

State Environmental Planning Policy No 26—Littoral Rainforests (1988 EPI 111)

[1988-111]



New South Wales

Status Information

Currency of version

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Provisions in force

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

Authorisation

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1 Name of Policy

This State Environmental Planning Policy may be cited as *State Environmental Planning Policy No 26—Littoral Rainforests*.

2 Aims, objectives etc

The aim of this Policy is to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state.

3 Interpretation

(1) In this Policy:

damage, in relation to flora, includes lopping, topping and felling.

flora includes trees, shrubs and vegetation.

residential land means land which is within a zone designated “Residential”, “Village” or “Township” on the day on which this Policy takes effect in any environmental planning instrument.

the Act means the *Environmental Planning and Assessment Act 1979*.

(2) Rocks, rock formations and earth are elements of the landscape for the purposes of this Policy.

4 Application of Policy

(1) This Policy applies to:

(a) land enclosed by the outer edge of the heavy black line on the series of maps held in the Department and marked “*State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)*”, and

(b) land not so enclosed but within a distance of 100 metres from the outer edge of

that heavy black line except residential land and land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies.

- (2) This Policy does not apply to land dedicated or reserved under the *National Parks and Wildlife Act 1974* as an Aboriginal area, historic site, national park, nature reserve, state game reserve, state recreation area, karst conservation reserve or regional park or land dedicated or set apart under section 25A of the *Forestry Act 1916* as a flora reserve.

5 Relationship between instruments

In the event of an inconsistency between this Policy and a regional environmental plan or a local environmental plan whether made before, on or after the day on which this Policy takes effect, this Policy shall prevail to the extent of the inconsistency.

6 Designated development

An act which requires the consent of the council by virtue of clause 7 (1) is designated development for the purposes of the Act.

7 Development—consent and concurrence

- (1) A person shall not, without the consent of the Council, on land described in clause 4 (1) (a), erect a building, carry out work, use land for any purpose, or subdivide it, disturb, change or alter any landform or disturb, remove, damage or destroy any native flora or other element of the landscape or dispose of or dump any liquid, gaseous or solid matter.
- (2) A person shall not, without the consent of the Council, on land described in clause 4 (1) (b), erect a building, disturb or change or alter any landform or disturb, remove, damage or destroy any native flora, or dispose of or dump any liquid, gaseous or solid matter.
- (3) Subject to subclause (4), the Council shall not determine an application under subclause (1) or (2) by granting consent under the Act except with the concurrence of the Director.
- (4) The Council shall not determine an application described in section 91A of the act by granting consent under the Act except with the concurrence of the Minister.
- (5) Nothing in subclause (1) or (2) requires the consent of the Council to be obtained for:
- (a) any act which is carried out in the ordinary course of residential occupation of the land concerned,
 - (b) controlling, by means not significantly detrimental to the native ecosystem, native flora declared to be noxious under the *Noxious Weeds Act 1993*, or

- (c) unavoidably disturbing, removing, damaging or destroying native flora in the course of controlling adjacent native flora declared to be noxious under the *Noxious Weeds Act 1993*, or
 - (d) removal of leaf litter, shed bark or cured grasses for the purpose of reducing the risk of bushfire.
- (6) The Council shall not consent to an application made under subclause (1) or (2) unless it is satisfied, if the application is to erect a building, carry out a work, use land for any purpose or dispose of or dump any liquid, gaseous or solid matter, that there is no place outside the area to which this Policy applies on which the development might suitably be located or occur.

8 Matters for consideration—concurrence

- (1) The Minister and Director shall, for the purpose of deciding whether concurrence should be granted, consider:
- (a) any representation made by or on behalf of the Director of National Parks and Wildlife about the likely impact of the proposal on the environment,
 - (b) the objectives and major goals of A National Conservation Strategy for Australia published by the Australian Government Publishing Service, Canberra, in 1984, and
 - (c) if the carrying out of the proposal and the use (if any) thereafter of the land concerned for the purpose for which it will be used may cause destruction or disturbance of the natural environment, the public interest (if any) in the carrying out of the proposal in relation to the public interest in the preservation of littoral rainforest in its natural state.
- (2) A proposal may be in the public interest for the purposes of subclause (1) notwithstanding that it benefits persons (by means including financial or other advantage) who are not public authorities or benefits those persons exclusively.

9 Forwarding of copies of applications to Director of National Parks and Wildlife

If a Council receives an application under clause 7 (1) or (2) of this Policy the Council shall within 7 days of its receipt of the application forward a copy of it to the Director of National Parks and Wildlife.

10 Amendment of other State Environmental Planning Policies

- (1) *State Environmental Planning Policy No 4—Development Without Consent*, is amended by inserting in clause 4 (1) after the word “State” the words “but does not apply to land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies”.

- (2) *State Environmental Planning Policy No 8—Surplus Public Land* is amended by inserting at the end of Schedule 1 the following words:

6 Land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies.

- (3) *State Environmental Planning Policy No 9—Group Homes* is amended by inserting in clause 4 after the word “State” the words “but does not apply to land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies”.

- (4) *State Environmental Planning Policy No 14—Coastal Wetlands*, is amended by inserting after clause 4 (3) the following subclause:

(4) This Policy does not apply to land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies.

- (5) (Repealed)