



COASTAL MANAGEMENT

# NSW Coastal Lands Protection Scheme guidelines

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Bringing significant coastal lands into public ownership

April 2021



Published by the NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: NSW Coastal Lands Protection Scheme guidelines

Subtitle: Bringing significant coastal lands into public ownership

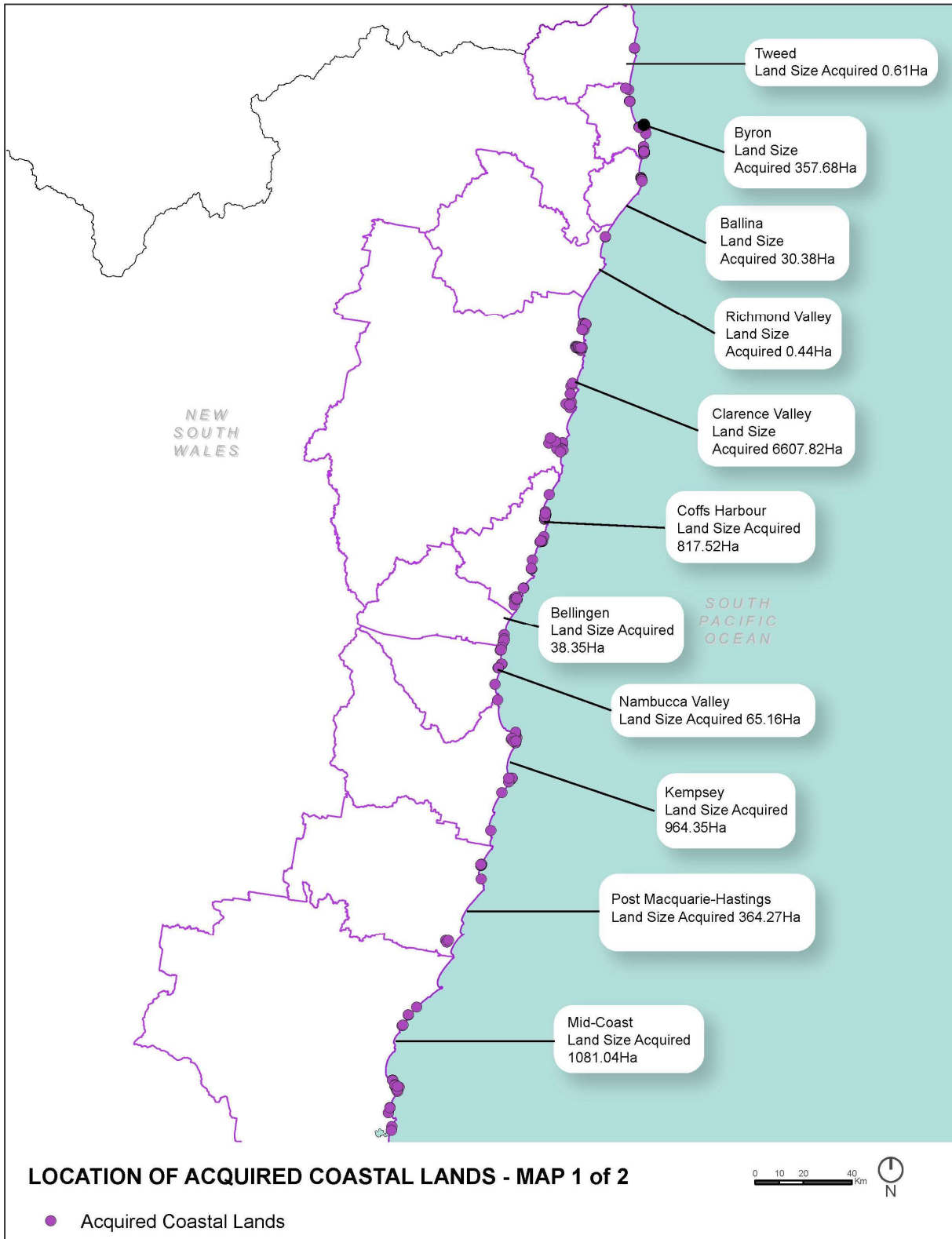
Department reference number: DOC20/773427

