden to give that impression. What we did oppose was the lack of consultation by the Department when it made the 1999 Regulation. It is the same pattern of behaviour that we saw when the Trust was abolished. The Department appeared to be unaware of the requirements of the subordinate legislation Act which required that it consult with local government, with stakeholders in the area and so forth. We did not want Brisbane Water to be summarily included in the Trust's area because it was already part of the Central Coast Regional Catchment Committee which was already operating and it is a case of one area of the Department not knowing what the other area was doing. The Sydney-South Coast Region led by Mr Tennie, and Mr Bugden was personally involved in the regulation review, simply did not call the Hunter region, did not talk to Gosford Council and the other local government areas that would be affected, certainly did not talk to the regional catchment committee or the other CMCs. It simply announced a decision.¹⁶⁷

6.43 Mr Bugden also tabled a letter from Mr John Murphy, then President of the Coalition of Hawkesbury and Nepean Groups for the Environment (CHANGE), to the Minister for Land and Water Conservation from June 1998, as evidence that the community did not believe that the Trust was effective in delivering its functions.¹⁶⁸ Later in the hearing Mr Murphy stated that his concerns had been misrepresented:

Now the community groups did not regard the Trust process as the perfect process. They felt that changes and alterations could be made. I note that my name was quoted on an item of correspondence with the minister dating back some years where I said there were not many runs on the board. That submission to the minister was asking the minister for more funds and more teeth to get the thing moving faster. It was not a criticism of the Trust as it was then performing.¹⁶⁹

6.44 A submission to this inquiry by a community group suggested that local government bodies did not support the continued operation of the Trust and had lobbied the Minister for it to

¹⁶⁶ Evidence of Mr Bernie Bugden, Landscape Manager, Hawkesbury Nepean , DLWC, 3 December 2001, p 61

¹⁶⁷ Evidence of Mr Michael Deane, Save the Hawkesbury's Unique River Environment (SHURE), 3 December 2001, p 80

¹⁶⁸ Statement tabled by Mr Bernie Budgen, Landscape Manager Hawkesbury Nepean, Department of Land and Water Conservation, 3 December 2001, p 2 and Attachment H

¹⁶⁹ Evidence of Mr John Murphy, Movement Opposed to Senseless Environmental Sacrilege, 3 December 2001, p 75

be abolished.¹⁷⁰ However the committee was told in a statement by Councillor Robert Bell, of Gosford City Council and a former Trustee, that to his knowledge no local government body lobbied for the Trust's removal and in fact the vast majority of affected councils sought the Trust's reinstatement.¹⁷¹

- 6.45** The committee considers that there is no persuasive evidence that lack of community or local government support was a reason for the Trust's abolition. All the evidence of the inquiry has pointed to strong support from the community.

Timing

- 6.46** On 7 March 2001, Mr Peter Davey, the former Chief Executive Officer of the Trust, announced to the Trust Board that he planned to resign.¹⁷² It is clear that this was the catalyst for the Minister's decision to abolish the Trust, however, no-one has suggested that this was a reason of itself for the decision.

Conclusion

- 6.47** There have been many suggested reasons for the abolition of the Trust. The committee rules out the suggestion made by one witness that lack of community support for the Trust was a factor: to the contrary, all the evidence of the inquiry suggests the Trust had strong support within its local community. The committee is not able to conclude that other factors such as the Trust's advocacy on the ADI site contributed to its demise; nor is the committee able to rule these factors out.
- 6.48** The evidence is inconclusive on these other factors because the Minister did not seek advice from his Department, the community or other agencies in making his decision to abolish the Trust. The committee has no clear evidence of the reasons for the abolition of the Trust other than those given by the Minister in public statements and in his letter to the Premier. The committee finds that those reasons are inadequate justification for abolition of the Trust. The only possible reason of the Minister for which there is persuasive evidence is that of administrative savings (discussed in the next Chapter). However these savings have to be offset against potential decline in community and volunteer participation and the leverage of external grant funds obtained by the Trust.
- 6.49** Minister Amery no longer has responsibility for the Land and Water Conservation portfolio. As the decision to abolish the Trust was made in April 2001, it now seems more valuable to investigate what the Department and the new Minister can do to deliver best practice catchment management arrangements in the Hawkesbury Nepean. The potential effects on the catchment of the decision are discussed in Chapter 7.

¹⁷⁰ *Submission No 35*, Ms Jean Bolton, Association for Berowra Creek, p 4

¹⁷¹ *Submission No 47*, Councillor Robert Bell, Gosford City Council and former Trustee, p 4

¹⁷² Statutory declaration by Mr Axel Tennie, Regional Director, Department of Land and Water Conservation, Sydney South Coast Region, 21 December 2001, appended to correspondence from Mr Bernie Bugden Landscape Manager Hawkesbury-Nepean, DLWC, to committee Director, 21 December 2001

Finding 3

- (a) Other than savings in administrative costs, the committee does not believe that the publicly stated reasons for the Minister's decision to abolish the Trust are supported by persuasive evidence.
 - (b) The committee has insufficient evidence to determine whether there are any further reasons for the abolition of the Trust other than those publicly stated by the Minister.
 - (c) The committee has not received any persuasive evidence either to support or dispel the suggestion that the advocacy position of the Trust regarding the proposed redevelopment of the former Australian Defence Industries site at St Marys was a significant factor in the Minister's decision to abolish the Trust.
 - (d) The announcement of the resignation of the former Chief Executive Officer of the Trust was the catalyst for the Minister's decision.
-

Chapter 7 **Impact of the Trust's abolition**

The terms of reference for this inquiry ask the committee to inquire into:

- the impact of the abolition of the Trust on the environment of the Hawkesbury Nepean Catchment,
- the costs and benefits of transferring the functions of the Trust to the Department of Land and Water Conservation,
- the level of public confidence in the ability of the Department of Land and Water Conservation to carry out the functions and programs of the Trust,
- the appropriateness of the Department of Land and Water Conservation to implement the Hawkesbury Nepean Strategic Plan prepared by the Trust, and
- the appropriateness of the Department of Land and Water Conservation to fulfil the major strategic role identified for the Trust in delivering the goals of the proposed Statement of Joint Intent for the Hawkesbury Nepean River System.

This Chapter will address these terms of reference through examining the fate of the former Trust's staff, projects and funding and the current institutional arrangements for delivering Total Catchment Management in the Hawkesbury-Nepean catchment. It will then discuss the likely effectiveness of these arrangements on catchment health.

Administrative changes after abolition of Trust

Human Resources

- 7.1** As noted in Chapter 5, the Governor proclaimed the abolition of the Hawkesbury-Nepean Catchment Management Trust on 11 April 2001. Under this proclamation, the Trust's assets, liabilities and responsibilities were transferred to the Department of Land and Water Conservation.¹⁷³
- 7.2** At the time of its abolition, the Trust employed 60 staff, 28 of whom were permanent and the remainder were employed on either a temporary, casual or contract basis. The committee heard from Mr Bernie Bugden, Landscape Manager for the Hawkesbury Nepean, Department of Land and Water Conservation, that 22 of these staff were assigned to permanent positions within the Department, 18 temporary staff were employed to complete their projects and 10 former staff were retained to complete their temporary contracts. Only 10 former Trust staff were not employed by the Department and eight of these received voluntary redundancies.¹⁷⁴ According to representatives of the Department

¹⁷³ *Catchment Management Act 1989 – Proclamation*, 11 April 2001

¹⁷⁴ Evidence of Mr Bernie Bugden, Landscape Manager, Hawkesbury-Nepean, Department of Land and Water Conservation, 3 December 2001, p 61

of Land and Water Conservation, the integration of the staff of the Trust into the Department progressed smoothly. Significant efforts were made to match employees skills and aspirations with the needs of the Department.¹⁷⁵

7.3 The new arrangements abolished the Trustees' positions and there was also no longer a role for the members of the various subcommittees established by the Trust: the three Catchment Support Committees and the Local Government Reference Group.

