

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This document provides information regarding the new Biodiversity and Conservation SEPP, which is part of the NSW SEPP consolidation project.

State environmental planning policies (SEPPs) have been consolidated to align with theme-based focus areas to make the planning system more accessible and user-friendly.

Overview

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP) consolidates, transfers and repeals provisions of the following 11 SEPPs (or deemed SEPPs):

1. *SEPP (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP)
2. *SEPP (Koala Habitat Protection) 2020* (Koala SEPP 2020)
3. *SEPP (Koala Habitat Protection) 2021* (Koala SEPP 2021)
4. *Murray Regional Environmental Plan No 2—Riverine Land* (Murray REP)
5. *SEPP No 19—Bushland in Urban Areas* (SEPP 19)
6. *SEPP No 50—Canal Estate Development* (SEPP 50)
7. *SEPP (Sydney Drinking Water Catchment) 2011* (Sydney Drinking Water SEPP)
8. *Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 – 1997)* (Hawkesbury–Nepean River SREP)
9. *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (Sydney Harbour Catchment SREP)
10. *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment* (Georges River REP)
11. *Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property* (Willandra Lakes REP).

These changes are part of a broader administrative consolidation of SEPPs. Planning Circular PS–21-007 gives an overview of all changes made as part of the SEPP consolidation initiative.

Key changes

No policy changes have been made. The SEPP consolidation does not change the legal effect of the existing SEPPs, with section 30A of the *Interpretation Act 1987* applying to the transferred provisions. The SEPP consolidation is administrative. It has been undertaken in accordance with section 3.22 of the *Environmental Planning and Assessment Act 1979*.

The Biodiversity and Conservation SEPP:

- transfers most existing provisions from the 11 SEPPs being consolidated into chapters 2 to 12. Chapter 1 contains preliminary information and commencement details
- repeals the 11 SEPPs being consolidated.

Benefits of these changes

Aligning SEPPs with the planning principles focus areas

The SEPP changes are part of a package of reforms to consolidate 45 existing SEPPs into 11 new SEPPs based on the following themed focus areas:

- housing
- transport and infrastructure
- primary production
- biodiversity and conservation
- resilience and hazards
- industry and employment
- resources and energy
- planning systems.

Simplifying the planning system

The SEPP consolidation builds on previous work to simplify, consolidate and reduce the number of SEPPs. The consolidation reflects the NSW Government's commitment to reduce the complexity of the NSW planning system. The changes will simplify and improve the effectiveness and usability of current policies by reducing the number of separate planning instruments.

Provisions of the Biodiversity and Conservation SEPP

The Biodiversity and Conservation SEPP incorporates provisions from the SEPPs being consolidated as follows:

- 'Chapter 2 – Vegetation in non-rural areas' contains planning rules and controls from the Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application.
- 'Chapter 3 – Koala habitat protection 2020' contains provisions from the Koala SEPP 2020 and, as an interim measure, applies in the NSW core rural zones of RU1, RU2 and RU3, except within the Greater Sydney and Central Coast areas.
- 'Chapter 4 – Koala habitat protection 2021' contains the land-use planning and assessment framework from the Koala SEPP 2021 for koala habitat within Metropolitan Sydney and the Central Coast and applies to all zones except RU1, RU2 and RU3 in the short term – it will apply to all zones once the Koala SEPP 2020 is repealed.
- 'Chapter 5 – River Murray lands' contains the provisions from the Murray REP, which establishes a consistent and co-ordinated approach to environmental planning and assessment along the River Murray.
- 'Chapter 6 – Bushland in urban areas' contains the provisions from SEPP 19, which seeks to protect and preserve bushland within public open space zones and reservations.
- 'Chapter 7 – Canal estate development' contains the provisions from SEPP 50, which aims to prohibit canal estate development.
- 'Chapter 8 – Sydney drinking water catchment' contains the provisions from the Sydney Drinking Water Catchment SEPP to support the water quality objectives for this catchment.
- 'Chapter 9– Hawkesbury–Nepean River' contains the provisions from the Hawkesbury–Nepean River REP to protect the environment of this river system.

- ‘Chapter 10 – Sydney Harbour Catchment’ contains the provisions from the Sydney Harbour Catchment SREP to manage and improve environmental outcomes for Sydney Harbour and its tributaries.
- ‘Chapter 11 – Georges River Catchment’ contains the provisions from the Georges River REP to manage and promote integrated catchment management policies along the Georges River and its tributaries.
- ‘Chapter 12 – Willandra Lakes Region World Heritage Property’ contains the provisions from the Willandra Lakes REP, which seeks to protect, conserve and manage this World Heritage property.

Commencement and impacts

The Biodiversity and Conservation SEPP will begin on 1 March 2022. The 11 SEPPs being consolidated were repealed on the same day.

References in planning legislation and policies to the 11 consolidated SEPPs will be taken as references to the equivalent provisions in the Biodiversity and Conservation SEPP.

The provisions within the repealed SEPPs have been transferred to the new SEPP and the intent and provisions remain largely unchanged. The changes should not impact development application assessment. The Biodiversity and Conservation SEPP should be used for new development and rezoning applications.

Savings and transitional provisions from the consolidated SEPPs will not be transferred to the Biodiversity and Conservation SEPP. However, all savings and transitional provisions of the repealed SEPPs continue to have effect due to sections 5(6) and 30(2)(d) of the *Interpretation Act 1987*.

© State of New South Wales through Department of Planning and Environment 2022. The information contained in this publication is based on knowledge and understanding at the time of writing March 2022. However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.