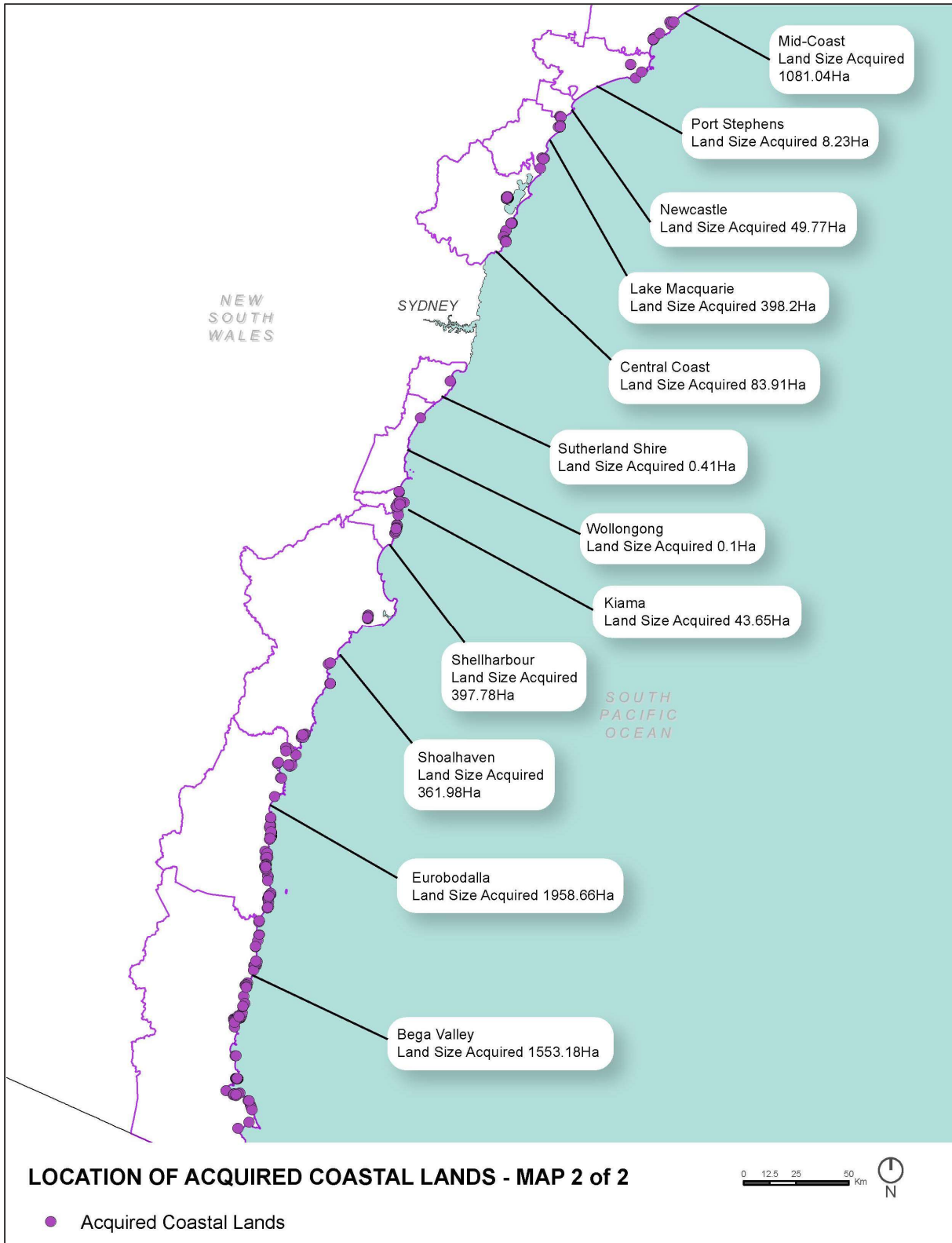
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# Snapshot of Coastal Lands Protection Scheme





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## Introduction

The coast is one of our greatest assets. It is a diverse landscape with unique natural features, values and resources. In addition to sustaining diverse, complex and dynamic ecosystems, the coast is a vital economic zone that supports most of the state's industrial, transport and commercial activity. Perhaps most importantly, the coast is the source of immeasurable public enjoyment and amenity that characterises our quintessential Australian lifestyle.

