



PLANNING SYSTEM

State environmental planning policies

Circular	PS 05–013
Issued	12 December 05
Related	PS05–012 (issued to GMR coastal councils)

Amendment no. 4 to SEPP 71 – coastal protection

This Circular is to advise local councils on the NSW coast that the Minister for Planning has made an amendment to State Environmental Planning Policy No. 71 — Coastal Protection. The councils affected are listed in Schedule 1 of the Circular.

Introduction

On the 7 December 2005 the Minister for Planning gazetted Amendment No. 4 to State Environmental Planning Policy No. 71 — Coastal Protection (SEPP 71). The amendment has the effect of giving local councils the responsibility for determining certain developments in the NSW Coastal Zone.

Purpose of SEPP 71

SEPP 71 aims to:

- foster a strategic and consistent approach to coastal planning and management
- facilitate the assessment of development proposals on merit
- set out matters for consideration by consent authorities
- develop a state-level review process for significant coastal development proposals, including proposals in sensitive locations
- ensure particular types of subdivisions in the Coastal Zone are consistent with the SEPP's objectives by requiring a state-approved DCP.¹

Where SEPP 71 applies

SEPP 71 applies to the area declared as the NSW Coastal Zone under the Coastal Protection Act. With recent amendments to include areas within the Greater Metropolitan Region, the Coastal Zone now extends along the entire NSW coastline, along all the

shorelines including around bays and estuaries (except Sydney Harbour and Botany Bay), coastal lakes and up coastal rivers to the limit of tidal influence.

Councils should refer to the NSW Coastal Zone maps provided to them for their local government area, and deposited in Departmental offices.

About the changes

Amendment No. 4 repealed clause 9(1)(b) of SEPP 71 on 7 December 2005. This means that councils are no longer required to refer developments of two storeys or more that are in sensitive coastal locations (as defined in the SEPP) to the Director General of the Department of Planning, and the Director General no longer has power to require additional matters to be taken into account when the council determines the application.

This amendment is consistent with the Minister's desire to see local councils have responsibility for local development.

Development applications of this type that have not yet been referred do not need to be referred, even if they were lodged before 7 December 2005. If a council has already referred an application to the Director General it is not necessary to wait 28 days before determining the application and council is not required to consider any matters raised by the Director General.

Councils are still required to refer to the Director General applications for development within 100 metres below mean high water mark of the sea, a bay or an estuary.

Major Projects SEPP

The Minister for Planning continues to be responsible for determining proposals of State or regional significance in the coastal area. These are now listed in Schedule 2-1 of the SEPP (Major Projects) 2005.

¹ Amendments to Parts 3 and 4 of the EP&A Act, which commenced 30 September 2005, mean references in environmental planning instruments (EPIs) such as SEPP 71 to master plans should now read development control plans (DCPs).

For DAs assessed under Part 4, section 83C allows a staged DA to be prepared and approved as an alternative to preparing a DCP, if that DCP is required by an EPI. For projects assessed under Part 3A, section 75M enables a concept plan to be submitted instead of a DCP, if the Minister authorises or requires the submission of the concept plan.

This includes:

- extractive industries, landfill, mining, marinas and other industries in the coastal zone or in sensitive coastal locations within the coastal zone (Sch. 2-1 cl.(1) (a) to (e)) and certain recreational or tourist facilities (Sch. 2-1 cl.(1)(f))
- buildings or structures greater than 13 metres in height in sensitive coastal locations in the Greater Metropolitan coastal zone, and the whole of the coastal zone for the rest of the State (Sch. 2-1 cl.(1)(g))
- certain subdivisions of land not connected to sewerage works (Sch. 2-1 cl.(1)(h))
- subdivision of land into more than 25 lots (or rural residential into 5 lots) if the land is wholly or partly in sensitive coastal locations for the Greater Metropolitan coastal zone and the whole of the coastal zone for the rest of the State. (Sch.2-1 cl.(1)(i)).

Councils should direct any applicants proposing to carry out development that will require the Minister's approval under the Major Projects SEPP² and Part 3A of the EP&A Act to:

Urban Assessments Branch
 Department of Planning
 Phone: (02) 9228 6333
 Email: information@dipnr.nsw.gov.au.

Further information

Attached for your information is a diagram outlining the arrangements for dealing with applications for development within coastal areas (see **Attachment 1**).

The relevant legislation, including SEPP 71, Major Project SEPP and the EP&A Act and Regulations are available from Parliamentary Counsel's Office website at: www.legislation.nsw.gov.au.

More information on coastal protection is also available from the Department's website at: www.planning.nsw.gov.au/plansforaction/coastalprotection.asp, including:

- information on SEPP 71
- NSW Coastal Zone maps for the Greater Metropolitan Region
- NSW Government Coastal Policy 1997
- Coastal Design Guidelines 2003.

Any further enquiries can be directed to the Department of Planning office nearest to you.

Central Coast	02 4323 7000
Hunter	02 4929 4346
Illawarra/South Coast	02 4224 9450
Metropolitan	02 9228 6333

² In relation to land that was included in the coastal zone on 18 November 2005, councils remain the consent authority for development applications for development described in schedule 2 to the SEPP lodged before 18 November 2005.

