

Lower South Coast Regional Environmental Plan (No 2) (1992 EPI 372)

[1992-372]



New South Wales

Status Information

Currency of version

Repealed version for 15 December 2008 to 4 August 2016 (accessed 17 July 2024 at 22:16)

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.

Notes—

- **Repeal**

This plan was repealed by cl 3 (e) of the [State Environmental Planning Policy \(Integration and Repeals\) 2016 \(310\)](#) (LW 10.6.2016) with effect from 5.8.2016.

- **Deemed SEPP**

From 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the [Environmental Planning and Assessment Act 1979](#)).

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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Contents

Part 1 Preliminary	5
1 Name of plan	5
2 Aims, objectives etc.....	5
3 Land to which plan applies	5
4 Relationship to other environmental planning instruments	6
5 Definitions	6
6 Duties of certain public authorities in relation to plan preparation and development consents.....	7
Part 2 The environment	8
Division 1 Natural areas	8
7 Definitions	8
8 Objectives.....	8
9 Policies for plan preparation	8
Division 2 Coastal and waterway environments	8
10 Definition.....	8
11 Objectives.....	9
12, 13 (Repealed)	9
Divisions 3, 4 (Repealed)	9
Part 3 Rural land	9
18 Definition.....	9

19 Objectives.....	9
20 Policies for plan preparation	9
21 Policies for development control.....	11
Part 4 Natural resources	11
Division 1 Water resources	11
22 Objective	11
23 Policies for plan preparation	11
24 Policies for development control.....	12
Division 2 (Repealed)	12
Division 3 Fishery resources	12
27 Objective	12
28 (Repealed)	12
29 Policies for development control.....	12
Division 4 (Repealed)	12
Part 5 Urban land	13
Division 1 (Repealed)	13
Division 2 Residential development	13
34 Objective	13
35 Policies for plan preparation	13
Division 3 (Repealed)	13
Part 6 Tourism and recreation	13
38 Objectives.....	13
39 (Repealed)	14
40 Policies for development control.....	14
Part 7 Regional services	14
Division 1 Transport	14

41 Objectives.....	14
42 (Repealed)	14
Divisions 2, 3 (Repealed)	14
Part 8 (Repealed)	14
Schedule 1 Waterways	14
Schedule 2 (Repealed)	17

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New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Lower South Coast Regional Environmental Plan (No 2)*.

2 Aims, objectives etc

(1) The aims of this plan are:

- (a) to develop regional policies that protect the natural environment and promote the orderly and economic development and use of land and other resources in the region, consistent with conservation of natural and man-made features,
- (b) to consolidate and amend various existing policies applying to the region, to make them more appropriate to regional needs, and to place them in the context of regional policy,
- (c) to provide a basis for the coordination of activities related to growth in the region and to encourage optimum economic and social benefit to the local community and visitors to the region, and
- (d) to establish a regional planning framework for identifying priorities for further investigation to be carried out by the Department of Planning and other agencies.

(2) The aims will be implemented in this plan by specifying:

- (a) objectives for the future planning, development and use of land within the region, and
- (b) regional policies to guide the preparation of local environmental plans and for development control.

3 Land to which plan applies

This plan applies to the land within the Shires of Bega Valley and Eurobodalla declared by

order, published in Gazette No 142 of 5 October 1984, to be a region called “The Lower South Coast Region” for the purposes of the Act.

4 Relationship to other environmental planning instruments

- (1) In the event of an inconsistency between this plan and another environmental planning instrument (other than a State environmental planning policy) applying to the land to which this plan applies, this plan shall prevail to the extent of the inconsistency.
- (2) In so far as a provision of this plan indicates that any matter or thing should be undertaken by a council or another consent authority as a condition precedent to the granting of a development consent in accordance with any local environmental plan, the provision does not operate so as to render a development consent unlawful or ineffective by reason only of a failure to observe the condition.
- (3) In so far as a provision of this plan indicates that a local environmental plan should include, or should refrain from including, a particular requirement (whether as a condition subsequent to the inclusion in such a plan of some other requirement of a specified kind, or otherwise):
 - (a) the provision has effect in relation to all local environmental plans applying to any land within the region, with the intent that a failure of any draft plan to comply with the provision constitutes an inconsistency, as mentioned in section 68 (4) (d) (iii) of the Act, between this plan and the draft local environmental plan concerned, and
 - (b) the provision does not, however, operate so as to render any such plan, if otherwise duly made, unlawful or ineffective by reason of such an inconsistency.