The NSW Government's vision is for thriving and resilient communities living and working on a healthy coast. Of the NSW population, 85% now live within 50 km of the coastline. Coastal cities, regional centres and towns are continuing to grow as NSW's population increases and is projected to reach 11 million people by 2040. A coordinated, balanced approach to coastal management is essential to preserve a healthy coast now and into the future while accommodating this growth.

The Coastal Lands Protection Scheme is an important part of achieving the Government's vision. The scheme helps bring significant coastal lands into public ownership and provide for their long-term management and care. The Department of Planning, Industry and Environment administers the scheme, which receives an annual budget allocation of \$3 million for strategic acquisitions.

The department has prepared this guide to inform the public about the purpose and achievements of the scheme. The guide also serves as a resource for local councils, public authorities and others to use in nominating land to the department for purchase under the scheme. It sets out the objectives and history of the scheme, as well as the processes for nominating and assessing land identified for purchase.

## The NSW coastal management framework

The NSW Government has established a modern and integrated coastal management framework to protect the coast and better equip coastal communities to respond to existing and future coastal management challenges and opportunities.

The framework comprises:

- [Environmental Planning and Assessment Act 1979](#) (EP&A Act)
  - establishes the NSW legislative framework for strategic land-use planning, plan-making and development assessment
  - provides legislative power to the State Environmental Planning Policy (Coastal Management) 2018 and constitutes the Planning Ministerial Corporation (PMC)
- [Coastal Management Act 2016](#) (the Act)
  - replaced the *Coastal Protection Act 1979* and establishes a strategic framework and objectives for managing coastal issues in NSW
- [State Environmental Planning Policy \(Coastal Management\) 2018](#) (Coastal Management SEPP)
  - defines the coastal zone and establishes state-level planning priorities and development controls to guide decision-making for development within the coastal zone
- [Local Planning Direction 2.2: Coastal Management](#)
  - requires planning proposal authorities to demonstrate that any proposed zoning changes in the coastal zone are consistent with the objectives of the Act and Coastal Management SEPP
- [NSW Coastal Management Manual](#)
  - provides guidance to assist councils when preparing and implementing coastal management programs



- coastal management programs
  - prepared by councils to set the long-term strategy for the management of land within the coastal zone with a focus on achieving the aims of the Act
- NSW Coastal Council
  - provides independent and expert advice on coastal management matters to the minister administering the Act
- Coastal and Estuary Grants Program
  - provides technical and financial support to local government to help manage the coastal zone.

The scheme continues to operate as a separate program but aligns with the objects of the Act, particularly Section 3(l):

to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone.

Section 13 of the Act requires local councils to prepare a coastal management program for the whole, or parts, of the coastal zone (as mapped by the Coastal Management SEPP).

Coastal management programs identify, cost and plan for priority actions to happen within a coastal local government area or broader region. These programs are long-term, strategic mechanisms for identifying land that may be suitable for bringing into public ownership. If lands identified within coastal management programs align with the scheme's criteria, the department may consider purchasing these on behalf of the NSW Government.

## Planning for future public spaces

One of the NSW Government's priorities is to increase access to, and the quality of, public and open spaces. Access to these spaces improves liveability, environmental and social sustainability, and public health. It also fosters social inclusion by providing spaces for communities to come together. This issue is becoming increasingly important in urban areas, given greater housing density, but is also an issue in regional areas, where dedicated public spaces can be limited.

The importance of public spaces is heightened in coastal areas, given the value of the coastal lifestyle to the NSW population. Free, public access to the beach and other coastal areas is an important part of the Australian character, which places significant emphasis on the recreational and scenic value of the coast.