Schedule 1

SEPP 71 applies to certain lands in the following metropolitan and non-metropolitan councils as shown on the declared NSW Coastal Zone maps:

Ballina Shire Council
 Bega Valley Shire Council
 Bellingen Shire Council
 Byron Shire Council
 Clarence Valley Council
 Coffs Harbour City Council
 Eurobodalla Shire Council
 Gosford City Council
 Great Lakes Shire Council
 Greater Taree City Council
 Hastings Shire Council
 Kempsey Shire Council
 Kiama Municipal Council
 Lake Macquarie Shire Council
 Lismore City Council
 Maitland City Council
 Manly Council
 Nambucca Shire Council
 Newcastle City Council
 Port Stephens Council
 Pittwater Council
 Randwick City Council
 Richmond Valley Council
 Shellharbour City Council
 Shoalhaven City Council
 Sutherland Shire Council
 Tweed Shire Council
 Warringah Council
 Waverley Council
 Wollongong City Council
 Woollahra Municipal Council
 Wyong Shire Council

Authorised by:

Sam Haddad
 Director General

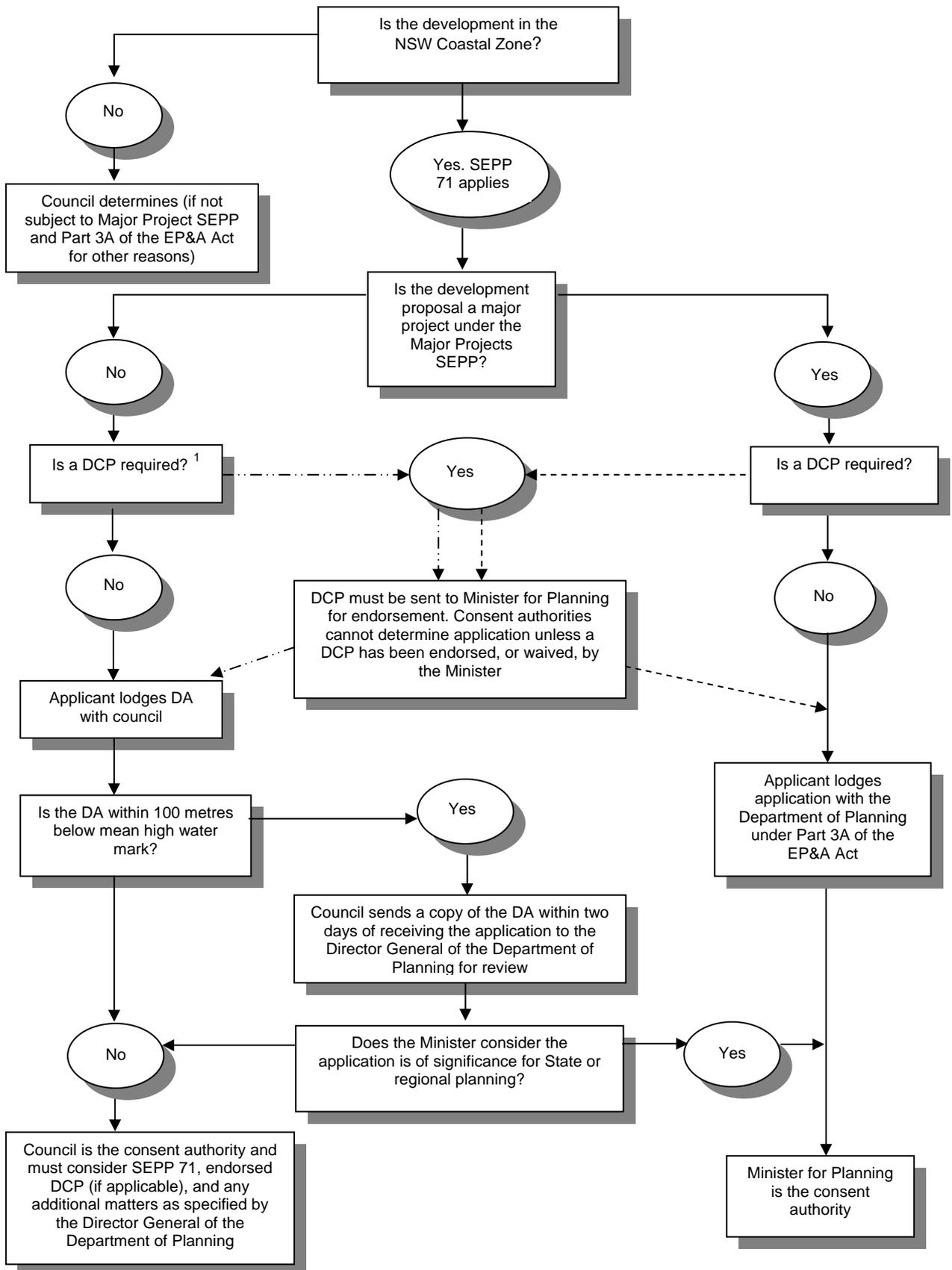
Important note

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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Determination of development proposed in coastal areas of NSW



1 Amendments to Parts 3 and 4 of the EP&A Act, which commenced 30 September 2005, mean references in environmental planning instruments (EPIs) such as SEPP 71 to master plans should now read development control plans (DCPs). For DAs assessed under Part 4, section 83C allows a staged DA to be prepared and approved as an alternative to preparing a DCP, if that DCP is required by an EPI. For projects assessed under Part 3A, section 75M enables a concept plan to be submitted instead of a DCP, if the Minister authorises or requires the submission of the concept plan.