



Planning circular

PLANNING SYSTEM

Planning for coastal hazards

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Planning for coastal hazards

This circular provides guidance on assessment of coastal hazards under Chapter 2: Coastal management of the *State Environmental Planning Policy (Resilience and Hazards) 2021* and *Coastal Management Act 2016*.

Overview

Chapter 2: Coastal management of the *State Environmental Planning Policy (Resilience and Hazards) 2021* aims include establishing a framework for land use planning within the coastal zone, in a manner consistent with the objects of the *Coastal Management Act 2016* (Coastal Management Act).

The coastal zone is defined in the Coastal Management Act as being the area of land comprised of one or more of four coastal management areas:

- Coastal wetlands and littoral rainforests area
- Coastal vulnerability area
- Coastal environment area
- Coastal use area

Land may be mapped under Chapter 2 of this SEPP as within more than one management area. Development controls for all applicable management areas apply according to the hierarchy of controls in section 2.15 of this SEPP.

The Coastal Management Act defines coastal hazards and establishes principle-based management objects for land identified as within the coastal vulnerability area, which is land subject to coastal hazards. For example, these objectives include:

- to ensure public safety and prevent risks to human life; and
- to mitigate current and future risks from coastal hazards, taking into account the effects of climate change.

These management objectives, as a whole, recognise the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline.

Section 2.12 of this SEPP applies to all land within the coastal zone and requires that:

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

As councils develop Coastal Management Programs (CMP), these CMPs may identify land subject to one or more of the defined coastal hazards. This land will then be considered for inclusion in the Coastal Vulnerability Area (CVA) mapped under the SEPP. Land subject to a coastal hazard within an adopted Council policy is identified on a section 10.7 planning certificate. See PS 21 – 033 for further information on how coastal hazards are identified on planning certificates.

A Coastal Vulnerability Area map has not yet been adopted under the SEPP for all local government areas in the coastal zone.

Consequently, the relevant development controls applying specifically to development on land within the coastal vulnerability area in section 2.9 of the SEPP are not yet active for all coastal local government areas.

Notwithstanding, section 2.12 of the SEPP requires all consent authorities, in the context of considering proposed development in the coastal zone generally, to be satisfied that the proposed development is not

¹ Revised 10 August 2023 to include updated references to the *Environmental Planning and Assessment Regulation 2021*, consolidated State Environmental Planning Policies and address outdated provisions.

likely to cause increased risk of coastal hazards on that land or other land.

Where a council has existing coastal risk provisions in its Local Environmental Plan (LEP), these generally continue to have effect, although this must be determined on a case by case basis as the LEP may be inconsistent with Chapter 2 of the SEPP. This chapter of the SEPP prevails only to the extent of any inconsistency with an LEP. Any Development Control Plans (DCP) will continue to apply as they did prior to the commencement of the SEPP, noting they only provide guidance to consent authorities and people proposing to carry out development. An LEP or chapter 2 of the SEPP will always prevail over a DCP if the DCP is inconsistent with them.

Defining coastal hazards

A 'coastal hazard' is defined by the Coastal Management Act as:

- a) beach erosion
- b) shoreline recession
- c) coastal lake or watercourse entrance instability
- d) coastal inundation
- e) coastal cliff or slope instability
- f) tidal inundation
- g) erosion and inundation of foreshores caused by tidal waters and the action of waves, including the interaction of those waters with catchment floodwaters

Identifying the risk of exposure to coastal hazards

The NSW coast is dynamic and complex. Because hazards can migrate over time, coastal land may have a current exposure to a coastal hazard and/or a future exposure to a coastal hazard.

Current exposure to a coastal hazard refers to a situation where land is identified, through an adopted evidence-based study, as being exposed to a coastal hazard at the time the study was prepared. For example, land which would be subject to beach erosion if a prescribed storm ('the design event') occurred today would be land with a current exposure to a coastal hazard.

Future exposure to a coastal hazard refers to a situation where land is identified in an adopted study as being exposed to a coastal hazard at some point in the future. For example, if the shoreline and related coastal hazards migrate landward over time, then land which is not currently exposed to beach erosion may become exposed to that hazard in the future.

Coastal hazards identified through local councils' CMP and then identified as such in the coastal vulnerability area map when adopted under the SEPP, or coastal hazards identified by the NSW Government by a direct amendment to the SEPP, will take into account current and future hazard from all seven coastal hazards

forming part of the definition of coastal hazard under the Coastal Management Act.

Assessing development proposals for likely risk of coastal hazards

Section 2.12 of the SEPP applies to development within the entire coastal zone and requires consent authorities to be satisfied that any development proposal is not likely to cause increased risk of any of the seven types of coastal hazard identified under the Coastal Management Act on that land or other land.

The threshold test established under section 2.12 is intentionally low. Councils and other consent authorities should take a precautionary approach to assessing risks associated with current and future coastal hazards.

When assessing the risk of a current or future coastal hazard, councils and other consent authorities have discretion to consider:

- Any relevant floodplain risk management plans or estuary management plans prepared by or on behalf of a council or public authority that take into account tidal inundation in combination with catchment flooding
- Coastal hazards identified in a relevant environmental planning instrument or development control plan
- Relevant coastal hazard, risk and vulnerability studies prepared by an appropriately qualified expert
- Historic data, such as past storm event data and impacts, that identify risk exposure of coastal land (such as shoreline recession, coastal inundation, or geomorphic trends)
- Relevant scientific modelling (such as relating to sea level rise and climate variability)
- Relevant advice in the NSW Coastal Management Manual and associated Toolkit
- Any other relevant information

When assessing proposed development on land within the coastal zone, including where there may be a risk of a current or future coastal hazard, councils and other consent authorities must consider any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan adopted under the *Coastal Protection Act 1979* that continues to have effect under clause 4 of Schedule 3 to the *Coastal Management Act 2016*.