As the NSW population grows, the natural character of the coastal landscape is under increasing pressure. Intensified development presents a threat to public enjoyment of the coast and places its unique environmental assets at risk. Careful management of coastal areas is crucial to ensure that public spaces, and access to these, are maintained so the beauty of the coast and the unique recreational opportunities it offers are preserved for future generations.

## About the Coastal Lands Protection Scheme

### Scheme vision

The scheme's vision is to protect the special qualities of the NSW coast in their natural state for the benefit of current and future generations.

The department will achieve the scheme's vision by:

- increasing public ownership of (and access to) important coastal land that is of scenic and environmental value

- increasing connectivity of public coastal lands to enhance biodiversity, natural coastal processes, scenic qualities, and cultural and recreational opportunities.

## Scheme overview

The government established the scheme in 1973 to protect the coast's scenic, recreational and historical values from undesirable development. Following growing concern over the appearance of the coast, the government established an interdepartmental committee, which investigated coastal lands and identified those requiring protection. The lands the committee identified usually included features such as headlands, dunes, hinterland, coastal lagoons and lakes, particularly where the original vegetation was still dominant.

As part of its investigation, the committee mapped coastal lands requiring protection into categories. The two main categories were:

- **red land** for coastal land where government acquisition was essential
- **yellow land** for other coastal land where acquisition may not be essential but where environmental protection is essential.

This mapping has guided the government's acquisition and rezoning of sensitive coastal land under the scheme for more than four decades. Although the scheme has had some modifications over the years, it broadly continues to operate as originally intended.

As of 2019, the department has acquired almost 90% of land identified for acquisition in 1973.

## Where the scheme operates

The scheme operates along the entire NSW coastal zone except for the Greater Sydney metropolitan area, identified as between Broken Bay (Central Coast) and the Minnamurra River (south of Shellharbour).

The Act defines the NSW coastal zone as comprising four coastal management areas, including the coastal wetlands and littoral rainforest area, coastal vulnerability area, coastal environment area and coastal use area. These areas are mapped in the Coastal Management SEPP. Put simply, these areas represent the coastal foreshore areas (beaches, foreshores, headlands) and waterways (including estuaries and the ocean). Coastal wetlands and littoral rainforests have been mapped and protected since the 1980s, as they are ecologically valuable areas that are particularly vulnerable to inappropriate development.

## How the scheme operates

The scheme uses legislative powers granted by the EP&A Act to establish the PMC, which is empowered to acquire and divest land where necessary. The planning Secretary of the department manages the PMC under direction from the Minister for Planning and Public Spaces.

The Office of Strategic Lands, a business unit within the department, administers the PMC by acquiring, managing and transferring land for a range of purposes, including open space, transport corridors and coastal lands, under the scheme.

The Coastal Policy team, also within the department, identifies and assesses coastal land for acquisition to ensure such lands meet the requirements of the scheme. The team engages the Office of Strategic Lands to negotiate and undertake the identified acquisitions, and any other land transactions that relate to the scheme.

