

# Jervis Bay Regional Environmental Plan 1996

As at 1 July 2009

## 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*).

## 1 Name of plan

This plan is the *Jervis Bay Regional Environmental Plan 1996*.

## 2 Explanatory notes

The table of contents and notes in the text of this plan are explanatory notes and do not form part of this plan.

## 3 Where does this plan apply?

This plan applies to land within the Jervis Bay Region, shown edged with a heavy black line on map 1.

## 4 What are the aims of this plan?

Jervis Bay is a unique area with outstanding natural and cultural values that should be protected. All development must allow for people to use and enjoy the area without compromising the very values that make the area so attractive.

The aims of this plan are:

- (a) to protect the natural and cultural values of Jervis Bay, and
- (b) to allow proposals that contribute to the natural and cultural values of the area.

## Who is the consent authority?

Under the *Shoalhaven Local Environmental Plan 1985*, Shoalhaven City Council is the consent authority for development in relation to the land to which this regional environmental plan applies. Under clause 18 (4), the Council is also made the consent authority for development on land shown as Zone 8 (b) on the zoning map.

## 5 Does this plan affect other plans?

This plan:

- (a) removes from the operation of the *Illawarra Regional Environmental Plan No 1* the land to which this plan applies, and
- (b) removes from the operation of the *Shoalhaven Local Environmental Plan 1985* all the land shown as Zone 8 (a) National Park or Nature Reserve and Zone 8 (b) Proposed National Park on the zoning map, and
- (c) prevails over any local environmental plan or deemed environmental planning instrument, whether made before or after this plan, to the extent of any inconsistency between this plan and any such plan or instrument.

## 6, 7 (Repealed)

## 8 Definitions

- (1) In this plan: "**Council**" means the Shoalhaven City Council. "**habitat corridor**" means an area of land or water that links areas of natural habitat along which both fauna and flora species feed, breed, disperse, colonise or migrate. "**Jervis Bay**" means the land

within the Jervis Bay Region shown edged with a heavy black line on map 1. "**Jervis Bay Region**" means the land declared to be the Jervis Bay Region by the Minister under section 4 (6) of the *Environmental Planning and Assessment Act 1979*. "**proposal**" means:

- (a) any development that requires consent under the *Shoalhaven Local Environmental Plan 1985*, except development that is to be or is being dealt with as complying development, or
- (b) any activity as defined by Part 5 of the *Environmental Planning and Assessment Act 1979*.

"**zoning map**" means map 5, as amended by map 5a and by the maps (or specified sheets of maps) marked as follows: The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

*City of Shoalhaven Local Environmental Plan 1985 (Amendment No 177)*

(2) A reference in this plan to a numbered map is a reference to the map having that number in the series of maps marked "*Jervis Bay Regional Environmental Plan 1996*", "*Jervis Bay Regional Environmental Plan 1996 (Amendment No 1)*" or "*City of Shoalhaven Local Environmental Plan 1985 (Amendment No 177)*" deposited in the head office of the Department of Urban Affairs and Planning and a copy of which is deposited in the Department's Wollongong Office and in the office of the Council.

## **9 How to use this plan**

Jervis Bay's natural and cultural values can be preserved if the consequences of a proposal are appreciated and understood. Cultural values include early settlement structures and Aboriginal archaeological sites, such as rock paintings and middens or places of spiritual significance. Natural values include vegetation, creeks, significant rock outcrops and wetlands. This plan sets out a process for designing or assessing a proposal so that its consequences can be understood and managed.

If you wish to carry out, or are the proponent of, a proposal, you must show why the proposal should proceed, using the following steps:

- (a) describe the natural and cultural values of the site affected by the proposal,
- (b) evaluate the significance of these values within the Jervis Bay context,
- (c) assess the impact of the proposal on those values identified, both within the site and the Jervis Bay context,
- (d) provide details on how the immediate and cumulative impacts of the proposal will be managed, to achieve the aims of this plan.

The degree of detail provided in this process will be specific to each proposal. The consent or determining authority will provide guidance on the suitable level of detail needed. If the development is designated development, then the Director-General of the Department of Urban Affairs and Planning will provide the requirements for the environmental impact statement.

## **10 How does this plan affect you?**

Any proposal has the potential to impact the environment. It is the responsibility of everyone who lives in, develops land in, or even visits Jervis Bay, to be aware of the consequences of their actions, because the preservation of the area is the responsibility of all who use it.

If you are a landowner, or a developer, or the Council, or a public authority, proposing or assessing any proposal, then you must achieve the aims of this plan.