7.4 In place of these consultative structures, the then Minister for Land and Water Conservation, the Hon Richard Amery MP, announced the appointment of a Local Government Advisory Group consisting of representatives of local governments in the Trust area to advise him on funding priorities for on-ground works and to finalise the Trust's draft Strategic Plan.¹⁷⁶ In November 2001 this group consisted of representatives from 14 local government areas.¹⁷⁷ At their first meeting in August 2001, the Group established two advisory groups mainly consisting of technical staff from Councils and the Department of Land and Water Conservation:

- the Advisory Support Group to provide expert advice on assessing catchment investment projects, and
- the Planning Support Group to review the former Trust's draft Strategic Plan.¹⁷⁸

Re-allocation of Trust funds

7.5 The committee was advised that a total of \$4.775 million of funds transferred from the Trust to the Department of Land and Water Conservation was available for catchment management projects in the Hawkesbury Nepean in 2001/02.¹⁷⁹ This amount consisted of the recurrent Treasury allocation of \$3.588 million allocated to the Trust, which will now be allocated to the Sydney-South Coast Regional Office of the Department for this purpose. In addition, at 30 June 2001, the Sydney South Coast Office received \$1.187 million which was the remaining cash balance of the Trust at 30 June 2001. This contributed to the total funding for the 2001/02 financial year of \$4.775 million.¹⁸⁰

¹⁷⁵ *Submission No 30*, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, p 7

¹⁷⁶ *Amery Re-directs Hawkesbury-Nepean Funds*, Media release, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, 30 May 2001

¹⁷⁷ *Draft Lower Hawkesbury Nepean Catchment Blueprint*, Hawkesbury Nepean Local Government Advisory Group, November 2001, p 2

¹⁷⁸ *Submission No 47*, Councillor Robert Bell, Gosford City Council, former Trustee and chair of the Local Government Support Group, p 4

¹⁷⁹ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, DLWC, 3 December 2001, p 1. \$4.96 million was transferred - \$4.775 remained after deduction of corporate expenses for the transition arrangements.

¹⁸⁰ Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director responding to questions on notice, 25 January 2002, p 11

- 7.6** The Department has supplied a summary of how these funds will be allocated which is included at **Table 7.1**.

Table 7.1 – Summary 2001/02 Budget for former Trust Programs and New Initiatives within Hawkesbury-Nepean¹⁸¹

Budget	(\$,000)
Salaries	1,819
Overheads	405
Direct Operating	2,324
Indirect Operating	227
Total	4,775

Management of Former Trust Projects

- 7.7** Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean for the Department of Land and Water Conservation, also reported that the Department was committed to undertaking many of the projects of the former Trust. These had been evaluated and were either incorporated into the Sydney South Coast Regional Business Plan or arrangements were made for their delivery by external parties.¹⁸² For example, continuing funding was provided for the Lower Hawkesbury Nepean Strategic Plan development and implementation and the Water Management Planning projects. Budget details supplied by the Department are in **Table 7.2**.

Table 7.2 Indicative 2001/02 Budget for Projects in the Hawkesbury-Nepean¹⁸³

Project Plan	(\$)
Lower Hawkesbury Nepean – Strategic Plan Development & Implementation	120,000
Lower Hawkesbury Nepean Catchment Management Program – water program implementation	278,457
Lower Hawkesbury Nepean Catchment Management Program – Biodiversity Program Implementation	228,304
Lower Hawkesbury Nepean Catchment Management Program Project Investment	886,010
Water Management Planning Lower Hawkesbury Nepean	150,000

¹⁸¹ Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director responding to questions on notice, 25 January 2002, p 11

¹⁸² Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, pp 65-66, p 68

¹⁸³ Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director responding to questions on notice, 25 January 2002, p 11

Partnerships/Landcare Lower Hawkesbury Nepean	40,000
Hawkesbury Nepean Riverbank Management Program – Section 10	80,000
South Creek - Section 10 Project	80,000
Western Sydney Salinity Hazard Mapping	136,575
Hawkesbury-Nepean River State of the Environment and Indicators	50,000
Hawkesbury-Nepean Data Collection and Management	28,343
Hawkesbury-Nepean Integrated Water Monitoring Framework	246,637
TOTAL	2,324,326

- 7.8** The Department decided that a number of some smaller projects such as the Roofs for Revegetation and Blue Mountains Drain Stencilling projects would be more appropriately delivered by other groups and arrangements have been made to this end. For instance Mission Australia is now delivering the Roofs for Revegetation project.¹⁸⁴ Mr Bugden told the committee that there was no interruption to the work because of the transition in administrative arrangements.¹⁸⁵
- 7.9** The committee has been informed that the Department plans to continue the former Trust's regional assessment role for project funding such as Natural Heritage Trust funding through the Local Government Advisory Group. It is developing a formal assessment criteria which will be linked to priorities identified in the Strategic Plan for the catchment when this is finalised. The Department also plans to provide support and assistance to community groups in preparing applications for funding as it does in other parts of New South Wales.¹⁸⁶
- 7.10** The Department will take over the former Trust's consultation role in relation to part B of the Sydney Regional Environment Plan 20 (SREP 20).¹⁸⁷
- 7.11** Some former Trustees and members of the community have expressed concern about gaps in the delivery of programs. For instance Mr John Murphy of Movement Opposing Senseless Environmental Sacrilege (MOSES) told the committee that the former Trust's efforts in addressing alligator weed had been discontinued, with potential for major negative repercussions for the turf growing industry around Richmond and Pitt Town.¹⁸⁸ Other groups were concerned about the discontinuation of the independent advocacy role undertaken by the Trust as, by definition, this is not a role for the Department of Land and

¹⁸⁴ *Submission No 30*, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, p 5

¹⁸⁵ Evidence of Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, p 69

¹⁸⁶ Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director responding to questions on notice, 25 January 2002, p 6, p 9

¹⁸⁷ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, pp 3-4, p 8

¹⁸⁸ Evidence of Mr John Murphy, Movement Opposing Senseless Environmental Sacrilege (MOSES), 3 December 2001, p 82. The committee notes that on 30 May 2001, Minister Amery has announced a grant of \$40,000 for work on combating alligator weed to be coordinated by the Department of Agriculture – Minister's media release 30 May 2001.

Water Conservation.¹⁸⁹ They argued this could have negative consequences for the environment. For instance Ms Maureen Gale stated in a submission that the Trust had been active in raising community concerns regarding approval of sandmining with Planning NSW which was the consent authority. It was unclear what organisation could take over that role in future.¹⁹⁰

Strategic Plan and Hawkesbury Nepean Statement of Joint Intent

- 7.12** The Department has advised that it is undertaking the role of the former Trust in the Statement of Joint Intent for the Hawkesbury Nepean. This included developing a Strategic Plan for the lower Hawkesbury-Nepean which took account of the Healthy River Commission's findings and incorporated an integrated approach to stormwater management.¹⁹¹
- 7.13** The former Trust's draft *Strategic Plan for the Lower Hawkesbury Nepean Catchment* has been converted to a *Draft Lower Hawkesbury Nepean Catchment Blueprint* by the Local Government Advisory Group in accordance with the guidelines for Catchment Blueprints issued by the then Minister. This is currently being considered by the Minister for Land and Water Conservation and is expected to be released for public exhibition and community consultation in March 2002.¹⁹²
- 7.14** The committee has heard that former Trustees and environment groups are concerned about the subsequent draft of the Strategic Plan as the process is less consultative than that undertaken by the former Trust. It is being managed through the Local Government Advisory Group which has no direct community representatives. Concerns were also expressed that the conversion to the same "Catchment Blueprint" format used throughout the State would oversimplify the very complex environmental management issues in the Hawkesbury Nepean.¹⁹³
- 7.15** The committee has also heard that it is not appropriate for the Department to take over the role of the Trust in implementing the plan as it was responsible for a large number of the actions. Typical comments were:

