

State Environmental Planning Policy (Coastal Management) 2018

[2018-106]



New South Wales

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New South Wales

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State Environmental Planning Policy (Coastal Management) 2018



New South Wales

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Coastal Management) 2018*.

2 Commencement

This Policy commences on 3 April 2018 and is required to be published on the NSW legislation website.

3 Aim of Policy

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the *Coastal Management Act 2016*.

4 Interpretation

(1) In this Policy:

certified coastal management program means the following:

- (a) a coastal management program prepared, adopted and certified under Part 3 of the *Coastal Management Act 2016*,
- (b) a coastal zone management plan under the *Coastal Protection Act 1979* that

continues to have effect under clause 4 of Schedule 3 to the *Coastal Management Act 2016*,

- (c) a coastal zone management plan under the *Coastal Protection Act 1979*, certified and made in accordance with clause 6 (1) of Schedule 3 to the *Coastal Management Act 2016*, that is taken to be a coastal management program prepared and adopted under that Act.

coastal environment area—see clause 6 (4).

Coastal Environment Area Map means the *State Environmental Planning Policy (Coastal Management) 2018 Coastal Environment Area Map*.

coastal lake means a body of water identified in Schedule 1.

coastal use area—see clause 6 (5).

Coastal Use Area Map means the *State Environmental Planning Policy (Coastal Management) 2018 Coastal Use Area Map*.

coastal vulnerability area—see clause 6 (3).

Coastal Vulnerability Area Map means the *State Environmental Planning Policy (Coastal Management) 2018 Coastal Vulnerability Area Map*. [Not adopted.]

Note—

At the commencement of this Policy, no *Coastal Vulnerability Area Map* was adopted and therefore no coastal vulnerability area has been identified.

coastal wetlands and littoral rainforests area—see clause 6 (2).

Coastal Wetlands and Littoral Rainforests Area Map means the *State Environmental Planning Policy (Coastal Management) 2018 Coastal Wetlands and Littoral Rainforests Area Map*.

public authority has the same meaning as in the Act.

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

- (2) Words and expressions used in this Policy have the same meanings as they have in the *Coastal Management Act 2016*, unless otherwise defined in this Policy.
- (3) Subject to subclause (2), words and expressions used in this Policy have the same meanings as they have in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*, unless otherwise defined in this Policy.

(4) Notes included in this Policy do not form part of this Policy.

5 Land to which Policy applies

This Policy applies to land within the coastal zone.

6 Identification of coastal management areas

Note—

Section 5 of the *Coastal Management Act 2016* provides that the **coastal zone** means the area of land comprised of the following coastal management areas:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

- (1) This clause identifies land for the purposes of the *Coastal Management Act 2016* and this Policy.
- (2) The **coastal wetlands and littoral rainforests area** is the land identified as such by the *Coastal Wetlands and Littoral Rainforests Area Map*.

Note—

The **coastal wetlands and littoral rainforests area** is made up of land identified as “coastal wetlands” or as “littoral rainforests” on the *Coastal Wetlands and Littoral Rainforests Area Map*. The land so identified includes land identified as “proximity area for coastal wetlands” and “proximity area for littoral rainforest”.

- (3) The **coastal vulnerability area** is the land identified as such by the *Coastal Vulnerability Area Map*.

Note—

At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified.

- (4) The **coastal environment area** is the land identified as such by the *Coastal Environment Area Map*.
- (5) The **coastal use area** is the land identified as such by the *Coastal Use Area Map*.

7 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) This Policy does not apply to land within the Lease Area within the meaning of *State Environmental Planning Policy (Three Ports) 2013*.

8 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note—

The maps adopted by this Policy are to be made available on the NSW Planning Portal.

9 (Repealed)

Part 2 Development controls for coastal management areas

Division 1 Coastal wetlands and littoral rainforests area

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* only with development consent:
 - (a) the clearing of native vegetation within the meaning of Part 5A of the [Local Land Services Act 2013](#),
 - (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the [Fisheries Management Act 1994](#),
 - (c) the carrying out of any of the following:
 - (i) earthworks (including the depositing of material on land),
 - (ii) constructing a levee,
 - (iii) draining the land,

- (iv) environmental protection works,
- (d) any other development.

