

PLANNING AND NATURAL SYSTEMS

ATTACHMENT E

**NSW COASTAL REFORMS
MIDCOAST COUNCIL SUBMISSION**

ORDINARY MEETING

8 FEBRUARY 2017



New South Wales

State Environmental Planning Policy (Coastal Management) 2016

under the

Environmental Planning and Assessment Act 1979

[The following enacting formula will be included if this Policy is made:]

His Excellency the Governor, with the advice of the Executive Council, and on the recommendation of the Minister administering the *Coastal Management Act 2016*, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning

public consultation draft

State Environmental Planning Policy (Coastal Management) 2016 [NSW]
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State Environmental Planning Policy (Coastal Management) 2016

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Coastal Management) 2016*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Aim of Policy

The aim of this Policy is 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* 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 which comprise the NSW coastal zone, in accordance with the definitions in the *Coastal Management Act 2016*.

4 Definitions

- (1) In this Policy:

coastal environment area—see clause 6 (4).

Coastal Environment Area Map means the State Environmental Planning Policy (Coastal Management) 2016 Coastal Environment Area Map.

coastal use area—see clause 6 (5).

Coastal Use Area Map means the State Environmental Planning Policy (Coastal Management) 2016 Coastal Use Area Map.

coastal vulnerability area—see clause 6 (3).

Coastal Vulnerability Area Map means the State Environmental Planning Policy (Coastal Management) 2016 Coastal Vulnerability Area Map.

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) 2016 Coastal Wetlands and Littoral Rainforests Area Map.

Local Government Coastal Hazard Map means the State Environmental Planning Policy (Coastal Management) 2016 Local Government Coastal Hazard Map prepared in accordance with subclause (2).

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marine vegetation has the same meaning as in Part 7A of the *Fisheries Management Act 1994*.

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

- (2) The Secretary is to ensure that the Local Government Coastal Hazard Map prepared for the purposes of this Policy is to specify land containing coastal hazards identified by local environmental plans or development control plans prepared for the following local government areas and in force immediately before the commencement of this Policy:
- (a) Ballina,
 - (b) Bega Valley,
 - (c) Byron,
 - (d) Clarence Valley,
 - (e) City of Gosford,
Note. Now Central Coast.
 - (f) Great Lakes,
Note. Now Mid-Coast.
 - (g) City of Lake Macquarie,
 - (h) Manly,
Note. Now Northern Beaches.
 - (i) Nambucca,
 - (j) Pittwater,
Note. Now Northern Beaches.
 - (k) Port Macquarie-Hastings,
 - (l) City of Shellharbour,
 - (m) City of Shoalhaven,
 - (n) Tweed,
 - (o) Warringah,
Note. Now Northern Beaches.
 - (p) Waverley,
 - (q) Wyong.
Note. Now Central Coast.
- (3) 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.
- (4) Subject to subclause (3), words and expressions used in this Policy have the same meanings as they have in the standard instrument set out at the end of the *Standard Instrument (Local Environmental Plans) Order 2006*, unless otherwise defined in this Policy.
- (5) 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,

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- (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 rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map. The land so identified includes land identified as “coastal wetlands proximity area” and “rainforest proximity area”.
- (3) The ***coastal vulnerability area*** is any of the following land:
- (a) land identified as such by the Coastal Vulnerability Area Map,
 - (b) land identified as “coastal hazard land” on the Local Government Coastal Hazard Map.
- (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) Subject to section 74 (1) of the Act and this clause, 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) In the event of an inconsistency between this Policy and *State Environmental Planning Policy (Three Ports) 2013*, *State Environmental Planning Policy (Three Ports) 2013* prevails to the extent of the inconsistency.

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 Repeals

The following environmental planning instruments are repealed:

- (a) *State Environmental Planning Policy No 14—Coastal Wetlands*,
- (b) *State Environmental Planning Policy No 26—Littoral Rainforests*,

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(c) *State Environmental Planning Policy No 71—Coastal Protection.*

10 Review of Policy

The Minister must ensure that the provisions of this Policy are reviewed:

- (a) as soon as practicable after the first anniversary of the commencement of this Policy, and
- (b) at least every 5 years after that commencement.

Part 2 Development controls for coastal management areas

Division 1 Coastal wetlands and littoral rainforests area

11 Development of coastal wetlands or littoral rainforest land

- (1) The following may be carried out on land wholly or partly identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

- (a) the damage or removal of native vegetation within the meaning of the *Native Vegetation Act 2003*,

Consultation note. The conservation of terrestrial native vegetation (including in the coastal wetlands and littoral rainforests area) may be dealt with under the proposed *Biodiversity Conservation Act 2016* and associated legislation.