We are concerned that the removal of the Trust removes the independence of strategic planning in that catchment. We believe that DLWC has an inherent conflict of interest, if it is going to implement a strategic plan which outlines a role for it, which it does. It is responsible for over a third of the actions in the draft

¹⁸⁹ *Submission No 12, Save the Hawkesbury's Unique River Environment, p 2, Submission No 16, The Hawkesbury River Environment Protection Society, p 1*

¹⁹⁰ *Submission No 32, Ms Maureen Gale, Eastbend Rural Communications Inc, p 2*

¹⁹¹ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, p 4

¹⁹² Correspondence from Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, to committee Director responding to questions on notice, 25 January 2002, p 5

¹⁹³ Evidence of Mr Michael Deane, Save the Hawkesbury's Unique River Environment, 3 December 2001, p 76, Evidence of Mr Peter Davey, former Chief Executive of the Trust., 3 December 2001, pp 15-16

strategic plan and we believe that loss of independent auditor regulator role in the implementation of that plan is a major issue for the community.¹⁹⁴

Costs and benefits of abolition

7.16 This section examines the financial implications of the abolition of the Trust.

Savings

7.17 In his letter to the Premier of 13 March 2001 proposing to abolish the Trust, the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation stated that:

I want to emphasise that this change will also save the NSW Government in excess of \$1 million annually.¹⁹⁵

7.18 It is clear that abolishing the Trust would have led to an immediate saving of the costs of supporting the Trustees and the Catchment Support Committees. Mr Peter Davey, the former Chief Executive Officer of the Trust, estimated that the administrative and executive support components of the former Trust's budget would have cost in the order of \$900,000 of which \$300,000 was for directly supporting the Trustees and around \$480,000 was for managing the Catchment Support Committees.¹⁹⁶

7.19 On 30 May 2001, Minister Amery announced that the abolition of the Trust had enabled \$1 million of immediate one-off savings to be redirected to on-ground works in the catchment. He provided a list of approved projects totalling \$960,000 over five years which appeared to provide \$320,000 in 2001/02 and stated that the Local Government Advisory Group would discuss further allocations with the Department.¹⁹⁷

7.20 On 3 December 2001, Mr Bernie Bugden, Landscape Manager for the Hawkesbury Nepean, of the Department of Land and Water Conservation, informed the committee that the Department of Land and Water Conservation estimated that the annual level of savings realised from the abolition was \$1.055 million. These were attributed to salary savings of \$446,000 from voluntary redundancies and \$208,000 from resignations, and reductions in rent, motor vehicle and operating expenses.¹⁹⁸

¹⁹⁴ Evidence of Ms Kathryn Ridge, Executive Officer, Nature Conservation Council of NSW Inc, 3 December 2001, p 77

¹⁹⁵ Correspondence from the Hon Richard Amery MP, then Minister for Agriculture and Land and Water Conservation, to the Premier, 13 March 2001, tabled in Legislative Council 7 June 2001, p 1

¹⁹⁶ Evidence of Mr Peter Davey, former Chief Executive of Trust, 3 December 2001, p 5

¹⁹⁷ *Amery Re-directs Hawkesbury-Nepean Funds*, media release, the Hon Richard Amery, then Minister for Agriculture and Land and Water Conservation, 30 May 2001

¹⁹⁸ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean., DLWC, 3 December 2001, p 17. In subsequent correspondence Mr Bugden stated that the total cost of the eight voluntary redundancies was \$440,721 of which the Department paid leave entitlements of \$162,239 and Treasury supplied the severance component.

7.21 The committee considers that the annual level of direct savings realised could be higher than the estimated \$1.06 million, as the method of integrating former Trust staff into the Department could have led to them filling positions already funded by the Department on an on-going basis. The former deputy Director-General explained how staff were absorbed into the Department to perform functions already performed by the Department:

There was quite a significant administrative support staff in the Trust as well and some of those people left. Some of them have taken voluntary redundancy. Some of them were put into positions which were vacant positions and funded in another way. Similarly, all of the programs of the trust were reviewed, with a view to looking at where there was some potential duplication. The necessary programs continued, but some of those staff went into different areas in the Department, so they were funded from the Department's budget.¹⁹⁹

Costs

7.22 The committee has heard that the costs of transferring the functions of the Trust to the Department of Land and Water Conservation may outweigh any savings realised, particularly in the longer term. For instance, Mr Peter Davey, former Chief Executive Officer of the Trust, pointed to the level of additional financial and in-kind contributions the Trust was able to attract and stated:

Further, taking into account the trust's leveraging ratio of around four to one, it could be normally expected to add around \$10.4 million worth of additional value from the \$2.6 million of Treasury allocation.

It is our view that DLWC will have considerable difficulty in emulating that kind of leveraging on an ongoing basis. The long-term benefit of the Government's action to terminate the trust must therefore be brought into serious question.²⁰⁰

7.23 This sentiment was echoed in several submissions. For instance, Ms Elspeth Murphy of the Movement Opposing Senseless Environmental Sacrilege (MOSES) stated:

Any short term savings will be vastly outweighed by the loss of the Trust's ability to attract 3:1 external funding and in-kind contributions for on-site works. Furthermore, the Trust played a major role in prevention through its education programs. The restoration bill will be higher in the long term.²⁰¹

7.24 This view is countered by representatives of the Department of Land and Water Conservation who have told the committee that the Department will be able to attract the same level of funding as the former Trust and is supporting volunteers adequately.²⁰²

¹⁹⁹ Evidence of Ms Susan Kemp, former Deputy Director General, Department of Land and Water Conservation, 3 December 2001, p 56

²⁰⁰ Evidence of Mr Peter Davey, former Chief Executive of Trust, 3 December 2001, p 5

²⁰¹ *Submission No 19*, Ms Elspeth Murphy, Secretary, Movement Opposed to Senseless Environment Sacrifice, p 3, cf *Submission No 37*, Ms Jenny Smith et al, former Trustees, p 19

²⁰² Evidence of Ms Susan Kemp, former deputy Director-General of Department of Land and Water Conservation, 3 December 2001, p 54

- 7.25** A potentially hidden cost of the Trust's abolition is the additional work former Trust partners may need to perform in the absence of the Trust. For instance Mr Warren Hicks of the Environment Protection Authority considered that, although he could not quantify the costs, his agency now had to perform community consultations formerly conducted by the Trust.²⁰³
- 7.26** In summary, it seems that the major quantifiable benefit of the abolition of the Trust has been:
- the initial \$1.2 million in the cash balance of the Trust which was redirected to projects within the catchment; and
 - the annual savings from the salaries and other expenses of around \$1 million.
- 7.27** It is not clear to the committee whether there will be an additional \$1 million available annually for projects in the Hawkesbury Nepean or whether these savings will be used to improve the Department's budgetary situation.

Recommendation 1

The committee recommends that any annual savings in administrative overheads resulting from the abolition of the Trust be committed to expenditure on catchment management within the Hawkesbury-Nepean catchment.

Community Participation in Catchment Management

- 7.28** The committee has been told that a key issue resulting from the Trust's abolition has been a reduction in the level of community participation in catchment management which has in turn reduced the level of community confidence in the Department. In the long term this could have negative impacts on catchment health.