## **How to achieve the aims**

Clauses 11-17 set out the outcomes expected from any proposal for Catchment Protection, Landscape Quality, Cultural Heritage, Habitat Corridors, Disturbed Habitat and Vegetation, New Urban Releases and Tourism Development. You must show how your proposal will achieve these outcomes.

## **11 Catchment protection**

Catchment protection is about managing proposals so that the health of the environment is maintained or improved. Water quality is a measure of the health of a catchment and any proposal has the potential to affect water quality. All proposals need to recognise the potential impact on the catchment and be designed to protect and restore the natural qualities of Jervis Bay.

Water quality determines how a body of water can be used. The relationship between water quality and use is outlined in the *Australian National Water Quality Guidelines for Fresh and Marine Water 1992*. The waterbodies within the area of the plan serve two or three uses--protection of aquatic ecosystems, drinking water for livestock or recreation (see map 2). The plan requires that these uses be sustained. However, if the current water quality in specific areas could not sustain these uses, then a proposal must show how the water quality will be maintained or improved.

A proposal must:

- (a) for the water quality in any waterbody it may affect, either:
  - â€¢ sustain uses identified on map 2 and as defined by the *Australian National Water Quality Guidelines for Fresh and Marine Water 1992*, or
  - â€¢ demonstrate how the water quality will be maintained or improved, if the water quality in those waterbodies does not at that time sustain the uses identified on map 2, and
- (b) outline a water quality management strategy for surface water to demonstrate how paragraph (a) will be achieved, and
- (c) rehabilitate and restore any degraded areas along a waterbody on the site, and
- (d) provide sewerage for all new development (unless the development is within an existing unsewered area). If alternate systems of sewage disposal have been approved by health and environment protection authorities, they may be provided, and
- (e) protect ecosystems and natural habitats, including waterbodies, from degradation.

## **12 Landscape quality**

The waters of Jervis Bay and its surrounding landscape are part of the nation's natural and cultural heritage. Any proposal needs to recognise the importance of preserving and respecting these features.

A proposal must:

- (a) maintain the visual quality of a waterbody, a wetland, or a foreshore dune, and
- (b) maintain distinct urban communities that have an individual identity, and
- (c) let the landscape, not the structures, be the dominant feature outside the settlements, and
- (d) allow the existing tree canopy, on or around the site, to dominate.

## **13 Cultural heritage**

There are many sites of special significance to the Aboriginal communities. Coastal sand dune areas, rocky headlands and the flat, well-drained areas along the major creeklines have a high potential for containing Aboriginal archaeological sites. Also the Point Perpendicular lighthouse and the rock platform at Tapalla Point are of State and regional significance. These sites, buildings and the rock platform should be preserved for all people, as a part of our heritage.

- (1) If a proposal is within a coastal sand dune area, on a rocky headland or on a flat, well-drained area along a major creekline, the consent authority must consider the effect of the proposal on the heritage significance of any Aboriginal object known or reasonably likely to be located at the site.
- (2) (Repealed)
- (3) If your proposal is next to or near the following item, it must:
  - (a) protect it, and
  - (b) be complementary to it, in its design and external colour:  
Point Perpendicular lighthouse group (including the lighthouse, generator, annexe, three residences and ancillary structure).

(4) If your proposal is next to or near the following geological site, it must protect it: Huskisson Tapalla Point rock platform, as identified by the Australian Heritage Commission.

#### **14 Habitat corridors**

Habitat corridors will help to ensure the long term survival and biological diversity of native fauna and flora species in Jervis Bay.

- (1) A proposal on land in a habitat corridor, as shown on map 3, must:
  - (a) be designed to minimise disturbance to the existing structure and species composition of native vegetation communities, and
  - (b) allow native fauna and flora to feed, breed, disperse, colonise or migrate (whether seasonally or nomadically), and
  - (c) regenerate and revegetate degraded lands with local native species, and
  - (d) be designed to enhance the retention and augmentation of vegetation native to the area.
- (2) If your proposal is on land in a habitat corridor, as shown on map 3, you must show how subclause (1) can be achieved. This should include:
  - (a) retaining natural vegetation, and
  - (b) clustering development, sharing driveways, setting building envelopes, and
  - (c) landscaping with local native species (or non-invasive exotic species for areas close to buildings), and
  - (d) designing fences so that fauna movement is not restricted, and
  - (e) minimising the use of herbicides and pesticides, and
  - (f) providing for bushfire protection.

(3) (Repealed)

#### **15 Disturbed habitat and vegetation**

Some areas of vegetation which once formed part of the proposed habitat corridor system, still have the potential, with active management, to continue to provide important regional resources for wildlife.