5 Definitions

- (1) In this plan:

appointed day means the day on which this plan takes effect.

council, in relation to a local government area within the region, means the council of that area.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the region means the land referred to in clause 3.

waterway means a water body listed in Schedule 1.

- (2) Where, pursuant to a provision of this plan, the council is required to consult with a specified body in deciding whether to grant consent to the carrying out of development, the provision shall be construed as requiring the council to have regard

to any representations made to it by any such body and received by it within 28 days of the date of referral to the body of the development application.

- (3) In this plan, unless the context or subject-matter otherwise indicates or requires, a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.

6 Duties of certain public authorities in relation to plan preparation and development consents

Where:

- (a) an environmental planning instrument applying to the region or a part of the region provides (or is deemed to have provided) that development specified in the instrument may not be carried out except with consent under the Act being obtained, and an application is made to carry out that development,
- (b) under an environmental planning instrument applying to the region or a part of the region, certain development specified in the instrument cannot be carried out because of a development standard applying to the development but nevertheless application for consent to carry out that development is made to the consent authority pursuant to the provisions of *State Environmental Planning Policy No 1—Development Standards*,
- (c) a council decides or is directed to prepare a draft local environmental plan applying to a part or to the whole of the region,
- (d) the Minister, pursuant to section 101 of the Act, gives a direction in writing to a consent authority to refer to the Secretary for determination by the Minister a particular development application or development applications of a particular class or description applying to the region or a part of the region, or
- (e) an environmental planning instrument applying to the region or a part of the region provides that development specified in the instrument may be carried out without the consent of the council, or without the necessity for consent under the Act being obtained from a consent authority, and that development, being development that is an activity within the meaning of Part 5 of the Act, is proposed to be carried out,

then a consent authority, the Director, the Minister or a determining authority (as the case may be) should, in carrying out its or his or her function under the Act or under the instrument concerned, and for the purpose of advancing the aims of this plan enumerated in clause 2, consider the aims, objectives, policies and principles contained in this plan and relevant to the matter.

Part 2 The environment

Division 1 Natural areas

7 Definitions

In this Division:

bushland means land on which there is vegetation which is either a remainder of the native vegetation of the land or, if altered, is still representative of the structure and floristics of the vegetation.

wetland means an area of land subject to permanent or periodic inundation and substantially retaining a cover of natural vegetation which generally displays hydrophytic characteristics or an area of land capable of regenerating vegetation to fulfill that criteria.

8 Objectives

The objectives of this plan in relation to planning strategies concerning natural areas are:

- (a) to protect natural areas of ecological, scenic or scientific interest,
- (b) to strictly control any reduction in the extent of important natural areas, and
- (c) to protect and preserve bushland:
 - (i) within urban areas, or
 - (ii) which provides a natural buffer between settlements.

9 Policies for plan preparation

In the preparation of draft local environmental plans, the council shall:

- (a) retain existing provisions allowing the making of tree preservation orders and require development consent for land clearing (other than of an incidental nature or where authorised under any other Act or instrument made under an Act) in areas where original vegetation types are still prominent and where such clearance is likely to have an adverse impact on the natural environment.
- (b) (c) (Repealed)

Division 2 Coastal and waterway environments

10 Definition

In this Division:

coastal areas means the area one kilometre landward from low water mark as described in the Government publication entitled "New South Wales Coast Government Policy" or

such area as may be determined by the Director of Planning as provided for in that policy.

11 Objectives

The objectives of this plan in relation to coastal areas and waterways are:

- (a) to minimise changes to natural coastal processes resulting from development,
- (b) to protect water quality,
- (c) to minimise risks to people and property resulting from coastal processes,
- (d) to maintain the visual quality of the coastal and waterway environments,
- (e) to provide for the appropriate recreational use of beaches, other coastal lands and waterways, and
- (f) to maintain or enhance public access to and use of beaches, other coastal attractions and waterways in appropriate locations.

12, 13 (Repealed)

Divisions 3, 4

14-17 (Repealed)

Part 3 Rural land

18 Definition

In this Part:

rural residential smallholdings means allotments which have an area less than the minimum area referred to in clause 20 (1) (a) and are intended primarily for residential purposes.

19 Objectives

The objectives of this plan in relation to rural land are:

- (a) to conserve better quality agricultural lands for the purposes of agriculture,
- (b) to facilitate farm adjustments,
- (c) to enable other forms of development associated with, or compatible with, rural activity in appropriate locations, and
- (d) to minimise the cost to the community of fragmented and isolated development.