The intention is to maintain existing levels of protection of terrestrial native vegetation in the coastal wetlands and littoral rainforests area.

- (b) the damage or removal of marine vegetation,
- (c) the carrying out of any of the following works:
- (i) earthworks (including filling of land or the depositing of material on land),
 - (ii) levees,
 - (iii) drainage works,
 - (iv) environmental protection works,
- (d) any other development.

Note. Clause 18 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 the relevant coastal management program.
- (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, made to protect 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 noxious weeds within the meaning of the *Noxious Weeds Act 1993*.

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

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 wholly or partly identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the

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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 the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.
- (2) This clause does not apply to:
- (a) land within Zone R1, R2, R3, R4, R5 or RU5 under an environmental planning instrument or in a land use zone that is equivalent to any of those zones, or
Note. See clause 20 for other land use zones that are equivalent to named land use zones.
 - (b) land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.

Division 2 Coastal vulnerability area

13 Development on certain land within the coastal vulnerability area

- (1) This clause applies to land that is wholly or partly within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the proposed development:
 - (a) if there is an existing beach adjacent to the proposed development—allows for the ambulatory and dynamic nature of the beach and foreshore or provides for beach nourishment, and
 - (b) is not likely to cause increased risk of coastal hazards on that land or other land, and
 - (c) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - (d) 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
 - (e) incorporates appropriate measures to manage risk to life and public safety from coastal hazards.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered, given anticipated impacts of coastal processes and coastal hazards, whether:
 - (a) any proposed buildings or works should be temporary buildings or works, and
 - (b) whether any use of land should be a temporary use of land.

Note. See section 80A (1) (d) and (e) of the Act which provides for the imposition of conditions on development consents that:

 - (a) limit the period during which development may be carried out in accordance with the consent so granted, and
 - (b) require the removal of buildings and works (or any part of them) at the expiration of that period.

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State Environmental Planning Policy (Coastal Management) 2016 [NSW]
Part 2 Development controls for coastal management areas

Division 3 Coastal environment area

14 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:
 - (a) is not likely to cause adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and
 - (b) is not likely to significantly impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and
 - (c) is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and
 - (d) is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and
 - (e) will not adversely impact Aboriginal cultural heritage and places, and
 - (f) incorporates water sensitive design, including consideration of effluent and stormwater management, and
 - (g) will not adversely impact on the use of the surf zone.
- (2) In this clause, *sensitive coastal lake* means a body of water identified in Schedule 1.

Division 4 Coastal use area

15 Development on land within the coastal use area

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) is satisfied that the proposed development:
 - (i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and
 - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and
 - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and
 - (iv) will not adversely impact on Aboriginal cultural heritage and places, and
 - (v) will not adversely impact on use of the surf zone, and
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.

Division 5 General

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

- (1) Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) 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.

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Note. Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.

- (2) This clause ceases to have effect at the end of 31 December 2021.

17 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 the following:

- (a) a coastal management program that applies to the land,
- (b) a coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the *Coastal Management Act 2016*.

18 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.

19 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.

20 References to equivalent land use zones

In this Policy, a reference to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 33A (2) of the Act as determined under clause 1.6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note. Clause 12 (2) (a) of this Policy refers to equivalent land use zones, so as to apply the Policy to land zoned in similar residential and rural zones under environmental planning instruments that have not adopted standard zones.

Part 3 Miscellaneous

21 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. Clause 22 provides that the function of granting consent for development referred to in this subclause is to be exercised by:

- (a) if the coastal protection works are identified in the relevant coastal management program (or 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*)—the council, or
- (b) in any other case—the relevant joint regional planning panel.

(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 coastal management program (or 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*), 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. Clause 22 provides that the function of granting consent for development referred to in this subclause is to be exercised by the relevant joint regional planning panel.

(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 wave erosion on land.