Reduced Representation on Consultative Structures

- 7.29** As noted above, the abolition of the Trust removed opportunities for community representation both on the Trust and on the Catchment Support Committees. When asked about current opportunities for community involvement in the Hawkesbury-Nepean catchment, Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, Department of Land and Water Conservation, identified:
- the remaining Catchment Management Committees for the Coxs and Wollondilly Rivers and the Coxs River Water Management Committee (which are outside former Trust area)

²⁰³ Evidence of Mr Warren Hicks, Manager Sydney Catchments, Environment Protection Authority, 3 December 2001, p 38

- the Hawkesbury Nepean River Management Forum, established to advise the Minister about environmental flows but not other catchment management issues, includes representatives from the Nature Conservation Council, NSW fishing clubs and the aboriginal community, and
- the Advisory Support Group for the Local Government Advisory Group which will have two suitably experienced representatives from Bushcare and Landcare Groups to assist in policy and assessment of funding.²⁰⁴

7.30 The committee notes that local government representatives are supportive of the Local Government Advisory Group and agrees that it is likely to be a successful means of coordinating local government activities within the catchment.²⁰⁵ However there needs to be opportunities for community representation more directly analogous to those available under the former Trust in order to engage directly with the community and involve them in catchment management issues.

7.31 For instance, the Association for Berowra Creek and the Hornsby Shire Council told the committee that since the abolition of the Trust there was no community involvement in overseeing the Statement of Joint Intent (SOJI) for Berowra Creek which the Trust signed in 1994. The Trust managed the inclusion of community representatives on the SOJI committee. Since the abolition of the Trust, the community had been neither consulted nor informed on the upgrading of two local sewage treatment plants by Sydney Water.²⁰⁶

Recommendation 2

The committee recommends the re-establishment of community representation so that the community can participate directly in catchment management issues in the Hawkesbury-Nepean.

7.32 The former Trustees have also advised that they have established a Hawkesbury-Nepean Catchment Foundation in an attempt to maintain their communication and support networks, however the Foundation is not resourced and may lose momentum and expertise over time.²⁰⁷

Lack of information/support for volunteers and community

7.33 The committee was told by many members of the community and the former Trustees that there had been a breakdown in support for volunteers, and in communication with

²⁰⁴ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury-Nepean, DLWC, 3 December 2001, p 15

²⁰⁵ Evidence of Mr David Hale, Australian Local Government Association, and Dr Margaret Ferrara, Baulkham Hills Shire Council and WESROC, 3 December 2001, p 29

²⁰⁶ Evidence of Mr William Blunt, Association for Berowra Creek, 3 December 2001, p 82, *Submission No 10*, Hornsby Shire Council, p 2

²⁰⁷ Evidence of Mr John Murphy, Movement Opposed to Senseless Environmental Sacrilege, 3 December 2001, p 84

community groups about such topics as available funding. For instance, Mr Michael Deane, of Save the Hawkesbury's Unique River Environment, stated in evidence that in the past Trust staff would contact his group with information about available grants and provide assistance to develop project proposals, but this no longer occurs.²⁰⁸

7.34 Mr Alan Stoneham, Director City Planning for Penrith City Council, identified effects on the level of volunteers in the catchment, stating in his submission:

There has been a loss of contact with the many community groups that the Trust had established a rapport with and supported heavily. These groups, particularly in the areas of Bushcare and Landcare received much support and training by the Trust. With the coordination of the Trust they were able to achieve far more in terms of catchment restoration projects than would have otherwise been possible. Council has received strong representations from many of these groups within the City who feel strongly aggrieved by the loss of the Trust. Council is trying to fill the void where possible, but does not have the trained staff or resources to do so.²⁰⁹

7.35 Mr John Asquith of the Central Coast Community Environment Network Inc did not consider it likely that volunteers would be as willing to work for the Department of Land and Water Conservation as they were for the Trust stating:

There is a limit to how much can be achieved by volunteers without support. Support often takes the form of coordination, technical and administrative back up. volunteers are good at planting, weeding and bush regeneration (under trained supervision). Volunteers do not want to do paperwork or apply for grants. In addition, volunteers rarely have a long-term harmonious and productive relationship with agencies such as DLWC. The reasons for this are that agencies are about control and administration on behalf of government, they are not about motivation, community involvement or accountability.²¹⁰

7.36 The former Trust Newsletter, *Riverpost*, which was distributed to 6,000 people, is no longer published, although Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean for the Department of Land and Water Conservation, told the committee that the Department planned to use the mailing list as the basis for consulting on the revised catchment blueprint.²¹¹

7.37 Ms Jenny Smith, a former Trustee, told the committee that the staff of the Department who do help community groups were under-resourced, overloaded and likely to burn out.²¹² Mr Bugden countered these comments by stating that Bushcare and Landcare are receiving the same level of support from the Department as previously from mostly the same staff and that there are more funds available for on-ground works. He advised that

²⁰⁸ Evidence of Mr Michael Deane, Save the Hawkesbury's Unique River Environment, p76

²⁰⁹ *Submission No 46*, Mr Alan Stoneham, Director, City Planning, Penrith City Council, p 1

²¹⁰ *Submission No 33*, Mr John Asquith, Central Coast Community Environment Network Inc, p 1

²¹¹ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, p 5

²¹² Evidence of Ms Jenny Smith, former Trustee, 3 December 2001, pp 8-9

the integration had been successful and volunteer numbers were increasing as new groups were formed.²¹³

7.38 Despite this, the submissions and evidence from volunteer and community groups suggest that the Department is not communicating with the community groups as well or as often as the Trust did. Over time this lessening of communication with community may lead to reduced level of volunteerism.

7.39 The committee considers that the Department should contact former Trust volunteers through the Trust's mailing lists in order to re-establish a volunteer network and to motivate volunteers to be involved in catchment management projects in the Hawkesbury-Nepean.

Recommendation 3

The committee recommends that the Department of Land and Water Conservation re-establish a volunteer network in the Hawkesbury- Nepean by:

- (a) contacting all persons on the former Trust's mailing list,
 - (b) consulting the contacts on the potential role for volunteers in catchment management, and
 - (c) developing programs to address these volunteer needs.
-

Future relationship between Department and community

7.40 A number of representatives of community groups have expressed a level of mistrust of the Department of Land and Water Conservation which may have long term deleterious impacts on the health of the catchment if it contributes to a reduction in financial and in-kind support for catchment management projects. For instance, Save the Hawkesbury's Unique River Environment (SHURE) told the committee that the Department historically "has been part of the problem, not part of the solution."²¹⁴

7.41 The Nature Conservation Council has pointed out that the consequences of abolishing the Trust was the lack of cooperation between different stakeholders stating:

Our major change since the abolition of the Trust has been an increase in workload related to supporting those groups who have decided that they need to get active again, so I guess it has had a spin-off positive in that the on-the-ground

²¹³ Statement tendered to committee by Mr Bernie Bugden, Landscape Manager Hawkesbury Nepean, DLWC, 3 December 2001, p 14

²¹⁴ *Submission No 12*, Ms Wendy McMurdo, Save the Hawkesbury's Unique River Environment, pp 3-5. Similar sentiments are expressed in *Submission No 22*, Mr Tony Ross, former Trustee, p 4, *Submission No 34*, Ms Jocelyn Howden, Convenor the Hills Greens, p 3

groups have decided that they need to be far more active and more organised, which has resulted in the establishment of the foundation, but I fear that that will result in the old dynamic where people were advocating an environment position or a landholder's position or a government position and people spent a lot of time and energy beating each other up rather than working together on an agreed strategy and way forward and that is what we have lost.²¹⁵

- 7.42** The committee notes that the strength of the Trust was its ability to form partnerships with State and local government bodies, landholders and the community. Risking these relationships may harm the health of the catchment.