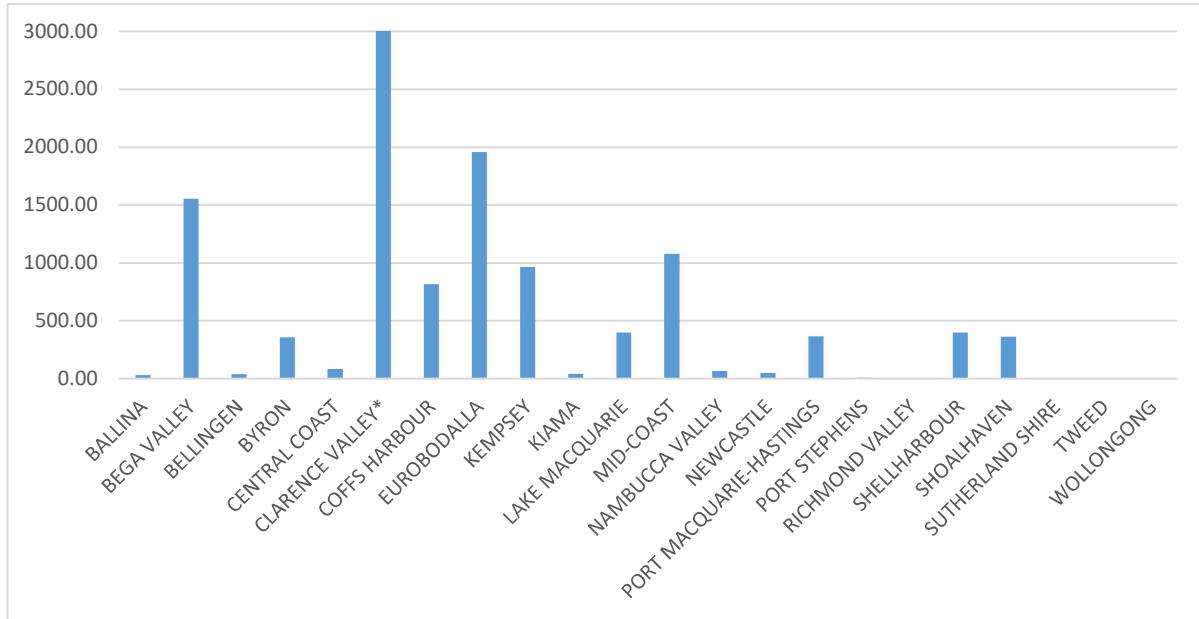
## What the scheme has achieved to date

Since the scheme began, the government has undertaken almost 1,000 acquisitions resulting in the acquisition of over 15,000 hectares of coastal land for approximately \$63 million, representing

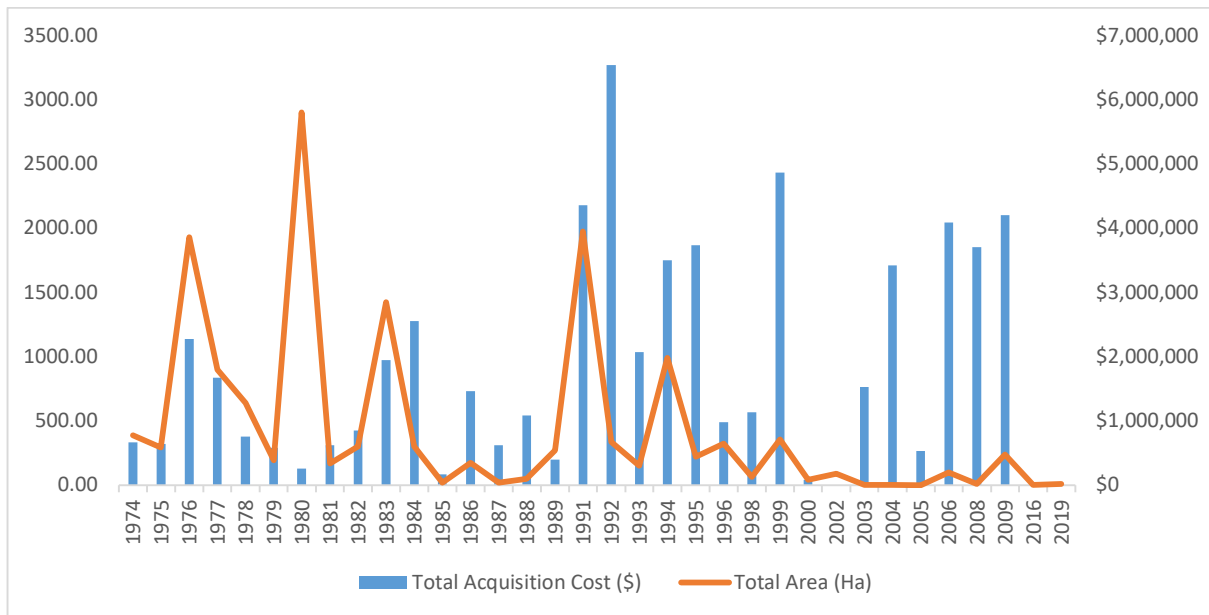


almost 90% of the land originally identified for acquisition. Still more land has been protected through restrictive zoning. The department has been able to help the NSW Government create or expand coastal national parks and public reserves for long-term public and environmental benefit.