20 Policies for plan preparation

- (1) A draft local environmental plan for rural land:

- (a) shall control subdivision by including an appropriate minimum subdivision area,
 - (b) should make provision for subdivision which does not meet the minimum area referred to in paragraph (a) where such subdivision is for farm adjustment or amalgamation,
 - (c) shall require development consent for the erection of dwellings except where the land is zoned to permit rural residential smallholdings or the land has an area greater than the minimum area specified in paragraph (a) and there is no dwelling erected on the land in which case the need for consent may be waived, and
 - (d) shall provide, where appropriate, a buffer or other means of separating agricultural use from residential or other incompatible uses.
- (2) A draft local environmental plan applying to land which is suitable for inclusion in an agricultural protection zone shall include that land in an agricultural protection zone and adopt provisions that:
- (a) control development for purposes other than commercial agriculture, and
 - (b) set minimum holding sizes for farm dwelling entitlements,
- consistent with protecting the long term use of the land for efficient sustainable agricultural production.
- (3) (Repealed)
- (4) A draft local environmental plan providing for rural residential smallholdings shall be prepared only after the council has adopted a strategy for rural residential development within the whole of the local government area which takes into account:
- (a) the legitimate demands for such development,
 - (b) accessibility to community facilities and services,
 - (c) proximity to urban centres,
 - (d) provision of infrastructure and services,
 - (e) the risk of environmental hazards as described in Division 3 of Part 2,
 - (f) land capability and agricultural land classification,
 - (g) likely effects on waterways and water catchment areas,
 - (h) the need to avoid sterilisation of valuable mineral deposits or other extractive materials, and
 - (i) (Repealed)

- (5) A draft local environmental plan may contain provisions permitting the erection of dwelling-houses on any or all of the following kinds of allotments of rural land:
- (a) an allotment within a zone identified as being primarily for the purpose of rural smallholdings,
 - (b) an allotment legally created, or approved for that purpose, under the previous planning provisions applying to the land,
 - (c) an **existing holding** or **existing parcel** as defined in the relevant environmental planning instrument applying to the land at the day on which that instrument takes effect and on which a dwelling could be erected under that instrument,
 - (d) a holding larger than the minimum size referred to in subclause (1) (a) where there is no existing dwelling.
- (6) A draft local environmental plan containing provisions permitting the erection of dwelling-houses on rural land may make provision for a dwelling-house to be converted or extended to form a building containing two dwellings.

21 Policies for development control

Councils, before granting consent to the development of rural land for purposes other than agriculture must, where the land is classified as Class 1, 2 or 3 on the maps marked "*Agricultural Land Classification Map—Lower South Coast Region*" copies of which are deposited in the office of the councils, be satisfied that the development will not significantly reduce the agricultural potential of the land or adjoining lands.

Part 4 Natural resources

Division 1 Water resources

22 Objective

The objective of this plan in relation to water quality and water resources is to encourage the effective use and the protection of the quality of the region's water resources.

23 Policies for plan preparation

Draft local environmental plans affecting land in the vicinity of surface water or groundwater supplies:

- (a) should be prepared only after the council has considered likely impacts on water quality and availability, and
- (b) should only permit development which is compatible with the maintenance of acceptable water quality standards.

24 Policies for development control

In considering a development application relating to land in the vicinity of surface or groundwater water supplies, the council shall:

- (a) consider the impact the proposed development is likely to have on water quality and availability, and
- (b) only consent to the application if satisfied that adequate water quality and availability will be maintained if the proposed development is carried out.

Division 2

25, 26 (Repealed)

Division 3 Fishery resources

27 Objective

The objective of this plan in relation to fisheries is to preserve and enhance recreational and commercial fishing activity.

28 (Repealed)

29 Policies for development control

In considering an application to carry out development for any purpose within, adjoining or upstream of a fishery habitat area or within the drainage catchment of a fishery habitat area, the council shall consider:

- (a) the need to maintain or improve the quality or quantity of flows of water to the habitat,
- (b) the need to conserve the existing amateur and commercial fisheries,
- (c) any loss of habitat which will or is likely to be caused by carrying out the development,
- (d) whether the development would result in pollution of the waters and any measures to eliminate pollution,
- (e) the proximity of aquatic reserves dedicated under the *Fisheries and Oyster Farms Act 1935* and the effect the development will have on those reserves, and
- (f) the need to ensure that native vegetation surrounding the fishery habitat area is conserved.

