

State Environmental Planning Policy No 14-- Coastal Wetlands

Reprint history:

Reprint No 1

1 October 1993

Reprint No 2

19 March 1997

1 Name of Policy

This State Environmental Planning Policy may be cited as *State Environmental Planning Policy No 14--Coastal Wetlands*.

2 Aims, objectives etc

The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.

3 Definitions

In this policy, except in so far as the context or subject-matter otherwise indicates or requires:

"restoration works" means works:

- (a) that are carried out to restore or enhance the natural values of coastal wetlands in order to rectify a breach of this Policy (including works to restore or enhance plant communities, water levels, water flow and soil composition), and
- (b) that are not carried out in association with other development, and
- (c) that do not have a significant impact on the environment beyond the site of the works.

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

"the map" means the series of maps deposited in the office of the Department that are marked as follows:

- (a) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 2)* -- maps 8, 11, 15, 16, 17, 28, 34, 40, 41, 43, 45, 47, 55, 56, 59, 60, 63, 66, 72, 73, 75-77, 79-82,
- (b) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 3)* -- maps 18 and 29,
- (c) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 7)* -- maps 7, 19, 21, 22, 25 and 30,
- (d) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 8)* -- maps 37, 50, 58, 65 and 67,
- (e) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 9)* -- map 61,
- (f) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 10)* -- maps 10, 32, 42, 45, 62 and 74,
- (g) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 11)* --

maps 4, 9, 12-14, 24, 26, 27, 35, 39, 44, 46, 48, 49, 54 and 64,

(h) (Repealed)

(i) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 13)* -- maps 33 and 38,

(j) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 14)* -- maps 1, 3, 5, 20, 23, 52, 53, 69 and 70,

(k) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 15)* -- maps 2, 6, 31, 36, 51, 68, 71 and 78,

(l) *State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 16)* -- Map 57.

4 Application of policy

(1) Subject to subclause (2), this policy applies to the land outlined by the outer edge of the heavy black line on the map.

(2) This policy does not apply to land dedicated or reserved under the *National Parks and Wildlife Act 1974* as an Aboriginal area, historic site, national park, nature reserve, state game reserve or state recreation area.

(3) This policy does not apply to the land shown edged heavy black on Map 8 in Schedule 3 to *State Environmental Planning Policy (Major Projects) 2005*.

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

5 Inconsistency between instruments

Subject to section 74 (1) of the Act, in the event of an inconsistency between this policy and another environmental planning instrument, whether made before, on, or after the date on which this policy is made, this policy shall prevail to the extent of the inconsistency.

6 Consent authority

(1) The council of the local government area in which development described in clause 7 (1) (a), (b), (c) or (d) or 7A is proposed to be carried out shall be the consent authority having the function to determine a development application relating to that development.

(2) If development that requires consent under this Policy is declared to be a project to which Part 3A of the Act applies, the concurrence of the Director-General is not required, despite anything to the contrary in this Policy.

7 Restriction on development of certain land

(1) In respect of land to which this policy applies, a person shall not:

- (a) clear that land,
- (b) construct a levee on that land,
- (c) drain that land, or
- (d) fill that land,

except with the consent of the council and the concurrence of the Director.

(2) In considering whether to grant concurrence under subclause (1), the Director shall take into consideration:

(a) the environmental effects of the proposed development, including the effect of the proposed development on:

- (i) the growth of native plant communities,
- (ii) the survival of native wildlife populations,
- (iii) the provision and quality of habitats for both indigenous and migratory species,
- (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including salinity and water quality,