Once a Coastal Vulnerability Area map for a local government area is adopted under the SEPP, section 2.9 of the SEPP will apply to land identified on that map as a Coastal Vulnerability Area. Section 2.9 states:

Development consent must not be granted to development on land that is within the area identified Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
- (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

The matters listed in section 2.9 are specifically aimed at strengthening the level of assessment of proposed development on lands categorised as part of the Coastal Vulnerability Area, in keeping with the levels of risk in developing that land, and to significantly reduce uncertainty about current and future coastal risks on that land.

It is also important to note that the objectives and controls for each coastal management area are not mutually exclusive. On the contrary, they may overlap if land is identified as being in more than one different type of coastal management area. For example, matters such as potential impacts on coastal processes, the natural environment, public safety, access and amenity need to be assessed for proposed development within the coastal environment area as well as in the coastal use area, even if the proposed development is not subject to current or future coastal hazards.

Assessing proposed coastal protection works

Development for the purpose of coastal protection works, including emergency coastal protection works, may be carried out in accordance with the rules for permissibility for that type of development set out in section 2.16 of the SEPP. Some of these rules of permissibility change depending on whether a certified CMP applies to the particular land or not (or a preserved Coastal Zone Management Plan).

In any case, the general aim of the coastal management framework is to ensure that eventually all proposed coastal protection works are identified in a relevant Coastal Management Program (or a preserved Coastal Zone Management Plan) to ensure they are well-designed and have had their benefits and potential impacts comprehensively assessed in the context of the relevant part of the coastal zone in the particular local government area.

Section 27 of the Coastal Management Act is a precondition to granting development consent for

development for the purpose of coastal protection works. Section 27 only applies to development if the main purpose of the development is for coastal protection works. Councils and other consent authorities are encouraged to seek independent legal advice if unsure whether the main purpose of a proposed development is for coastal protection works or if the relevant works are ancillary or subordinate to development for another purpose. Advice must be based on the specific facts of the situation and consideration of any relevant case law.

If section 27 of the CM Act applies to proposed development, councils and other consent authorities must satisfy themselves that the requirements under section 27, including the imposition of appropriate conditions and legally binding obligations, have been addressed, prior to determining the relevant development application.

Councils and other consent authorities must also satisfy themselves of the requirements under section 2.12 of the SEPP, if this section is relevant to the particular proposed development being assessed, and also of the requirements under section 2.9 if the land subject to the development application is identified as part of the Coastal Vulnerability Area on the Coastal Vulnerability Area map under the SEPP. This requires consent authorities to draw on any relevant information to assess whether the proposed coastal protection works are exposed to current or future coastal hazards, and to determine or condition the proposed development accordingly. This decision will also be taken in the context of other relevant considerations, such as the objects and development controls in any applicable LEP and/or DCP applying to the land the proposed coastal protection works are proposed to be constructed upon.

Coastal hazards and planning certificates

Where land affected by a coastal hazard is identified in a policy adopted by a Council (or another public authority that has notified the Council), this information must be disclosed on a planning certificate issued under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

The information requirements relating to coastal planning and coastal hazards for planning certificates are specified in sections 10 and 19 of Schedule 2 of the EP&A Regulation and include:

- **Annual charges for coastal protection** under section 496B of the *Local Government Act 1993*
- **Coastal hazards** where land is affected by a policy adopted by the Council or adopted by any other public authority and notified to the council.

Refer to Planning Circular 'PS 21-033 Planning certificates: coastal hazards' for further information on the disclosure of coastal hazards on planning certificates, including suggested wording for current and future hazards.

NSW councils within the coastal zone

Ballina Shire Council
Bayside Council
Bega Valley Shire Council
Bellingen Shire Council
Blacktown City Council
Burwood Council
Byron Shire Council
Campbelltown City Council
Canterbury-Bankstown Council
Central Coast Council
Cessnock City Council
City of Canada Bay Council
City of Parramatta Council
Clarence Valley Council
Coffs Harbour City Council
Council of the City of Sydney
Cumberland Council
Dungog Shire Council
Eurobodalla Shire Council
Fairfield City Council
Georges River Council
Hawkesbury City Council
Inner West Council
Kempsey Shire Council
Ku-ring-gai Council
Lake Macquarie City Council
Lane Cove Municipal Council
Lismore City Council
Liverpool City Council
Maitland City Council
Mid-Coast Council
Mosman Municipal Council
Nambucca Shire Council
Newcastle City Council
North Sydney Council
Northern Beaches Council
Penrith City Council
Port Macquarie-Hastings Council
Port Stephens Council
Randwick City Council
Richmond Valley Council
Ryde City Council
Shellharbour City Council
Shoalhaven City Council
Strathfield Municipal Council
Sutherland Shire Council
The Council of the Municipality of Hunters Hill
The Council of the Municipality of Kiama
The Council of the Shire of Hornsby
The Hills Shire Council
Tweed Shire Council
Waverley Council
Willoughby City Council
Wollongong City Council
Woollahra Municipal Council

Further information

For further information please contact Service NSW on 13 77 88.

Planning Circular '**PS 21-033 Planning certificates: coastal hazards**' provides information on the disclosure of coastal hazards on planning certificates.

Department of Planning and Environment circulars are available at:

<https://www.planning.nsw.gov.au/policy-and-legislation/planning-system-circulars/>

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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