Conclusion

- 7.43** The committee considers that the abolition of the Trust did result in short term savings. However over the longer term this may be offset by reductions in community involvement in the catchment. The way in which the former Minister's decision to abolish the Trust has been made has significantly damaged the ability of the local community to work co-operatively with the Department. This may be remedied if the new Minister addresses the lack of trust of the Department by the community and takes the opportunity to establish new consultative arrangements involving the community. Options for new institutional arrangements are discussed in Chapter 8.

Finding 4

The most significant impact of the Minister's decision to abolish the Trust has been to damage the relationship between the Department of Land and Water Conservation and the community within the Hawkesbury-Nepean region.

²¹⁵ Evidence of Ms Kathryn Ridge, Executive Officer, Nature Conservation Council of New South Wales Inc, 3 December 2001, p 83

Chapter 8 Options for future management of the catchment

The following chapter discusses possible responses to issues identified with the current institutional arrangements for catchment management in the Hawkesbury Nepean. As noted in the Chapter 7 there is a significant level of dissatisfaction with the lack of community representation on consultative structures for catchment management in lower Hawkesbury Nepean. There is a lack of confidence and trust by community groups in the ability of the Department of Land and Water Conservation to assist them. There are also concerns that there is no longer a body charged with advocating on behalf of the catchment. There are a few options for addressing these gaps, ranging from informal community based networks to re-establishing the Trust or a similar statutory authority.

Community partnership

- 8.1** The committee notes the suggestion of Mr Peter Davey, former Chief Executive of the Trust, that from a community perspective it would be better for groups to advocate the catchment without being dependent on Treasury funds. Such a model would lead to a truly independent catchment advocate.²¹⁶
- 8.2** However the following view from Dr John Powell of The Hawkesbury River Environment Protection Society (THREPS) provides a good indication of the risks inherent in this approach:
- Well, you have to, it seems to me, set up a body which is completely independent that somehow tries to raise funds and tries to lobby and do what it can drawing on academic and what other expertise can be got, but in the long-run I mean the Government has got to come back on side again. You cannot have an immensely complex catchment like the Hawkesbury-Nepean being run by a bunch of part-time amateurs and so the problem that we face or all the community groups face is how do we get the Government to come back in and support?²¹⁷
- 8.3** The Department of Land and Water Conservation could work on developing its relationship with community groups by providing seed funding for projects as well as a forum for networking. The committee notes that the Strategic Projects Division of the Premier's Department has established a similar process for building partnerships with a range of social, regional and environmental community groups.²¹⁸
- 8.4** However the committee considers that without any specific institutional responsibility or formal consultative role, this model would have limited usefulness. The primary benefit would be improving communication between community groups and assisting environmental education.

²¹⁶ *Submission No 5*, Mr Peter Davey, former Chief Executive Officer of the Trust, p 3

²¹⁷ Evidence of Dr John Powell, The Hawkesbury River Environment Protection Society, 3 December 2001, p 85

²¹⁸ <http://www.communitybuilders.nsw.gov.au/site/#Heading1> accessed 15 February 2002

Catchment Management Board

- 8.5** As noted in Chapter 6, the structure of the former Trust was unusual. However in other parts of the state there are opportunities for community involvement as Ministerial appointees on the 18 Catchment Management Boards established under the *Catchment Management Act 1989*. It would be possible to establish a Catchment Management Board for the Hawkesbury-Nepean catchment in the former Trust area.
- 8.6** The Committee considers that this option is preferable to the current situation as it would directly involve community representatives in developing and implementing a strategic plan. However it would not address the issue of advocating the catchment and, as noted by Mr Peter Davey, the former Chief Executive Officer of the Trust, these “Boards” are constituted as advisory committees to the Minister rather than having real powers.²¹⁹

River Manager

- 8.7** A more formal option for addressing the removal of the Trust’s advocacy role would be establishing a River Manager similar to that envisaged by the Healthy Rivers Commission inquiry into the Hawkesbury Nepean in 1998.²²⁰ The Healthy River Commission report noted that despite the large number of bodies responsible for some parts of the catchment, no one body was accountable for all of it. A further disadvantage of the current arrangements is that with projects being managed by diverse government agencies such as the Environment Protection Authority, the Department of Agriculture and the Department of Land and Water Conservation, there is a risk that integrated management of the catchment could be lost.
- 8.8** This could be addressed by the River Manager role, which the Healthy Rivers Commission described as needing sufficient independence and power to influence government agencies and to create and implement incentives for local government to discharge their responsibilities. However the appointment of a River Manager would still leave a gap. The River Manager would not directly reflect the Trust’s role of coordinating and networking community groups.

Recommendation 4

The committee recommends that a River Manager for the Hawkesbury-Nepean Catchment be appointed to assist with the co-ordination of the many government agencies which have responsibilities within the catchment.

²¹⁹ Evidence of Mr Peter Davey, former Chief Executive of the Trust, 3 December 2001, p22

²²⁰ *Independent Inquiry into the Hawkesbury Nepean River System Final Report*, Healthy Rivers Commission of New South Wales August 1998, p 44

Re-establishing the Trust

- 8.9** The committee acknowledges that the Government has the duty to use public money in the most effective manner possible. However the committee also considers that the Trust was performing several functions which were great benefit to the community and the environment, and which are no longer provided. The removal of the Trust has left gaps in the administration of catchment management, in advocating the catchment and in including community involvement in total catchment management.
- 8.10** The committee considers that best options for addressing these gaps and to restore the community's support for catchment management would be to establish another Trust-like institution with similar responsibilities.
- 8.11** The key difference should be that both the new Minister and the new Trust should have clearly defined expectations of the Trust's role including what is meant by "advocating the catchment" and the level of funding that should be dedicated to on-ground works. The committee considers that the appropriate responsibilities and performance requirements and level of resources required should be established in consultation with all stakeholders in the Hawkesbury-Nepean catchment, including State and local government bodies and the community.
- 8.12** In addition, in order to remove the possibility of any future Trust being abolished by a Ministerial decision without consultation, consideration should be given to establishing a new Trust under a separate Act rather than as a Regulation under the *Catchment Management Act 1989*.
- 8.13** The committee considers re-establishing the Hawkesbury Nepean Catchment Management Trust would help restore faith with the local communities, which have been very disappointed by the haste and lack of consultation of the former Minister in abolishing the Trust.

Recommendation 5

The committee recommends that the Government consult with appropriate State and local government bodies and the community in order to establish a new Catchment Management Trust for the Hawkesbury-Nepean which should:

- include the best features of the former Trust,
 - have clearly defined responsibilities and performance requirements,
 - be provided with adequate resources, and
 - be established by a separate Act rather than by a Regulation.
-

Appendix 1

Submissions

Submissions to Inquiry

No	Author
1.	Ms Noela Jones
2.	Mr John Phillips
3.	Mr Ronald Bastian
4.	Mrs Maureen Harper
5.	Mr Peter Davey, PC Davey Consulting
6.	Mr Alex Colley, Hon Secretary, Colong Foundation for Wilderness
7.	Sheridan Dudley, General Manager, Council of Camden
8.	CONFIDENTIAL
9.	Ms Margot White
10.	Mr John Muirhead, Mayor, Hornsby Shire Council
11.	Mr Jonathon Sykes
12.	Ms Wendy McMurdo
13.	CONFIDENTIAL
14.	Councillor Cecilia Anthony, Vice President and Spokesperson for Environmental Management, Western Sydney Regional Organisation of Councils Limited
15.	CONFIDENTIAL
16.	Dr John Powell, Coordinator, The Hawkesbury River Environment Protection Society
17.	CONFIDENTIAL
18.	Ms Marjory Heath
19.	Ms Elspeth Murphy, MOSES
20.	Mr George Harris, Thornleigh/ Normanhurst Residents Association
21.	CONFIDENTIAL
22.	Dr Tony Ross, community representative, HNCMT
23.	Mr John Murphy
24.	Coalition of Hawkesbury and Nepean Groups for the Environment Inc (CHANGE)
25.	Ms Elspeth Murphy
26.	Mr Keith Hart
27.	Ms Sue Gleeson, Turnbolls Arm Landcare Group
28.	Mr George de Pasquale
29.	Mr Fred Haskins