Division 4

30, 31 (Repealed)

Part 5 Urban land

Division 1

32, 33 (Repealed)

Division 2 Residential development

34 Objective

The objective of this plan in relation to residential development is to promote the provision of a range of adequate, affordable and suitable housing to meet the needs of the region's population.

35 Policies for plan preparation

In the preparation of draft local environmental plans involving residential development, the council should:

- (a) enable dual occupancy to be carried out in appropriate areas,
- (b) allow as wide a range of housing types and densities as is practicable and compatible with the environmental capacity of the area,
- (c) require that development for residential purposes shall not take place until land is adequately serviced with water and sewerage (or arrangements satisfactory to the council have been made to service the land),
- (d) retain existing provisions to enable a dwelling-house to be erected on an existing allotment,
- (e) not require development consent for a dwelling-house in a residential zone except where there are special environmental or hazard considerations, and
- (f) not include provisions which will result in a reduction of permissible residential densities, except where justified on environmental, hazard or economic grounds.

Division 3

36, 37 (Repealed)

Part 6 Tourism and recreation

38 Objectives

The objectives of this plan in relation to tourism and recreation are:

- (a) to provide opportunities for establishing a wide range of tourist and recreational opportunities within the region,

- (b) to encourage tourism activity that will complement the existing natural and man made features of the region and be of positive benefit to the region's economy,
- (c) to encourage the location of tourism facilities to complement transport services, infrastructure, other tourism attractions and urban facilities, and
- (d) to encourage the adoption of planning controls containing incentives for tourism development where appropriate.

39 (Repealed)

40 Policies for development control

In considering an application for tourist development, the council shall have regard to any guidelines published by the Department of Planning in relation to such development and any tourism strategies or plans prepared for the region by the Tourism Commission of New South Wales.

Part 7 Regional services

Division 1 Transport

41 Objectives

The objectives of this plan in relation to transport are:

- (a) to safeguard the role and efficiency of the main road system of the region, particularly by recognising the importance of primary arterial roads, and
- (b) to identify priorities for the maintenance and improvement of road and air transport in the region.

42 (Repealed)

Divisions 2, 3

43-46 (Repealed)

Part 8

47 (Repealed)

Schedule 1 Waterways

(clause 5)

- 1 Durras Lake
- 2 Clyde River
- 3 Cullendulla Creek

- 4 Tomaga River
- 5 Candlagan Creek
- 6 Waldrons Swamp
- 7 Racecourse Swamp
- 8 Moruya River
- 9 Congo Creek
- 10 Meringo Creek
- 11 Meringo Beach
- 12 Coila Lake
- 13 Tuross Lake and River
- 14 Lake Brunderee
- 15 Lake Tarourga
- 16 Lake Brou
- 17 Lake Mummuga (Dalmeny)
- 18 Kianga Lake
- 19 Wagonga Inlet
- 20 Little Lake (Narooma Beach)
- 21 Bullengella Lake
- 22 Nangudga Lake
- 23 Nargal Lake
- 24 Corunna Lake
- 25 Tilba Tilba Lake
- 26 Little Lake
- 27 Wallaga Lake
- 28 Long Swamp
- 29 Bermagui River
- 30 Barragoot Lake
- 31 Cuttagee Lake (and Little Lake)

- 32 Murrah Lagoon
- 33 Bunga Lagoon
- 34 Wapengo Lake
- 35 Middle Lagoon
- 36 Nelson's Lagoon
- 37 Bega River
- 38 Wallagoot Lake
- 39 Bondi Lake (Bournda)
- 40 Sandy Beach Creek
- 41 Short Point Beach
- 42 Back Lagoon
- 43 Merimbula Lake
- 44 Merimbula Beach Wetlands
- 45 Pambula Lake and River estuary
- 46 Curalo Lagoon
- 47 Shadrach's Creek
- 48 Nullica River
- 49 Towamba River
- 50 Fisheries Creek
- 51 Saltwater Creek
- 52 Woodburn Creek
- 53 Bittangabee Creek
- 54 Wonboyn Lake and River
- 55 Merrica River
- 56 Newton's Beach Lagoon
- 57 Little Creek
- 58 Nadgee River
- 59 Nadgee Lake

60 Tantawanglo Creek

61 Wandella Creek

62 Couria Creek

Schedule 2 (Repealed)