Any proposal for land shown by broken hatching on map 3 must be designed to maximise:

- (a) the retention of native vegetation, and
- (b) the rehabilitation of degraded areas.

#### **16 New urban releases**

New housing areas can add to the value and attractiveness of Jervis Bay and contribute to the overall quality of the built environment.

Any new land releases for urban development should be located in the areas indicated on map 4.

#### **17 Tourism development**

Jervis Bay offers unique opportunities for tourism. The special natural qualities of the Bay, the creeks, the beaches and the rural landscape are exceptional. The area offers a broad range of experiences for visitors, and tourism developments that can benefit from these natural qualities while contributing to the special value of Jervis Bay.

A proposal for tourism should achieve the following outcomes if relevant to the proposal:

- (a) contribute to the variety of activities for visitors, and
- (b) contribute to the variety of accommodation for visitors, and
- (c) contribute to the visitor appreciation of the natural and cultural values of Jervis Bay.

#### **18 A National Park**

A National Park is proposed in Jervis Bay because of its many outstanding natural and cultural values. Part of the Park has already been made and part is still proposed to be included in the Park.

This plan shows the proposed boundaries of the Park and requires responsible management of the land. Because the plan is reserving the land for a future public purpose, it provides for acquisition on the request of the owner.

Nothing in this clause is to be construed as requiring a public authority to acquire land--see section 27 (3) of the Act.

(1) The land shown as Zone 8 (a) on the zoning map is National Park or Nature Reserve. All development is prohibited in this zone except for any purpose authorised by or under the *National Parks and Wildlife Act 1974* or any purpose ancillary or incidental to any such purpose. Development consent for any such development is not required in this zone.

(2) The land shown as Zone 8 (b) on the zoning map is Proposed National Park. If you own land in this area, then you may request the Director-General of National Parks and Wildlife to acquire the land. Any request for acquisition should be in writing and the Director-General of National Parks and Wildlife must acquire the land.

(3) Land shown as Zone 8 (b) on the zoning map:

(a) must be managed in a way that:

â€¢ protects the natural heritage, and

â€¢ conserves wildlife (as prescribed in the *National Parks and Wildlife Act 1974*), and

â€¢ protects the special features, natural scenery and landscape qualities, and

â€¢ protects natural habitats from the negative effects of introduced plants and animals and fire, and

â€¢ prevents soil erosion and maintains the land in a natural condition, and

(b) must be managed in a way that will provide for opportunities for future Aboriginal ownership, and

(c) must be managed in a way that will allow for opportunities for co-operative management between the relevant Aboriginal communities and the Director-General of National Parks and Wildlife.

(4) Any development on land shown as Zone 8 (b) on the zoning map requires the consent of the Council.

(5) The Council must not grant consent to any development proposed on the land shown as Zone 8 (b) on the zoning map, unless it is satisfied that the provisions of subclause (3) will be achieved.

### Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Jervis Bay Regional Environmental Plan 1996* published in Gazette No 4 of 10.1.1997, p 95 and amended as follows:*City of Shoalhaven Local Environment Plan 1985 (Amendment No 164)* (GG No 130 of 19.11.1999, p 10783)*Jervis Bay Regional Environmental Plan 1996 (Amendment No 1)* (GG No 66 of 2.6.2000, p 4561)*City of Shoalhaven Local Environment Plan 1985 (Amendment No 177)* (GG No

93 of 1.6.2001, p 3377) *City of Shoalhaven Local Environmental Plan No 14* (GG No 94 of 4.6.2004, p 3433) *Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91*. Assented to 10.12.2004. Date of commencement of Sch 2.42, assent, sec 2 (2).

2008	(571)	<i>State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2008</i> . GG No 157 of 12.12.2008, p 11946. Date of commencement, 15.12.2008, cl 3.
2009	(285)	<i>State Environmental Planning Policy (Repeal of REP Provisions) 2009</i> . LW 26.6.2009. Date of commencement, on publication on LW, cl 2.

Table of amendments

Cl 4	Am 2.6.2000.
Cl 5	Am 2.6.2000.
Cl 6	Rep 2009 (285), Sch 1 [2].
Cl 7	Rep 2.6.2000.
Cl 8	Am 19.11.1999; 2.6.2000; 1.6.2001.
Cl 13	Am 4.6.2004; 2004 No 91, Sch 2.42; 2008 (571), Sch 2.6 [1].
Cl 14	Am 2008 (571), Sch 2.6 [2] [3].
Cl 18	Am 2.6.2000; 2008 (571), Sch 2.6 [4] [5].