Note—

Clause 17 provides that, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
 - (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.
- (2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.
- (3) Despite subclause (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* may be carried out by or on behalf of a public authority without development consent if the development is identified in:
- (a) the relevant certified coastal management program, or
 - (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993*, or
 - (c) a plan of management approved and in force under Division 6 of Part 5 of the *Crown Lands Act 1989*.
- (4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.
- (5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the *Biosecurity Act 2015*.
- (6) This clause does not apply to the carrying out of development on land reserved under the *National Parks and Wildlife Act 1974* if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.

11 Development on land in proximity to coastal wetlands or littoral rainforest

Note—

The *Coastal Wetlands and Littoral Rainforests Area Map* identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

- (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.
- (2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map*.

Division 2 Coastal vulnerability area

Note—

At the commencement of this Policy, no *Coastal Vulnerability Area Map* was adopted and therefore no coastal vulnerability area has been identified.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the *Coastal Vulnerability Area Map* unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- (b) the proposed development:
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Division 3 Coastal environment area

13 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the

coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Division 4 Coastal use area

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

17 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.

18 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

Part 3 Miscellaneous

19 Coastal protection works

Note—

Section 4 (1) of the *Coastal Management Act 2016* defines **coastal protection works** to mean:

- (a) beach nourishment activities or works, and
- (b) activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to) seawalls, revetments and groynes.

Section 27 of the *Coastal Management Act 2016* also contains provisions dealing with the granting of development consent to development for the purpose of coastal protection works.

- (1) **Coastal protection works by person other than public authority** Development for the purpose of coastal protection works may be carried out on land to which this Policy applies by a person other than a public authority only with development consent.

Note—

See clause 8A of Schedule 7 to *State Environmental Planning Policy (State and Regional Development) 2011*, which declares certain development for the purpose of coastal protection works to be regionally significant development for which a Sydney district or regional planning panel is the consent authority.

- (2) **Coastal protection works by public authority** Development for the purpose of coastal

protection works may be carried out on land to which this Policy applies by or on behalf of a public authority:

- (a) without development consent—if the coastal protection works are:
 - (i) identified in the relevant certified coastal management program, or
 - (ii) beach nourishment, or
 - (iii) the placing of sandbags for a period of not more than 90 days, or
 - (iv) routine maintenance works or repairs to any existing coastal protection works,
or
- (b) with development consent—in any other case.

Note—

See clause 8A of Schedule 7 to [State Environmental Planning Policy \(State and Regional Development\) 2011](#), which declares certain development for the purpose of coastal protection works to be regionally significant development for which a Sydney district or regional planning panel is the consent authority.

- (3) **Emergency coastal protection works by public authority** Development for the purpose of emergency coastal protection works carried out on land to which this Policy applies is exempt development if it is carried out by or on behalf of a public authority in accordance with a coastal zone emergency action subplan (or a coastal zone management plan under the [Coastal Protection Act 1979](#) containing an emergency action subplan that continues to have effect under clause 4 of Schedule 3 to the [Coastal Management Act 2016](#)).
- (4) In this clause, **emergency coastal protection works** means works comprising the placement of sand, or the placing of sandbags for a period of not more than 90 days, on a beach, or a sand dune adjacent to a beach, to mitigate the effects of coastal hazards on land.

20 Flexible zone provisions

A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect to the extent that it applies to land to which this Policy applies.

21 Savings and transitional provisions

Note—

See also section 27 (Granting of development consent relating to coastal protection works) of the [Coastal Management Act 2016](#).

- (1) The former planning provisions (1) continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the

commencement of this Policy in relation to land to which this Policy applies.