The below graphs demonstrate the amount of land acquired across coastal councils **Figure 1** as well as the trend in acquisition and purchase prices **Figure 2** during the scheme's operation.



**Figure 1. Total area (hectares) acquired under the scheme per local government area** (\*Note: For clarity of data visualisation, total hectares acquired for Clarence Valley exceeds the 3,000 hectares shown)



**Figure 2. Total area (hectares) and purchase price of acquisitions for each year the scheme has been in operation**

## Example acquisitions

### Emerald Beach

In the past 12 months, the NSW Government purchased two adjoining lots at Emerald Beach under the scheme to expand the Coffs Coast Regional Park. The local community asked for the land to be protected from future development to preserve its ecological significance.

The purchase of this land, covering just over 41 hectares, will support the habitat of some of Australia's most prominent threatened species, such as the glossy black cockatoo, the square-tailed kite and squirrel glider.

Further, the purchase will protect scenic value, preserving important views overlooking the Solitary Islands Marine Park. It will also enhance open space by increasing public access to Diggers Point track and the adjoining foreshore area of Moonee Beach and Emerald Beach where people like to fish, surf and swim.



**Figure 3. Top:** Map of the two lots acquired at Emerald Beach. **Bottom:** (from left to right) wet heath on site (image credit Jonathan Cassell), and some of the vibrant bird life living in and around the site (image credit Gail Yager).



## Nambucca Heads

In 2019, the department purchased a picturesque residential block with views and access to the Nambucca River. The land in Nambucca Heads is an Aboriginal burial site—human remains thought to be more than 750 years old were discovered there. The department transferred the 1,480 m<sup>2</sup> site to Nambucca Shire Council to protect the hugely significant site and manage it in partnership with the Gumbaynggirr people.



**Figure 4.** **Top:** Map of the original acquired Aboriginal burial site at Nambucca Heads (outlined in red). **Bottom left:** The local Aboriginal community commemorates the returning of the 750-year-old remains to the burial site (Photo credit: ABC News, Kirstie Wellauer). **Bottom right:** The acquired land.

# Acquisition criteria and priorities

## Acquisition criteria

For the department to purchase land under the scheme, the land must be within the NSW coastal zone and meet at least one of the three criteria for acquisition. The criteria are:



### 1. Public access

To promote public access to the coastal foreshore

### 2. Ecological values

To protect ecological sites of regional, state and/or national significance



### 3. Scenic quality

To maintain the scenic quality of the NSW coast and to maintain landscape breaks to separate and articulate existing coastal towns and settlements

On a practical level, a government agency or council must also be willing to assume ownership and responsibility for the management of land once acquired, as the scheme is not set up to manage the land.



## Strategic priorities

Land identified for acquisition under an environmental planning instrument (usually a local environmental plan or a government strategic policy or program) is a priority for acquisition under the scheme. This includes the remaining 'red' lands identified for acquisition in the original maps, as well as sites reserved for acquisition under local environmental plans.

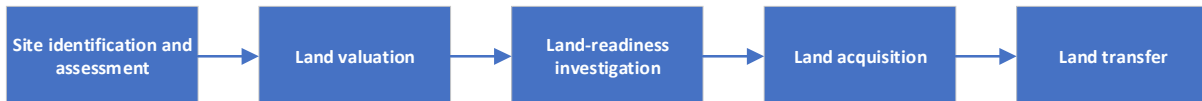
The department prioritises potential acquisitions where competing requests cannot all be purchased. Some of the additional considerations the Coastal Policy team uses to distinguish potential acquisitions from others include, but are not limited to:

- areas where public access to the coastal foreshore and scenic areas is poor or disconnected and the acquisition presents an opportunity to improve this
- areas of significant scenic value, such as headlands, beaches and land adjacent to coastal lakes and lagoons
- areas of coastal ecological value
- areas that, if acquired, would improve the ecological or social values of existing publicly owned coastal lands
- significant opportunity for purchase due to the land rarely coming on the market.