-
30. The Hon Richard Amery MP, then Minister for Agriculture, Minister for Land and Water Conservation

 31. Ms Elizabeth Hanlon

 32. Ms Maureen Gale, Secretary, Eastbend Rural Communications Inc.

 33. Mr John Asquith, Chairman, Central Coast Community Environment Network Inc

 34. Ms Jocelyn Howden, Convenor, The Hills Greens

 35. Mrs Jean Bolton, Secretary, Association for Berowra Creek Inc.

 36. Ms Patricia Clay, Secretary, Round Corner Village Resident's Association Inc

 37. Ms Jenny Smith (and five other former Trustees) HNCMT

 38. Ms Rosie Meharry

 39. Ms Lisa Sinclair, President, Mulgoa Valley Landcare Group

 40. Ms Helen Hillier, formerly of Department of Local Government

 41. Maciej Jarecki

 42. Mr James Baxter

 43. Dr Max Hatherly

 44. Mr Mick Hillman

 45. Ms Rachel Walmsley, Environment Liaison Officer, Environment Liaison Office

 46. Mr Alan Stoneham, Director, City Planning, Penrith City Council

 47. Councillor Robert Bell, Gosford City Council and former Trustee

Appendix 2

Witnesses at Hearing

3 December 2001

Witnesses at Hearing – 3 December 2001

Name	Position	Organisation
Hon Kevin Rozzoli MP; Member for Hawkesbury	Former Trustee	Hawkesbury-Nepean Catchment Management Trust
Dr Tony Ross	Former Trustee	Hawkesbury-Nepean Catchment Management Trust
Mr Peter Davey	Former Trustee and Chief Executive Officer	Hawkesbury-Nepean Catchment Management Trust
Ms Jenny Smith	Former Trustee	Hawkesbury-Nepean Catchment Management Trust
Mr Alasdair Guthrie	Former Trustee	Hawkesbury-Nepean Catchment Management Trust
Mr Warren Hicks	Manager, Sydney Catchment	Environmental Protection Authority
Mr David Hale	Senior Policy Officer, Water	Local Government and Shires Associations
Dr Margaret Ferrara	Board Member	Western Sydney Regional Organisation of Councils
Colin Kandan-Smith	Senior Project Officer Environment	Western Sydney Regional Organisation of Councils
Ms Susan Kemp	Consultant	formerly Deputy Director-General DLWC
Mr John Murphy	Representative	Movement Opposed to Senseless Environmental Sacrilege (MOSES)
Dr John Powell	Convenor	The Hawkesbury River Environment Protection Society (THREPS)
Mr Michael Deane	Representative	Save the Hawkesbury's Unique River Environment (SHURE)

Mr William Blunt	Representative	Association for Berowra Creek
Ms Kathryn Ridge	Executive Officer	Nature Conservation Council of NSW Inc
Mr Bernie Bugden	Landscape Manager, Hawkesbury- Nepean	Department of Land and Water Conservation

Appendix 3

Minutes of the Proceedings

Minutes No. 70

Monday 12 March 2002

At Parliament House (Room 1136) at 9.45am

1. Members present

Mr R Jones (Chair)
Ms Burnswoods
Ms Fazio
Mr Jobling (Mr Pearce after 10.00 am)
Mr Colless (Mr Ryan after 10.00 am)
Mr M Jones

2. Apologies

Ms Saffin

3. Inquiry into Feral Animals

The committee discussed its future plans for the inquiry.

Resolved, on the motion of Mr Colless, that in order to better inform all those who are participating in the inquiry process, the committee make use of the powers granted under paragraph 8(e) of the resolutions establishing the Standing Committees, and section 4(2) of the *Parliamentary Papers (Supplementary Provisions) Act 1975*, to publish submissions received for the inquiry, excluding those for which confidentiality had been requested.

4. Confirmation of minutes

Resolved, on the motion of Ms Burnswoods, that: the minutes of meeting numbers 66, 67, 68, and 69 be confirmed.

Mr Colless and Mr Jobling left the room to be replaced by Mr Pearce and Mr Ryan.

5. Inquiry into Hawkesbury-Nepean Catchment Management Trust

5.1 Consideration and Tabling of Chair's Draft

The Chair submitted his draft report entitled "Abolition of the Hawkesbury Nepean Catchment Management Authority" which, having been circulated to each member of the committee, was accepted as being read.

The committee proceeded to consider the draft report.

Chapter 1 read

Resolved, on motion of Mr Ryan, that Chapter 1 be adopted.

Chapter 2 read.

Resolved, on motion of Mr Ryan, that Chapter 2 be adopted.

Chapter 3 read.

Resolved, on motion of Mr Ryan, that Chapter 3 be adopted.

Chapter 4 read

The Committee deliberated.

Resolved, on the motion of Mr Ryan, that the first sentence of 4.46 be replaced with the following:

The Committee has received conflicting evidence on whether the Trust provided “value for money”.

Resolved, on the motion of Mr Ryan, that the chapter up to and including paragraph 4.47 be adopted as amended.

Resolved, on the motion of Mr Ryan, that the words “ no evidence to support” in Finding 1(d) be replaced with:

that there was no independent evidence to support

Mr Ryan moved: That Finding 1 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Resolved, on motion of Mr Ryan, that Chapter 4 be adopted, as amended.

Chapter 5 read

The Committee deliberated.

Resolved, on motion of Mr Ryan, that Chapter 5 up to and including paragraph 5.38 be adopted.

Mr Ryan moved: That Finding 2 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Resolved, on motion of Mr Ryan, that Chapter 5 be adopted.

Chapter 6 read

The Committee deliberated.

Resolved, on the motion of Mr Ryan, that Chapter 6 up to and including paragraph 6.49 be adopted.

Mr Ryan moved: That Finding 3 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Resolved, on motion of Mr Ryan, that Chapter 6 be adopted.

Chapter 7 read

The Committee deliberated.

Mr Pearce moved: That Recommendation 1 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Mr Pearce moved: That Recommendation 2 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Mr Pearce moved: That Recommendation 3 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Mr Ryan moved: That Finding 4 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio

Mr R Jones
Mr M Jones

Question resolved in the affirmative.

Resolved, on motion of Mr Ryan, that Chapter 7 be adopted.

Chapter 8 read

The Committee deliberated.

Mr Pearce moved: That Recommendation 4 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Mr Ryan moved: That Recommendation 5 be adopted.

Question put.

The Committee divided.

<u>Ayes</u>	<u>Nos</u>
Mr Ryan	Ms Burnswoods
Mr Pearce	Ms Fazio
Mr R Jones	
Mr M Jones	

Question resolved in the affirmative.

Resolved, on motion of Mr Ryan: that Chapter 8 be adopted.

The Committee deliberated.

Resolved, on the motion of Mr Ryan, that dissenting statements relating to the report be provided to the Committee Secretariat no later than 12.00 pm Tuesday 12 March 2002.

Resolved, on the motion of Mr Ryan, that the report as amended, be the report of the Committee and that it be signed by the Chair and presented to the House.