- (2) Clause 10 of this Policy does not apply to the following activities (to the extent that they would otherwise comprise development to which that clause would apply):
- (a) the carrying out of an activity for which an approval was granted by a determining authority under Part 5 of the Act before the commencement of this Policy,
 - (b) the carrying out of an activity after the commencement of this Policy, but only if:
 - (i) any approval that is required for carrying out the activity is granted by the determining authority under Part 5 of the Act within 12 months after that commencement, and
 - (ii) any environmental impact assessment of that activity under Part 5 of the Act that is required had commenced before the commencement of this Policy.
- (3) The former planning provisions continue to apply (and this Policy does not apply) to an application for development consent if:
- (a) the application is made within 12 months after the commencement of this Policy, and
 - (b) an environmental impact statement is to be submitted in connection with the application, and
 - (c) the Secretary issued, before the commencement of this Policy, environmental assessment requirements for the preparation of the statement, and
 - (d) those environmental assessment requirements require the preparation of the statement to have regard to:
 - (i) *State Environmental Planning Policy No 14—Coastal Wetlands*, or
 - (ii) *State Environmental Planning Policy No 26—Littoral Rainforests*.
- (4) In this clause:

activity and **approval** have the same meanings as they have in Part 5 of the Act.

former planning provisions means:

- (a) the provisions of each of the following Policies as in force immediately before the Policy's repeal:
 - (i) *State Environmental Planning Policy No 14—Coastal Wetlands*,
 - (ii) *State Environmental Planning Policy No 26—Littoral Rainforests*,
 - (iii) *State Environmental Planning Policy No 71—Coastal Protection*, and

(b) the provisions of *State Environmental Planning Policy (Infrastructure) 2007* that would be in force if that Policy had not been amended by this Policy.

Schedule 1 Coastal lakes

(Clause 4 (1), definition of “coastal lake”)

Sensitive coastal lakes

Bondi Lagoon (Lake)

Bournda Lagoon and Sandy Beach Creek

Durras Lake

Lake Arragan

Lake Brou (Brou Lake)

Lake Brunderee

Lake Hiawatha

Lake Minnie Water

Lake Tarourga

Lake Wollumboola

Meroo Lake

Nadgee Lake

Nargal Lake

Nelson Lagoon

Saltwater Lake

Termeil Lake

Ti Tree (Taylors) Lake

Other coastal lakes

Avoca Lake	Kianga Lake	Pambula Inlet/Lake
Back Lake/Lagoon	Killalea Lagoon	Queens Lake
Baragoot Lake	Kioloa Lagoon	Redhead Lagoon
Bellambi Lagoon	Lake Ainsworth	Saltwater Lagoon
Bingie Lagoon (Kellys Lake)	Lake Cakora	Smiths Lake
Bullengella Lake	Lake Cathie	St Georges Basin
Bunga Lagoon	Lake Conjola (includes Berringer)	Swan Lake
Burrill Lake	Lake Illawarra	Tabourie Lake
Candlagan Creek and Lagoon	Lake Innes	Terrigal Lagoon
Cobaki-Terranora Broadwater	Lake Macquarie	The Broadwater (Clarence River)
Cockrone Lake	Lake Mummuga (Dalmeny)	Tilba Tilba Lake
Coila Lake	Limpid (Brush) Lagoon	Tuggerah Lake (includes Lakes
Congo Creek and Lagoon	Little Lake (Narooma)	Budgewoi and Munmorah)
Corindi (Pipeclay) Lake	Little Lake (near Wallaga)	Tuross Lake
Corunna Lake	Long Swamp	Wagonga Inlet
Cudgen Lake	Manly Lagoon	Wallaga Lake
Curalo Lagoon	Merimbula Lake	Wallagoot Lake
Curl Curl Lagoon	Meringo Creek and Lagoon	Wallis Lake
Cuttagee Lake	Middle (Tanja) Lagoon	Wamberal Lagoon
Dalhousie Creek and Lagoon	Mullimburra Lagoon	Wapengo Lagoon
Dee Why Lagoon	Murrah Lagoon	Watsons Taylor Lake
Deep Creek and Lagoon	Myall Lakes	Werri Lagoon
Gogleys Lagoon	Nangudga Lake	Willinga Lake
Goolawah Lagoon	Narrabeen Lagoon	Wonboyn Lake
Hearns Lake	Narrawallee Inlet	Woolgoolga Lake
	Oyster Creek and Lagoon (includes McGraths Creek)	Wooloweyah Lagoon

Schedule 2 (Repealed)