22 Council consent functions to be exercised by joint regional planning panel

- (1) This clause applies to the following development on land within the coastal zone:

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- (a) development for the purpose of coastal protection works carried out by a person other than a public authority, other than coastal protection works identified in the relevant coastal management program (or 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*),
 - (b) development for the purpose of coastal protection works carried out by or on behalf of a public authority (other than development that may be carried out without development consent under clause 21 (2) (a)).
- (2) The relevant joint regional planning panel may exercise the following consent authority functions of the council or councils for development to which this clause applies:
- (a) the determination of development applications, and applications for the modification of development consents previously granted by the panel, in accordance with Part 4 of the Act,
 - (b) without limiting paragraph (a), the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Act and sections 89A, 93I, 94, 94A, 94B, 94C, 94CA, 94EF, 94F, 95 (2), 96 (2) and 96AA of the Act.
- (3) However, the following functions of a council as a consent authority are not conferred by this clause on a joint regional planning panel:
- (a) the functions conferred by section 79B of the Act (other than section 79B (9)),
 - (b) the functions conferred by section 80A (7)–(10) of the Act,
 - (c) the functions conferred by section 82B of the Act,
 - (d) the functions conferred by sections 94 (5) and 94EF (5) of the Act,
 - (e) the receipt and assessment of development applications,
 - (f) the determination and receipt of fees for development applications,
 - (g) notification of the determination of development applications,
 - (h) the functions conferred by section 95A of the Act,
 - (i) the determination of applications for modification of consents on the ground of a minor error, misdescription or miscalculation under section 96 (1) of the Act,
 - (j) the functions conferred by section 96 (1A) of the Act,
 - (k) the functions conferred by section 96AA of the Act, if the original development application was not determined by a regional panel.
- (4) The council remains the consent authority for development to which this clause applies, subject to the exercise by joint regional planning panels of functions conferred on them by this clause.

Note. The *Environmental Planning and Assessment Regulation 2000* also provides that a joint regional planning panel is taken not to be the council for specified provisions of the *Environmental Planning and Assessment Act 1979*.

23 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.

24 Savings and transitional provisions

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.

Schedule 1 Sensitive coastal lakes

(Clause 14)

Bondi Lake
Bournda Lagoon
Durras Lake
Lake Arragan
Lake Brou
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 Lake

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State Environmental Planning Policy (Coastal Management) 2016 [NSW]
Schedule 2 Coastal lakes

Schedule 2 Coastal lakes

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

Schedule 3 Amendment of other instruments

3.1 State Environmental Planning Policy No 19—Bushland in Urban Areas

Clause 5 Relationship with other environmental planning instruments

Omit clause 5 (3). Insert instead:

- (3) Nothing in this Policy affects the operation of clause 11 of *State Environmental Planning Policy (Coastal Management) 2016*.

3.2 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Clause 1.5 Interpretation—general

Omit paragraphs (b) and (c) of the definition of *environmentally sensitive area* in clause 1.5 (1).

Insert instead:

- (b) a coastal lake specified in Schedule 1 or 2 to *State Environmental Planning Policy (Coastal Management) 2016*,
- (c) land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map (within the meaning of *State Environmental Planning Policy (Coastal Management) 2016*),

3.3 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Clause 4 Land to which Policy applies

Omit “*State Environmental Planning Policy No 71—Coastal Protection*” from clause 4 (7) (a).

Insert instead “*State Environmental Planning Policy (Coastal Management) 2016*”.

3.4 State Environmental Planning Policy (Infrastructure) 2007

[1] Clause 8 Relationship to other environmental planning instruments

Omit clause 8 (2)–(4). Insert instead:

- (2) Except as provided by subclauses (3) and (4), if there is an inconsistency between a provision of this Policy and any of the following provisions of another environmental planning instrument, the provision of the other instrument prevails to the extent of the inconsistency:
 - (a) clauses 11, 12 and 21 of *State Environmental Planning Policy (Coastal Management) 2016*,
 - (b) all of the provisions of *State Environmental Planning Policy (State Significant Precincts) 2005*.
- (3) Clause 48B of this Policy prevails over clauses 11 and 12 of *State Environmental Planning Policy (Coastal Management) 2016* to the extent of any inconsistency.
- (4) A provision of this Policy that permits development for the purpose of emergency works or routine maintenance works to be carried out without consent prevails over clauses 11 and 12 of *State Environmental Planning*

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State Environmental Planning Policy (Coastal Management) 2016 [NSW]
Schedule 3 Amendment of other instruments

Policy (Coastal Management) 2016 to the extent of any inconsistency, but only if any adverse effect on the land concerned is restricted to the minimum possible to allow the works to be carried out.

- (5) For the avoidance of doubt, development to which subclause (3) or (4) applies is not declared designated development for the purposes of the Act.

