



Circular	PS 16-003
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Related	PS 14-003 (13 November 2014)

Notations on section 149 planning certificates for land affected by the draft Coastal Management SEPP

The purpose of this circular is to provide councils with guidance on how section 149 planning certificates should specify whether land is affected by the draft Coastal Management State Environmental Planning Policy (SEPP).

Introduction

The draft State Environmental Planning Policy (Coastal Management) 2016 (Coastal Management SEPP) will map the four coastal management areas (CMA) that comprise the proposed coastal zone under the Coastal Management Act 2016. These are the Coastal Wetlands and Littoral Rainforests Area, the Coastal Environment Area, the Coastal Use Area and the Coastal Vulnerability Area.

The mapping will be based on values and features, modelling, or defined distances. Some lots may be partially covered by a CMA whilst others will be wholly within a CMA. The draft Coastal Management SEPP also identifies development controls that apply to land within a CMA.

Under s149(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) councils are required to include notification of certain relevant prescribed matters on any planning certificate for land.

Potential purchasers of land rely on the information provided in section 149 planning certificates to make an informed decision. Providing accurate and relevant information is an important consideration for purchasers.

This Circular provides guidance to councils aimed at ensuring that planning certificates under section 149(2) of the EP&A Act contain accurate notifications under clause 1(2) of Schedule 4 to the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) for land in the proposed coastal zone under the draft Coastal Management SEPP. Note this

obligation is in addition to a council's current obligation to notate matters relating to the existing coastal zone under clauses 1(1) and 7 of Schedule 4 to the EP&A Regulation on planning certificates under section 149(2) of the EP&A Act.

Planning Certificates: Information under Section 149(2)

The information to be included in a planning certificate under section 149(2) of the EP&A Act is prescribed by clause 279 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and set out in Schedule 4 to the EP&A Regulation.

Environmental planning instruments

Under clause 1(2) of Schedule 4 to the EP&A Regulation, councils are required to include on any planning certificate issued under section 149(2) of the EP&A Act, "*The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Secretary has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved).*"

If land is wholly or partly mapped as the proposed coastal zone under the draft Coastal Management SEPP, a planning certificate for that land issued under section 149(2) should record that the draft Coastal Management SEPP applies to that land.

If a lot is partly mapped as proposed coastal zone under the draft Coastal Management SEPP, and the rest of the lot is not within the proposed coastal zone, it is recommended that the planning certificate also record that the draft Coastal Management SEPP applies to "part of the lot". See the next section titled "Suggested wording" for such planning certificates.

Suggested wording for notations under clause 1(2) of Schedule 4 of the EP&A Regulation

Where a lot is wholly included in a CMA, it is suggested that councils include a notation relating to clause 1(2) of Schedule 4 to the EP&A Regulation on the section 149(2) planning certificate in the following form:

'draft Coastal Management SEPP 2016 (whole of lot).'

Where a lot is only partially included in a CMA, it is suggested that councils include a notation relating to clause 1(2) of Schedule 4 to the EP&A Regulation on the section 149(2) planning certificate in the following form:

'draft Coastal Management SEPP 2016 (part of lot).'

Further circular

A further planning circular will be issued just before the draft CM SEPP 2016 and the Coastal Management Bill 2016 commences to guide councils on how to notate planning certificates under section 149(2) of the EP&A Act in relation to clauses 1(1) and 7 of Schedule 4 to the EP&A Regulation. Clause 1(1) of Schedule 4 to the EP&A Regulation requires the name of each environmental planning instrument that applies to the carrying out of development on the land to be noted. Clause 7 of Schedule 4 to the EP&A Regulation requires the name of each council or other public authority policy on hazard risk restriction that affects the land to be noted.

Identified Councils

This circular is pertinent to all councils with land that lies within the proposed coastal zone under the draft Coastal Management SEPP 2016 as identified below.

Ballina Shire Council
Bega Valley Shire Council
Bellingen Shire Council
Blacktown City Council
Burwood Council
Byron Shire Council
Campbelltown City Council
Canterbury-Bankstown Council
Central Coast Council
City of Canada Bay Council

City of Parramatta Council
Clarence Valley Council
Coffs Harbour City Council
Council of the City of Sydney
Cumberland Council
Dungog Shire Council
Eurobodalla Shire Council
Fairfield City Council
Georges River Council
Hawkesbury City Council
Inner West Council
Kempsey Shire Council
Lake Macquarie City Council
Lane Cove Municipal Council
Lismore City Council
Liverpool City Council
Maitland City Council
Mid-Coast Council
Mosman Municipal Council
Nambucca Shire Council
Newcastle City Council
North Sydney Council
Northern Beaches Council
Port Macquarie-Hastings Council
Port Stephens Council
Penrith City Council
Randwick City Council
Richmond Valley Council
Rockdale City Council
Ryde City Council
Shellharbour City Council
Shoalhaven City Council
Strathfield Municipal Council
Sutherland Shire Council
The Council of the City of Botany Bay
The Council of the Municipality of Ashfield
The Council of the Municipality of Hunters Hill
The Council of the Municipality of Kiama
The Council of the Shire of Hornsby
The Hills Shire Council
Tweed Shire Council
Waverley Council
Willoughby City Council
Wollongong City Council
Woollahra Municipal Council

Further Information

Relevant legislation is available at

<http://www.legislation.nsw.gov.au>

For further information regarding the Coastal Management SEPP please contact the Department of Planning and Environment's information centre on 1300 305 695.

Circulars are available from

<http://www.planning.nsw.gov.au/circulars>

Authorised by:

Carolyn McNally
Secretary

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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