



New South Wales

Local Government (General) Amendment (Ecologically Sustainable Development) Regulation 1997

under the
Local Government Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

ERNIE PAGE, M.P.,
Minister for Local Government

Explanatory note

The *Local Government Amendment (Ecologically Sustainable Development) Act 1997* (*the amending Act*) amends the *Local Government Act 1993* so as (among other things) to require local councils to take into consideration *principles of ecologically sustainable development* (a definition of which is inserted in the Dictionary to that Act by the amending Act) and to enhance requirements as to state of the environment reporting by local councils.

The object of this Regulation is to prescribe certain matters in relation to a council's management plan and those parts of its annual reports that are concerned with the state of the environment in the council's area. It does so by way of amendment to the *Local Government (General) Regulation 1993*.

This Regulation is made under the *Local Government Act 1993*, and, in particular, under sections 403 (Contents of draft management plan with respect to council's work and activities), 428 (Annual reports) and 748 (which, in combination with Schedule 6, is the general regulation-making power).

Local Government (General) Amendment (Ecologically Sustainable Development) Regulation 1997

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Ecologically Sustainable Development) Regulation 1997*.

2 Commencement

This Regulation commences on 1 January 1998.

3 Amendment of Local Government (General) Regulation 1993

The *Local Government (General) Regulation 1993* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

comprehensive state of the environment report means a council's comprehensive report as to the state of the environment referred to in section 403 of the Act.

state of the environment report means a report as to the state of the environment referred to in section 428 (2) (c) of the Act.

supplementary state of the environment report means a state of the environment report that is not a comprehensive state of the environment report.

[2] Clause 3A

Insert after clause 3:

3A Notes

Notes in the text of this Regulation are explanatory notes only and do not form part of the Regulation. They are provided to assist understanding.

[3] Part 2B

Insert after clause 6J:

Part 2B Draft management plans

6K Guidelines

In preparing a draft management plan required under Part 2 of Chapter 13 of the Act, a council must have regard to any relevant guidelines or directions issued to the council by the Director-General.

6L Additional matters to be included in draft management plans

- (1) For the purposes of the fifth dot point of section 403 (1) of the Act, any proposed council activity relating to the management of any of the following is prescribed:
 - (a) stormwater,
 - (b) coasts and estuaries,
 - (c) sewage,
 - (d) waste.
- (2) A draft management plan must contain the following particulars in relation to such of the proposed activities referred to in subclause (1) as are relevant to the council's area:
 - (a) particulars of the relevant characteristics of the area, catchment or region in which the proposed activity is to be conducted, with special reference to:
 - (i) any commercial pressures, and
 - (ii) any problems or issues identified in relation to the proposed activity in the council's state of the environment reports,
 - (b) particulars of the council's evaluation of possible methods of dealing with those pressures, problems and issues,
 - (c) particulars of the council's membership (or proposed membership) of any bodies relating to the proposed activity, including particulars of any significant variation in the way the activity is proposed to be carried out from any recommendation of such a body (together with the reasons for the variation),
 - (d) particulars of any action to be taken jointly with other councils or bodies, including particulars of any significant variation in the way the activity is proposed to be carried out from any recommendation of such a council or body (together with the reasons for the variation),

- (e) particulars of any significant variation in the council's plan from any guidelines or directions issued by the Director-General (together with the reasons for the variation).

6M Draft management plan—activities relating to ecologically sustainable development

- (1) When preparing the part of its draft management plan dealing with environmental protection activities, a council must do the following:
 - (a) it must apply the principles of ecologically sustainable development,
 - (b) it must consider its most recent comprehensive state of the environment report,
- (2) In this clause, *environmental protection activities* means the principal activities that the council proposes to conduct in order to properly manage, develop, protect, restore, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development (as referred to in section 403 (2) of the Act).

[4] Part 3A Annual reports

Insert after the heading to the Part:

Division 1 Additional information—general

[5] Clause 7A Additional information for inclusion in annual report

Insert at the end of clause 7A:

- (2) An annual report of a council for any year that ends on or after 30 June 1998 is to include the matter required by Division 2 (State of the environment reports) of this Part.

[6] Part 3A, Division 2

Insert after clause 7A:

Division 2 State of the environment reports

7B Meaning of “environmental indicator”

For the purposes of this Division, an *environmental indicator* is an aspect of the natural world or built environment that can be monitored to provide information on environmental conditions and trends. Environmental indicators include physical, chemical, biological and socio-economic measures of the environment (such as measurements of contaminants in soil, of the health of fish species and of the number of motor vehicles per household) that can be used to assess natural resources and environmental quality.