Resolved, on the motion of Mr Ryan, that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the report, submissions, corrected transcript, answers to questions on notice and related documents and material with the exception of documents identified as “private and confidential” or “not publicly available”.

5.2 Request for Viewing of in camera evidence

The Committee deliberated.

Resolved, on the motion of Mr Ryan, that the Committee agree to the request from Mr Bugden, Department of Land and Water Conservation, to permit the Director General and the Regional Director to read his in camera evidence.

6. Government Responses to previous Reports

The committee deliberated.

Resolved, on the motion of, Mr M Jones, that the Chair move in the House that, in regard to General Purpose Standing Committee No5 tabled reports numbers 10 (Oils Spills), 13 (Biosolids) and 14 (Hawkesbury-Nepean):

1.
 - a) The Clerk of the House is to refer the report to the Leader of the Government in the House who must within 6 months of a report being tabled, report to the House what action, if any, the Government proposes to take in relation to the recommendations of the Committee.
 - b) If, at the time at which the Government seeks to report to the House, the House is not sitting, a Minister may present the response to the Clerk of the House.
2. A response presented to the Clerk is:
 - a) on presentation, and for all purposes, deemed to have been laid before the House
 - b) to be printed by authority of the Clerk
 - c) for all purposes deemed to be a document published by order or under the authority of the House, and
 - d) to be recorded in the Minutes of the Proceedings of the House
3. The President is to report to the House when any Government response has not been received within the 6 month deadline.

7. General Business

The Committee noted the correspondence received from the Hon Kevin Rozzoli MP regarding the Hawkesbury Nepean Catchment Management Trust.

8. Adjournment

The meeting adjourned at 10.45 am until 25 March 2002, Parliament House.

Steven Reynolds
A/Director

Appendix 4

Hawkesbury-Nepean Catchment Management Trust Regulation 1999

(Repealed 11 April 2001)

Trust 1999 Regulation



1999 No 488

Hawkesbury-Nepean Catchment Management Trust Regulation 1999

Contents

- 1 Name of Regulation
- 2 Commencement
- 3 Definitions
- 4 Total catchment management purposes of Trust
- 5 Trust area
- 6 Functions relating to strategic planning
- 7 Additional functions
- 8 Repeal

Notes

- Table of amending instruments
- Table of amendments

Hawkesbury-Nepean Catchment Management Trust Regulation 1999

1 Name of Regulation

This Regulation is the *Hawkesbury-Nepean Catchment Management Trust Regulation 1999*.

2 Commencement

This Regulation commences on 1 September 1999.

3 Definitions

(1) In this Regulation:

(_) **annual report** of the Trust means the annual report of the Trust under the *Annual Reports (Statutory Bodies) Act 1984*.

(_) **strategic plan** means the plan referred to in clause 6.

(_) **the Act** means the *Catchment Management Act 1989*.

(_) **Trust** means the Hawkesbury-Nepean Catchment Management Trust.

(2) The explanatory note and table of contents do not form part of this Regulation.

4 Total catchment management purposes of Trust

(1) For the purposes of section 26 of the Act, the total catchment management purposes of the Trust are as follows:

(a) to achieve a healthy and productive Hawkesbury-Nepean catchment system by:

(i) advocating the catchment system and providing advice on the catchment system, and

(ii) encouraging the protection, and where appropriate, the restoration of the catchment system, and

(iii) promoting and facilitating the ecologically sustainable use, development and management of natural resources, the flood plain and the built environment, and

(iv) fostering orderly and proper physical, environmental and socio-economic planning and management as the basis for the well-being of the people and all life within the Trust area, and

(v) creating community awareness of, and participation in, total catchment management,

(b) to co-ordinate activities relating to total catchment management in the Trust area.

(2) The total catchment management purposes of the Trust are to be carried out in a manner that is consistent

with and promotes the principles of ecologically sustainable development within the meaning of the *Local Government Act 1993*.

5 Trust area

- (1) The area in respect of which the Trust is established is:
 - (a) the whole of the Nepean River system and catchment (excluding the catchment area above Pheasants Nest Weir and Broughtons Pass Weir), and
 - (b) that part of the Hawkesbury River system and catchment below the wall of the Warragamba Dam (excluding Brisbane Water, Pittwater and the catchment for the Lake Medlow and Greaves Creek Dams, the Lower, Middle and Upper Cascade Creek Dams and Woodford Creek Dam),
being the area shown on the map (catalogue GS 846) held in the office of the Trust.
- (2) The map may be inspected by any person free of charge at any time when the office is open.

6 Functions relating to strategic planning

- (1) The Trust has the following functions:
 - (a) to prepare a strategic plan for the Trust area,
 - (b) to submit the strategic plan before 1 September 2000 for the approval of the responsible Minister,
 - (c) to review the strategic plan, once it is approved by the responsible Minister, on an annual basis and to make recommendations to the responsible Minister in relation to any proposed changes to the plan,
 - (d) to co-ordinate the implementation of the strategic plan in the Trust area,
 - (e) to report on the implementation of the strategic plan in its annual report.
- (2) The strategic plan is to be prepared in consultation with such government agencies, local government councils or members of the community (including Aboriginal communities), or with such other persons, groups or bodies, as the Trust considers appropriate.

- (3) The functions referred to in this clause are prescribed for the purposes of section 27 (1) (h) of the Act.
- (4) Nothing in this clause affects the requirements under the Act in relation to the corporate plan of the Trust.

7 Additional functions

- (1) The Trust has the following functions:
 - (a) to engage in such educational, marketing, conflict mediation and other activities as are described in the strategic plan,
 - (b) to give advice on, and make representations in respect of, the development of:
 - (i) any environmental planning instrument under the *Environmental Planning and Assessment Act 1979* that relates to the Trust area, and
 - (ii) any other statutory instrument, or legislative proposal, that relates to natural resource and environmental management in the Trust area,
 - (c) to provide assistance to the consent and determining authorities that are responsible for granting development consent or other approvals in relation to development or activities in the Trust area (such as providing advice on any consent guidelines and model approval conditions),
 - (d) to facilitate and coordinate the monitoring and evaluation of the state of natural resource and environmental management in the Trust area,
 - (e) to prepare a report every 4 years (the **state of the environment report**) on the state of natural resources in the Trust area and the environmental and catchment management conditions in the Trust area,
 - (f) to ensure that the state of the environment report includes, without limiting the range of matters to be included in the report, the following matters:
 - (i) the extent of natural vegetation in the Trust area,

- (ii) the extent and type of development on the floodplain up to the limit of the 1 in 100 year flood level,
- (iii) the amount of water removed and returned under licence each year in the Trust area,
- (iv) the amount of blue-green algae outbreaks, and the extent of water pollution, in the Trust area,
- (g) to prepare the state of the environment report in conjunction with the reports prepared under section 428 (2) (c) of the *Local Government Act 1993* by the local government councils in the Trust area,
- (h) to provide the state of environment report to the responsible Minister, and to make it publicly available when it is approved by the responsible Minister,
- (i) to facilitate and coordinate the assessment and evaluation (by government agencies, local government councils, members of the community, including Aboriginal communities, and other relevant persons and bodies) of catchment conditions in the Trust area,
- (j) to make recommendations that are consistent with its total catchment management purposes to government agencies, local government councils, members of the community (including Aboriginal communities) and other relevant persons and bodies,
- (k) to develop, with government agencies, local government councils, members of the community (including Aboriginal communities) and other relevant persons and bodies, collaborative ventures that are designed to contribute to the objectives of total catchment management,
- (l) to facilitate co-operative natural resource outcomes in the Trust area in accordance with the strategic plan,
- (m) to promote investment in natural resource and environmental management in accordance with the strategic plan,
- (n) to maintain effective liaison with government agencies, local government councils, members of

the community (including Aboriginal communities) and other relevant persons and bodies,

- (o) to report to the responsible Minister each year in its annual report on the Trust's role in improving the responsibility of government agencies, local councils and relevant persons and bodies in meeting the objectives of total catchment management,
 - (p) to report to the responsible Minister each year in its annual report on its performance over the year (as measured against such indicators as are agreed on by the Minister and the Trust).
- (2) The functions referred to in this clause are prescribed for the purposes of section 27 (1) (h) of the Act.

