



PLANNING SYSTEM

State environmental planning policies

Circular	PS 05–012
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Related	Replaces PS05_012 issued 18 Nov 05

Planning implications of the extension of the NSW Coastal Zone

This Circular is to advise councils in the greater metropolitan region of the planning implications for their local government area with the extension of land declared to be part of the NSW Coastal Zone. The councils affected are listed in Schedule 1.

Introduction

On 18 November 2005, the Minister for Natural Resources gazetted a notice extending the area declared as the NSW Coastal Zone. It will now apply to the greater metropolitan region (from Newcastle in the north to Shellharbour in the south), as shown on the maps notified in the Government Gazette.

This had the effect of bringing into force in 13 local government areas (see schedule 1 of this circular) certain provisions in three important planning policies that relate to the NSW Coastal Zone. These are:

- NSW Coastal Policy 1997 — a comprehensive plan for a sustainable future for the NSW coast
- State Environmental Planning Policy No. 71 — Coastal Protection (SEPP 71)
- State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP).

The Minister has also issued a section 117 direction for draft LEPs that applies to the Coastal Zone. The draft Standard LEP is also looking to include provisions for the Coastal Zone.

These are all key elements in implementing the Government’s Coastal Protection Package first announced by the Premier on 26 June 2001 to manage development in and around NSW coastal areas.

Implications for local planning of the NSW Coastal Policy and section 117 direction

Clause 92 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires a consent authority to consider the NSW Coastal Policy in determining a development application for the purposes of section 79C(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The section 117 Direction No. 6 – Coastal Protection (reissued by the Minister on 30 September 2005) also lists matters that council must do in drafting their LEPs. This includes having provisions to give effect to the NSW Coastal Policy, NSW Coastline Management Manual and the Coastal Design Guidelines.

Implications for local planning of SEPP 71

SEPP 71 aims to:

- foster a strategic and consistent approach to coastal planning and management
- ensure that the coastal zone is managed and protected in accordance with ecologically sustainable development principles
- facilitate the assessment of development proposals, and assess each proposal on its individual merits
- set out matters for consideration by councils and consent authorities
- develop a review process for significant coastal development proposals, which includes development proposed in sensitive locations
- create a ‘master plan’ (now DCP) process to ensure developments involving particular types of subdivisions in the coastal zone are consistent with the SEPP’s provisions.¹

¹ Amendments to Parts 3 and 4 of the EP&A Act, which commenced 30 September 2005, mean references in environmental planning instruments (EPIs) to master plans should now read development control plans (DCPs). DCPs are to be made according to section 74C of the EP&A Act, and be consistent with EPIs. The Act amendments also allow an owner to submit a staged development application instead of a DCP (section 83C) where an EPI such as SEPP 71 presently requires a master plan.

Key provisions of SEPP 71 include:

- the need for councils to consider certain matters in preparing a draft LEP and in determining a development application (clause 8)
- referral of significant coastal development proposals, (as detailed in clause 9) to the Director General of the Department of Planning (clause 11). This includes development in 'sensitive coastal locations, or within 100m below mean high water mark'²
- the need for 'master plans' (DCPs), adopted by the Minister for Planning, where there is subdivision of residential or rural residential land (as detailed in clause 18).

Implications for local planning of Major Projects SEPP

The Major Projects SEPP identifies development of State or regional significance that will need the approval of the Minister for Planning and which are to be assessed under Part 3A of the EP&A Act.

Specifically, Schedule 2 of the Major Projects SEPP defines the development within the Coastal Zone that is to be dealt with as a Part 3A Project.

This includes in the greater metropolitan region:

- extractive industries, landfill, mining, marinas and other industries in the coastal zone or in sensitive coastal locations within the coastal zone (Sch. 2 cl.(1) (a) to (e))³
- certain recreational or tourist facilities (Sch. 2 cl.(1)(f))
- buildings or structures greater than 13 metres in height in sensitive coastal locations in the (Sch. 2 cl.(1)(g))
- certain subdivisions of land not connected to sewerage works (Sch. 2 cl.(1)(h))
- subdivision of land into more than 25 lots (or rural residential into 5 lots) if the land is wholly or partly in sensitive coastal locations (Sch.2 cl.(1)(i)).

Transitional and referral arrangements

The NSW Coastal Zone was extended by operation of law on 18 November 2005. This means the extension may affect the determination of development applications lodged before 18 November 2005 that have not yet been determined, as well as those lodged after that date.

Where a development application has been lodged prior to 18 November 2005, and has been caught by the extension of the NSW Coastal Zone, council must comply with the planning provisions that apply to the Coastal Zone, including SEPP 71 before they determine the application.

Applications for development lodged after 18 November 2005 must comply with the planning provisions that apply to the Coastal Zone.

Councils should direct any applicants proposing to carry out development that will require the Minister's approval under the Major Projects SEPP and Part 3A of the EP&A Act to:

Urban Assessments Branch
Department of Planning
Phone: 02 9228 6333
Email: information@dipnr.nsw.gov.au.

Further information

More information on coastal protection is available from the Department's website at: www.planning.nsw.gov.au/plansforaction/coastalprotection.asp, including:

- Information on SEPP 71
- NSW Coastal Zone maps for the Greater Metropolitan Region
- NSW Government Coastal Policy 1997
- Coastal Design Guidelines 2003.

The relevant legislation, including SEPP 71, Major Project SEPP and the EP&A Act and Regulation are available from Parliamentary Counsel's Office website at: www.legislation.nsw.gov.au.

For more information, contact the Department of Planning office nearest to you.

Central Coast	02 4323 7000
Hunter	02 4929 4346
Illawarra/South Coast	02 4224 9450
Metropolitan	02 9228 6333

Authorised by:

Sam Haddad
Director General

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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² 'Sensitive coastal location' is defined in SEPP 71.

³ 'Sensitive coastal location' is defined in the Major Project SEPP.

Schedule 1

This Circular applies to the following local councils in the Greater Metropolitan Region which now have land included in the NSW Coastal Zone:

Gosford City Council
Lake Macquarie Shire Council
Manly Council
Newcastle City Council
Pittwater Council
Randwick City Council
Shellharbour City Council
Sutherland Shire Council
Warringah Council
Waverley Council
Wollongong City Council
Woollahra Municipal Council
Wyong Shire Council

SEPP 71 now applies to the following metropolitan and non-metropolitan councils in regard to land in the NSW Coastal Zone:

Ballina Shire Council
Bega Valley Shire Council
Bellingen Shire Council
Byron Shire Council
Clarence Valley Council
Coffs Harbour City Council
Eurobodalla Shire Council
Gosford City Council
Great Lakes Shire Council
Greater Taree City Council
Hastings Shire Council
Kempsey Shire Council
Kiama Municipal Council
Lake Macquarie Shire Council
Lismore City Council
Maitland City Council
Manly Council
Nambucca Shire Council
Newcastle City Council
Port Stephens Council
Pittwater Council
Randwick City Council
Richmond Valley Council
Shellharbour City Council
Shoalhaven City Council
Sutherland Shire Council
Tweed Shire Council
Warringah Council
Waverley Council
Wollongong City Council
Woollahra Municipal Council
Wyong Shire Council