Note. This elucidation of the term “environmental indicator” is based on the definition contained in the Glossary to the Report called *Australia: State of the Environment 1996* issued by the Commonwealth.

7C Requirements for state of the environment reports

- (1) All state of the environment reports must meet the requirements of clause 7D.
- (2) In addition:
 - (a) a comprehensive state of the environment report must meet the requirements of clauses 7E and 7F, and
 - (b) a supplementary state of the environment report must meet the requirements of clause 7G.

7D Preparation of all state of the environment reports

A state of the environment report meets the requirements of this clause if the council, in preparing the report, does each of the following:

- (a) it considers the guidelines and directions (if any) relating to the preparation and content of state of the environment reports that are issued to councils from time to time by the Director-General,
- (b) it consults the community (including environmental groups),
- (c) it involves the community (including environmental groups) in monitoring changes to the environment over time,
- (d) it produces the report in a form that is readily understandable by the general community.

7E Preparation of comprehensive state of the environment reports

- (1) A state of the environment report meets the requirements of this clause if the council, in preparing the report, does each of the following in relation to each environmental sector specified in section 428 (2) (c) of the Act:

- (a) it draws on any environmental data held by other councils that is relevant to the sector,

Note. For example, in relation to the water environmental sector, the data might include information concerning water catchments and groundwater aquifers in nearby areas.

- (b) it identifies and applies appropriate environmental indicators for the sector,
 - (c) it considers and applies the pressure-state-response model in:
 - (i) the analysis and interpretation of data, and
 - (ii) the identification of appropriate environmental indicators for the sector, and
 - (iii) the presentation of results in the report.

(2) In this clause, the ***pressure-state-response model*** means a model for reporting on environmental sectors, in which:

- (a) the ***pressure*** component identifies and describes the pressure that human activities put on their immediate environment and their natural surroundings, and
- (b) the ***state*** component identifies and describes the current and projected state of the environment, and
- (c) the ***response*** component identifies and describes the response of councils, government agencies, industry and communities to the pressures on, and state of, the environment.

7F Content of comprehensive state of the environment reports

A state of the environment report meets the requirements of this clause if it does each of the following in relation to each environmental sector specified in section 428 (2) (c) of the Act:

- (a) it provides, as a basis for comparison in subsequent reports, a statement outlining the condition (as at the date of the report) of the sector,
- (b) it makes the relevant comparison with the equivalent statement contained in the last report,
- (c) it includes (or refers to) all relevant background information,
- (d) it specifies the relevant environmental indicators,
- (e) it reports on all major environmental impacts and related activities,
- (f) it identifies any gaps in relevant information and indicates the way in which the missing information is to be obtained (or, if it cannot be obtained, why it cannot be obtained).

7G Content of supplementary state of the environment reports

A state of the environment report meets the requirements of this clause if it does each of the following:

- (a) it identifies any new environmental impacts since the council's last state of the environment report,
- (b) it updates the trends in environmental indicators that are important to each environmental sector specified in section 428 (2) (c) of the Act.

7H Frequency of comprehensive and supplementary reports

- (1) The first state of the environment report of a council for the year ending after each election of the councillors for its area must be a comprehensive state of the environment report.

Note. Under section 287 of the *Local Government Act 1993*, such an election must be held every 4 years (in September). A council's year is defined in the Dictionary to that Act to end on 30 June, and its annual report (which includes its state of the environment report) must be prepared within 5 months after that date (section 428)—that is, by 30 November. Accordingly, clause 7H (1) requires the state of the environment report prepared by the November of the year following the year in which the September election is held to be a comprehensive state of the environment report.

- (2) The other state of the environment reports may each be either a comprehensive state of the environment report or a supplementary state of the environment report, as the council chooses.

7I Report may contain information relating to region

- (I) A council must include in each of its state of the environment reports information relating to the general region in which the council's area is located if the requirements of section 428 (2) (c) of the Act in relation to the area cannot be met solely by reference to that area.

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- (2) Such information may, in any case, be included in any state of the environment report.
- (3) A report that includes information relating to the general region in which the council's area is located:
 - (a) must clearly indicate the parts of the report that relate solely to the council's own area, and
 - (b) must meet all the requirements of the Act and this Division in relation to that area.

7J Comprehensive report taken to include supplementary report

A council's comprehensive state of the environment report is taken to include any subsequent supplementary state of the environment report prepared (before the preparation of the next comprehensive state of the environment report) in relation to the same area.

7K Transitional

A council's state of the environment report for the year ending 30 June 1998 must be a comprehensive state of the environment report.