8 Repeal

- (1) The *Hawkesbury-Nepean Catchment Management Trust Regulation 1993* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Hawkesbury-Nepean Catchment Management Trust Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

Notes

The following abbreviations are used in the tables of amending instruments and amendments:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cl1	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments

Hawkesbury-Nepean Catchment Management Trust Regulation 1999 published in Gazette No 101 of 1.9.1999, p 8018 and amended in Gazette No 126 of 5.11.1999, p 10405.

Table of amendments

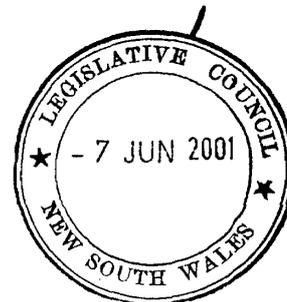
C1 5

Am 5.11.1999.

Appendix 5

Correspondence between Minister Amery and Premier

Letters of 13 March 2001 and 3 April
2001



Minister for Agriculture
Minister for Land and Water Conservation

D01/1562
(97120)

The Hon R J Carr MP
NSW Premier, Minister for the Arts and
Minister for Citizenship
Level 40 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

COPY

13 MAR 2001

URGENT
Attention: Mr Rob Griggs

Dear Mr Carr

Further to our discussion in November last year when the Statement of Joint Intent for the Hawkesbury-Nepean River System was being considered by Cabinet, I am writing to advise that I intend to abolish the Hawkesbury-Nepean Catchment Management Trust (HNCMT).

The Chief Executive Officer of the Trust (Peter Davey) has signalled his intention to resign in early to mid-April this year. For reasons detailed herein, this occasion is a good trigger to abolish the Trust and to implement arrangements that will deliver real outcomes in terms of improving the fundamental health of the river system and its catchment.

I want to emphasise that this change will also save the NSW Government in excess of \$1 million annually. Currently, the Trust draws an allocation of \$3.588 million per annum from my portfolio budget.

The HNCMT was established in September 1993 by the former Coalition Government as a result of community concern about the health of the Hawkesbury-Nepean River System. The Trust is a statutory body with powers, authorities, duties and functions defined by the *Catchment Management Act 1989* and *HNCMT Regulation 1999*.

There have been positive reports about the activities of the Trust since its inception and favourable observations made by the Healthy Rivers Commission as part of its public inquiry between 1997 and 1999.

However, I believe that the following circumstances warrant a new way of delivering core programs attributed to the Trust in the Statement of Joint Intent for the Hawkesbury-Nepean River System, approved by Cabinet in November last year.

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The HNCMT has had only limited success in resolving the significant and long-term problems associated with the health of the river system and its catchment. Its role has been duplicated and confused as far as the community is concerned by the expansion of other institutional arrangements in the catchment such as the Sydney Catchment Authority. And, quite frankly, I believe the Trust has failed to provide value for money.

As I mentioned earlier, the NSW Government supports the Trust to the extent of \$3.588 million annually. The Trust attracts additional income from the Commonwealth Government, under the Natural Heritage Trust, and other sources such as local councils - taking its total budget to between \$4 and \$5 million per annum. The cost of operating the Trust was approximately \$27.43 million for the five years from 1994/95 to 1999/2000.

The Trust's considerable resources have been substantially devoted to inappropriate staffing levels. In 1999/2000, for example, the Trust spent close to 60 per cent of its total income on salaries and wages. The Trust has in the past employed up to thirty-six equivalent full-time staff, including the Chief Executive Officer at top salary level SES 2, in seven locations across the catchment.

The annual report for 1999/2000 shows that the Trust spent \$78,654 for rent, \$69,834 for meetings, \$38,310 for cleaning, \$37,033 for insurance, \$31,400 for postage and \$23,936 for publications. Compare all of this with the very modest sum of \$69,285 provided in grants to local groups for on-the-ground community projects.

The budget is also used to support the chairperson and up to twenty-two Trustees. The chairperson currently receives a stipend of \$30,000 annually and ten of the nineteen current Trustees accept remuneration of \$5,897 annually.

In the 1999/2000 financial year, the HNCMT reported total assets of \$2.34 million, with cash and deposits accounting for more than 75 per cent of that total.

Under my plan, the Department of Land and Water Conservation (DLWC) and other relevant agencies will be responsible for delivering the programs currently attributed to the Trust in the Statement of Joint Intent. I should also add that the Coffs and Wollondilly Catchment Management Committees would continue to exist until such time as there is a formal review of Catchment Management Boards.

On abolition of the HNCMT by the Governor, its assets will be initially assumed by myself as the responsible Minister, and administered by DLWC on my behalf.

The Trust's permanent staff will be initially absorbed into DLWC's Penrith Office, firstly to avoid the need for any involuntary redundancies and secondly to limit any suggestion that this Government is moving job out of Western Sydney.

The final dispersal of Trust functions and resources will then be the subject of more detailed discussions between NSW Treasury, Premier's Department and DLWC. The basis of this negotiation would be as follows:

1. DLWC and Premier's Department will conduct an audit to determine which of the Trust's commitments to projects - both State and jointly funded - should be continued.
2. DLWC will have ongoing carriage of those projects - or other agencies will take over where they have a legislative responsibility to do so - with the relevant funds and staff transferred to it from the Trust.

3. Other funds allocated to the Trust will be considered for allocation to the NSW Government's compulsory matching funds for the Commonwealth's National Action Plan on Salinity and Water Quality.
4. Staff not involved in continuing projects will be offered voluntary redundancies, or will be classified as displaced officers.
5. Treasury will resume the Trust's redundant operating costs (including rent, etc) as negotiated, but estimated at this stage to be in excess of \$1 million per annum.

Section 25 of the *Catchment Management Act 1989* provides for the Governor to be able, via proclamation, to abolish the HNCMT. The Regulation governing the Trust will also need to be revoked.

I intend to prepare a Minute for the Governor's consideration shortly. Pending your advice, I will also inform the Chair of the Hawkesbury-Nepean Catchment Management Trust of the Government's position.

Yours sincerely

SIGNED

**RICHARD AMERY MP
MINISTER FOR AGRICULTURE
MINISTER FOR LAND AND WATER CONSERVATION**



Premier of New South Wales
Australia

03 APR 2001

The Hon R Amery, MP
Minister for Agriculture
Minister for Land and Water Conservation

Dear Mr Amery

I refer to your recent letter regarding your proposal to abolish the Hawkesbury-Nepean Catchment Management Trust.

I agree that the resignation of the Trust's Chief Executive Officer would be an appropriate time to abolish the organisation. The Trust seems to have limited effectiveness, and its resources would be better utilised elsewhere.

Nevertheless, I understand that the Trust is popular with its local community, and has a relatively high profile. I would ask that you manage the abolition in such a way that it is made clear to the community that the Government remains fully committed to improving the riparian health of the Hawkesbury-Nepean, and will redeploy the Trust's resources, both human and financial, to this end. In particular, I ask that you liaise closely with the relevant local council and State Government representatives, so that this message can be conveyed to the community.

Thank you for seeking my advice on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Carr', written over a horizontal line.

Bob Carr
Premier