[2] Clause 15A

Insert after clause 15:

15A Consultation with councils—development with impacts on certain land within the coastal zone

- (1) This clause applies to development on land that is within a coastal vulnerability area and is inconsistent with a coastal management program that applies to that land.
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies that this Policy provides may be carried out without consent unless the authority or person has:
- (a) given written notice of the intention to carry out the development to the council for the local government area in which the land is located, and
 - (b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.
- (3) In this clause, *coastal management program* and *coastal vulnerability area* have the same meanings as they have in the *Coastal Management Act 2016*.

[3] Clause 41 Development permitted without consent

Omit clause 41 (2) (b). Insert instead:

- (b) emergency works and routine maintenance works,

Note. See clause 8 (4) regarding emergency works and routine maintenance works on land to which clauses 11 and 12 of *State Environmental Planning Policy (Coastal Management) 2016* apply.

[4] Clause 48 Development permitted without consent

Omit “land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies” from clause 48 (3) (a).

Insert instead “land within the coastal wetlands and littoral rainforests area (within the meaning of the *Coastal Management Act 2016*)”.

[5] Clause 48A Exempt development

Omit “land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies” from clause 48A (2).

Insert instead “land within the coastal wetlands and littoral rainforests area (within the meaning of the *Coastal Management Act 2016*)”.

[6] Clause 48B Development on certain coastal wetlands land

Omit clause 48B (1). Insert instead:

- (1) This clause applies to land identified as “coastal wetlands” on the Coastal Wetlands and Littoral Rainforests Area Map within the meaning of *State Environmental Planning Policy (Coastal Management) 2016*.

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[7] Clause 79 Development permitted without consent—rail infrastructure facilities generally

Omit clause 79 (2) (b). Insert instead:

- (b) emergency works and routine maintenance works,

Note. See clause 8 (4) regarding emergency works and routine maintenance works on land to which clauses 11 and 12 of *State Environmental Planning Policy (Coastal Management) 2016* apply.

[8] Clause 94 Development permitted without consent—general

Omit clause 94 (2) (b). Insert instead:

- (b) emergency works and routine maintenance works,

Note. See clause 8 (4) regarding emergency works and routine maintenance works on land to which clauses 11 and 12 of *State Environmental Planning Policy (Coastal Management) 2016* apply.

[9] Clause 128 Definition

Omit the definitions of *coastal lake*, *Coastal Panel*, *coastal protection works* and *coastal zone management plan*.

[10] Clause 128, definition of “waterway or foreshore management activities”

Omit paragraph (d) of the definition.

[11] Clause 129 Development permitted without consent

Omit “coastal erosion” from clause 129 (2) (c). Insert instead “erosion”.

[12] Clause 129 (2) (c), note

Omit the note.

[13] Clause 129 (2A) and (2B)

Omit the subclauses.

[14] Clause 129A Development with consent

Omit the clause.

3.5 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

[1] Clause 3 Interpretation

Omit paragraph (b) of the definition of *environmentally sensitive area of State significance* in clause 3 (2).

Insert instead:

- (b) land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map (within the meaning of *State Environmental Planning Policy (Coastal Management) 2016*), or

[2] Clause 5 Relationship with other environmental planning instruments

Omit clause 5 (4) (b) and (c). Insert instead:

- (b) *State Environmental Planning Policy (Coastal Management) 2016*,

3.6 State Environmental Planning Policy (State and Regional Development) 2011

Clause 4 Definitions

Omit paragraph (b) of the definition of *environmentally sensitive area of State significance* in clause 4 (1).

Insert instead:

- (b) land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map (within the meaning of *State Environmental Planning Policy (Coastal Management) 2016*), or

3.7 State Environmental Planning Policy (State Significant Precincts) 2005

[1] Clause 3 Definitions and key concepts

Omit the definitions of *coastal lake* and *coastal zone* from clause 3 (1).

Insert instead:

coastal lake means a body of water referred to in Schedule 1 or 2 to *State Environmental Planning Policy (Coastal Management) 2016*.

coastal zone has the same meaning as in the *Coastal Management Act 2016*.

[2] Schedule 3 State significant precincts

Omit clause 5 (b) from Part 24. Insert instead:

- (b) *State Environmental Planning Policy (Coastal Management) 2016*.

3.8 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Dictionary

Omit the definitions of *coastal lake* and *coastal zone*.

Insert instead, respectively:

coastal lake means a body of water referred to in Schedule 1 or 2 to *State Environmental Planning Policy (Coastal Management) 2016*.

coastal zone has the same meaning as in the *Coastal Management Act 2016*.