## Scheme land identification and acquisition process

The department's Coastal Policy team and Office of Strategic Lands work closely together to administer the scheme and the acquisition process, respectively. The robust process aims to ensure the scheme purchases strategically important coastal land for fair value and within its annual budget.

The following flowchart summarises this process, which is explained in more detail below.



### Site identification and assessment

The department's land-acquisition process begins with identifying the potential site. This can occur in numerous ways, such as:

- the land has been previously identified for acquisition—for example, in the original scheme mapping or a local environmental plan
- a local council's coastal management program has identified land that meets the strategic coastal objectives for the local area and has selected public acquisition as the best management option
- a public authority, such as a local council, approaches the department to nominate the site for acquisition.
- a landowner approaches the department directly to enquire about selling the land.

### Who can nominate land?

The department welcomes nominations from councils, public authorities and landowners. It will also consider nominations from members of the community.

The department encourages councils to engage early if they wish to identify potentially suitable land in a coastal management program. Early consultation enables the department to consider the request in detail, so it can provide in-principle support before the council finalises its coastal management program.

### Guidance for self-assessment

When considering a site for nomination, consider the following questions:

- Is the land within the NSW coastal zone as mapped by [the SEPP](#)?
- Does the land meet any (or all) of the scheme criteria for acquisition? Could the land enhance existing public access, biodiversity or green corridors?
- What is the site's zoning—for example, is the area zoned for a public or environmental purpose?
- Is the land for sale?
- Who would have an interest in owning and managing the land for public benefit?

Once the land has been identified, the department will conduct an assessment to determine whether acquisition would be suitable under the scheme. The primary matters for consideration are:

- **satisfaction of at least one of the three key criteria for acquisition** under the scheme
- **budgetary considerations**—the availability of funds to purchase the subject coastal land
- **ongoing management**—identifying a public authority willing to assume ownership and responsibility for managing the land after acquisition. The scheme does not fund ongoing management costs, so the public authority that accepts the land must bear these costs.

Additional matters under consideration include:

- identifying the values of the land, which may include consulting with other public authorities, such as the local council
- identifying the zoning of the land and the surrounding land uses
- confirming whether the land is within the NSW coastal zone
- identifying whether the land is for sale
- identifying risks and opportunities with purchasing the land
- establishing the history and context of the land, such as its former and current uses and any relevant development applications on the land.

As the scheme has a limited annual budget of \$3 million, the department will prioritise acquisitions as necessary. The department may have to refuse some requests or defer them to future budget years. A nomination for land to be acquired needs to be made only once, as the department keeps records of previous nominations and whether it has assessed the land as suitable for acquisition. The department accepts nominations at any time throughout the year.



## Land valuation

If the department's Coastal Policy team assesses a site as suitable for acquisition under the scheme, it will instruct the Office of Strategic Lands to investigate an acquisition. The Office of Strategic Lands will manage the transactional elements of the acquisition and subsequent land transfer.

It will first contact the landowners and commission an independent land valuation. If the land has been identified for acquisition in an environmental planning instrument, such as a local environmental plan, the department will negotiate, as a matter of best practice, using the criteria set out in [Section 55](#) of the *Land Acquisition (Just Terms Compensation) Act 1991*.

### What are the government's criteria for land acquisitions?

Section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991* sets out the criteria that guide how the NSW Government values, negotiates and acquires land identified for government. These criteria include:

- the market value of the land
- any special value of the land to the person
- any losses due to severance, disturbance or both
- the disadvantage resulting from relocation
- any increase or decrease in the value of any other land of the person that adjoins or is severed from the acquired land.

For land not identified in an environmental planning instrument, the valuation is based on the current market value of the land. This valuation will inform the department's purchase offer and negotiations.