(b) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,

- (c) whether carrying out the development would be consistent with the aim of this policy,
 - (d) the objectives and major goals of the "National Conservation Strategy for Australia" (as set forth in the second edition of a paper prepared by the Commonwealth Department of Home Affairs and Environment for comment at the National Conference on Conservation held in June, 1983, and published in 1984 by the Australian Government Publishing Service) in so far as they relate to wetlands and the conservation of "living resources" generally, copies of which are deposited in the office of the Department,
 - (e) whether consideration has been given to establish whether any feasible alternatives exist to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development,
 - (f) any representations made by the Director of National Parks and Wildlife in relation to the development application, and
 - (g) any wetlands surrounding the land to which the development application relates and appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands.
- (3) Pursuant to section 29 of the Act, development for which consent is required by subclause (1) is declared to be designated development for the purposes of the Act.
- (4) In this clause: "**clearing**", in relation to land, means the destruction or removal in any manner of native plants growing on the land, but does not include:
- (a) the destruction or removal of a plant declared to be a noxious weed within the meaning of the *Noxious Weeds Act 1993*, by means not likely to be significantly detrimental to the native ecosystem, or
 - (b) the incidental destruction or removal of native plants lying adjacent to any such noxious plants occurring unavoidably during the process of destroying or removing those noxious plants, or
 - (c) the destruction or removal of native plants, within 3 metres of the boundary between the lands owned or occupied by different persons, for the purpose of erecting or maintaining a dividing fence between those lands, or
 - (d) the destruction or removal of native plants, within 0.5 metres of the boundary between the lands owned or occupied by different persons, for the purpose of enabling a survey to be carried out along that boundary by a surveyor registered under the *Surveyors Act 1929*.

"**native plants**" means plants indigenous to the State of New South Wales, including trees, shrubs, ferns, vines, herbs and grasses indigenous to the State.

(5) This clause does not apply to the carrying out of restoration works.

7A Restriction on carrying out of restoration works

- (1) In respect of land to which this policy applies, a person must not carry out restoration works except with the consent of the council and the concurrence of the Director.
- (2) An applicant for consent to carry out restoration works must lodge with the council a restoration plan prepared in accordance with the guidelines issued by the Department of Urban Affairs and Planning.
- (3) In considering whether to grant concurrence under subclause (1), the Director must take into consideration the adequacy of the restoration plan lodged by the applicant with the council.

8 Copy of application to be sent to Director of National Parks and Wildlife

Where a council receives an application for consent to carry out development referred to in clause 7 (1), the council shall, within 7 days of its receipt of that application, forward a copy of the application to the Director of National Parks and Wildlife.

9 (Repealed)

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 *State Environmental Planning Policy No 14--Coastal Wetlands* published in Gazette No 171 of 12.12.1985, p 6439 and amended in Gazettes of 14.3.1986, 26.6.1987, 5.2.1988, 16.12.1988, 27.10.1989, 15.6.1990, 17.8.1990, 15.2.1991, 26.3.1993, 11.6.1993, 24.6.1994, 22.12.1995, 15.11.1996 and No 121 of 10.11.1997, p 9133 and as follows:*State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 14)* (GG No 37 of 17.3.2000, p 2035)

2005	(194)	<i>State Environmental Planning Policy (State Significant Development) 2005</i> . GG No 60 of 25.5.2005, p 1785. Date of commencement, on gazettal.
	No 98	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2005</i> . Assented to 24.11.2005. Date of commencement of Sch 2.54, assent, sec 2 (2).
2006	(611)	<i>State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 15)</i> . GG No 122 of 6.10.2006, p 8668. Date of commencement, on gazettal.
2007	(234)	<i>State Environmental Planning Policy (Major Projects) (Amendment No 15)</i> . GG No 72 of 1.6.2007, p 3094. Date of commencement, on gazettal.
	(359)	<i>State Environmental Planning Policy (Major Projects) 2005 (Amendment No 16)</i> . GG No 94 of 27.7.2007, p 4833. Date of commencement, on gazettal.
2008	(292)	<i>State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)</i> . GG No 87 of 11.7.2008, p 6945. Date of commencement, on gazettal.
	(462)	<i>State Environmental Planning Policy No 14--Coastal Wetlands (Amendment No 16)</i> . GG No 134 of 24.10.2008, p 10363. Date of commencement, on gazettal.

Table of amendments

Cl 3	Am 26.6.1987; 16.12.1988; 15.6.1990; 17.8.1990; 15.2.1991; 26.3.1993; 11.6.1993; 24.6.1994; 22.12.1995; 15.11.1996; 10.11.1997; 17.3.2000; 2006 (611), Sch 1 [1]-[9]; 2008 (292), Sch 2 [1] [2]; 2008 (462), cl 4.
Cl 4	Am 14.3.1986; 26.6.1987; 5.2.1988; 2007 (234), cl 4 (2).
Cl 6	Am 10.11.1997; 2005 (194), Sch 4.5; 2007 (359), Sch 2.2.
Cl 7	Am 26.6.1987; 27.10.1989; 10.11.1997; 17.3.2000.
Cl	Ins 10.11.1997.

7A	
CI	Rep 2005 No 98, Sch 2.54.
9	