

1993—No. 495

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
STATE ENVIRONMENTAL PLANNING POLICY No 35—
MAINTENANCE DREDGING OF TIDAL WATERWAYS

NEW SOUTH WALES



[Published in Gazette No. 104 of 24 September 1993]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Planning.

ROBERT WEBSTER
Minister for Planning.

Sydney, 8 September, 1993.

Citation

1. This Policy may be cited as State Environmental Planning Policy No. 35—Maintenance Dredging of Tidal Waterways.

Aims, objectives etc.

2. (1) The objective of this Policy is to enable the maintenance dredging of tidal waterways by public authorities to be carried out in a timely, cost effective and environmentally responsible manner in response to changing conditions in those waterways.

(2) The aims of this Policy are:

- (a) to rationalise the planning controls applicable to the carrying out of maintenance dredging of tidal waterways by or on behalf of public authorities by providing that all such maintenance dredging may be carried out without the need for development consent to be obtained under the Act; and

- (b) to ensure that all environmental impacts of maintenance dredging of tidal waterways by or on behalf of a public authority are identified and appropriately assessed before the public authority makes a decision on whether to commence the maintenance dredging by requiring the public authority:
 - (i) to consult with affected bodies, including councils; and
 - (ii) to take into account the views of those bodies.

Definitions

3. In this Policy:

“extractive material” means silt, sand, gravel, clay, turf, soil, rock, stone or similar substances;

“maintenance dredging” means the winning or removal and the disposal of extractive material from the bed of a tidal waterway to enable the waterway:

- (a) to continue to function as a tidal waterway; or
- (b) to resume its function as a tidal waterway;

“public authority” has the same meaning as in the Act;

“the Act” means the Environmental Planning and Assessment Act 1979 ,

“tidal waterway” means a channel or passage within a body of water, where the tide ebbs and flows and where there is sufficient width and depth for:

- (a) tidal flow; or
- (b) travel or transport by a safe navigation route.

Relationship with other environmental planning instruments

4. Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and my other environmental planning instrument, whether made before, on or after the date of commencement of this Policy, this Policy prevails to the extent of the inconsistency.

Land to which this Policy applies

5. This Policy applies to all land within the State, except the land to which the environmental planning instruments set out in Schedule 1 apply.

Maintenance dredging by public authorities

6. (1) A public authority may carry out maintenance dredging within tidal waterways on land to which this Policy applies, despite the provisions of any other environmental planning instrument.

(2) Development consent is not required for the carrying out of any such maintenance dredging.

Consultation with affected bodies

7. A public authority must, before carrying out any maintenance dredging within tidal waterways on land to which this Policy applies:

- (a) identify such of the bodies specified in Schedule 2 (if any) that may be affected by or have an interest in the proposed maintenance dredging; and
- (b) give notice in writing of the proposed maintenance dredging to each of the bodies specified in Schedule 2 that have been identified in accordance with paragraph (a); and
- (c) consider any matters concerning the maintenance dredging that have been raised by those bodies and advised to the public authority that proposes to carry out the maintenance dredging within 28 days (or such other time as may be specified in the notice under paragraph (b)) after the giving of the notice.

SCHEDULE 1

(Cl. 5)

State Environmental Planning Policy No. 14—Coastal Wetlands
State Environmental Planning Policy No. 26—Littoral Rainforests
Sydney Regional Environmental Plan No. 17—Kurnell Peninsula
Sydney Regional Environmental Plan No. 20—Hawkesbury—Nepean
River
Sydney Regional Environmental Plan No. 22—Parramatta River
Sydney Regional Environmental Plan No. 23—Sydney and Middle
Harbours
Sydney Regional Environmental Plan No. 24—Homebush Bay
Development Area

SCHEDULE 2

(C1 7)

Council for the area
Department of Conservation and Land Management
Department of Public Works
N.S.W. Fisheries
Department of Mineral Resources
Maritime Services Board
Environment Protection Authority
National Parks and Wildlife Service
Water Board
Hunter Water Corporation Limited
Heritage Council
Commonwealth Environment Protection Agency

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SCHEDULE 1
SCHEDULE 2