## Further investigation

As part of the acquisition process, the department conducts a range of investigations to establish the site's suitability—for example, ensuring that the land meets the scheme's public access criteria. Part of this process may include the Office of Strategic Lands conducting a site inspection, meeting with the landowners or commissioning specialist reports (for example, to establish whether the land is free of contamination).

As part of these investigations, the department must also ensure a public authority will accept ownership and future management of the land after its acquisition, such as:

- the local council
- the National Parks and Wildlife Service
- another public authority that owns and manages land for a public purpose.

The department must find an agreeable public authority, or the acquisition cannot proceed.

## Land acquisition

The department will send a letter of offer to the landowners or a representative once it decides to progress with acquisition. If the department gets written acceptance of its offer, it will start the conveyancing process to purchase the land.

### How long does a purchase take?

The department's purchase offer is generally open for 120 days from the date of the letter of offer. If a landowner accepts the department's offer, the standard conveyancing process can take several months.

Ultimately, the duration of the purchase and settlement process differs, as individual circumstances and the complexity of negotiations are different in each case.

### How does the purchase take place?

Land-sale transactions under the scheme are subject to the same conveyancing laws as other land sales in NSW. A solicitor acting on the department's behalf will prepare a sales contract and negotiate the terms of the contract with the landowner's solicitor or licensed conveyancer.

The department will arrange a pre-settlement inspection before the settlement date. If this inspection is satisfactory, and all conditions for the sale are met, the settlement will proceed.

If the department gives notice it is considering compulsory acquisition and the landowner and department cannot reach an agreement after a minimum of six months of genuine negotiation, the department may start the compulsory acquisition process. A shortened negotiation period requires the approval of both the Minister for Planning and Public Spaces and the Minister for Water, Property and Housing.

The department rarely pursues compulsory acquisition, and only as a last resort. The department and minister must determine that acquisition of the land is a high priority and that compulsory acquisition is in the public interest. They must also consider the significant impact a compulsory acquisition would have on the landowner's property rights.

## Land transfer

Once the department has purchased the land, it will generally transfer it to the relevant public authority for a nominal consideration. The public authority must agree in writing that it will accept the land transfer. In the case of councils, the matter usually needs to be put to a meeting of the elected council to formally agree to accept the land transfer. This transfer process can take several months.

The new owner must then care for, control and manage the site. When the department transfers land under the scheme, a condition is placed on the land that it be used solely for the purpose it was purchased for, such as to preserve the public access, scenic quality or ecological value of the coast. The public authority that accepts the land cannot sell it or change its use unless the Minister for Planning and Public Spaces first approves it.

### How do I find out the outcome?

Due to the confidential nature of negotiations, the department cannot disclose details about matters that are under active negotiation. If you are an interested third party, you may wish to consult the department's [News and Events](#) page. This is the primary method the department uses to communicate acquisitions it has finalised. The department may also place a sign on the property informing the community that the department has acquired it under the scheme.

## Completing the nomination form

To nominate land for potential acquisition, please complete the land nomination form. You can find this form at [www.planning.nsw.gov.au/CoastalLandsProtectionScheme](http://www.planning.nsw.gov.au/CoastalLandsProtectionScheme). The form can be printed out or submitted online.

Please complete each section of the form, which will inform the department's assessment.

If you have completed a printed version of the form, please email it to [coastal@planning.nsw.gov.au](mailto:coastal@planning.nsw.gov.au) or mail it to:

Department of Planning, Industry and Environment  
Coastal Policy team  
Locked Bag 5022  
Parramatta NSW 2124

## Contacts for assistance

If you would like to discuss your nomination or need assistance completing the form, please contact the department's Coastal Policy team by emailing [coastal@planning.nsw.gov.au](mailto:coastal@planning.nsw.gov.au) or calling 13 11 88.

Some parts of the form refer to council strategic planning documents. To find out more about these documents, we recommend contacting your local NSW council directly. Visit [www.olg.nsw.gov.au/content/download-council-contact-details](http://www.olg.nsw.gov.au/content/download-council-contact-details) to find contact details for NSW councils.