

State Environmental Planning Policy No 35—Maintenance Dredging of Tidal Waterways (1993 EPI 495)

[1993-495]



New South Wales

Status Information

Currency of version

Historical version for 24 September 1993 to 27 September 2005 (accessed 18 July 2024 at 3:40)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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1 Name of Policy

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

2 Aims, objectives etc

- (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.

3 Definitions

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.

4 Relationship with other environmental planning instruments

Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and any 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.

5 Land to which this Policy applies

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

6 Maintenance dredging by public authorities

- (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.

7 Consultation with affected bodies

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

(Clause 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

(Clause 7)

Council for the area
Department of Conservation and Land Management
Department of Public Works
NSW 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