



LEPs and SEPPs

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State Environmental Planning Policies (SEPPs)

State Environment Planning Policies (SEPPs) are environmental planning instruments which address planning issues within the State.

The practical effect of a SEPP is often to take power away from local councils in order to prohibit certain types of development in an area or to allow certain types of development even where local controls prohibit it. SEPPs often make the Planning Minister the decision-maker (consent authority) for the types of development they relate to.

[Click here to view all SEPPs](#). They will be under 'S' for State Environmental Planning Policy in Environmental Planning Instruments (EPIs).

Examples of some of the more important SEPPs:

SEPP 14 - Coastal Wetlands

This Policy provides additional protection for coastal wetlands by requiring development consent to be obtained before any clearing, draining, filling or construction of levees can take place on a mapped wetland. These developments will also require an environmental impact statement and the concurrence (agreement) of the Director-General of OEHL before consent can be granted. See our [Coastal Protection](#) Fact Sheet for more information.

SEPP 26 - Littoral Rainforests

¹ http://www.edonsw.org.au/legal_advice

This Policy seeks to protect coastal rainforests (littoral rainforests) by requiring development consent for development in or adjacent to mapped coastal rainforest areas. An environmental impact statement and the concurrence (agreement) of the Director-General of OEH may also be required under this Policy.

SEPP 33 - Hazardous and Offensive Development

This Policy contains additional requirements that must be met before development consent can be granted for hazardous and offensive industries. For example, the developer must carry out a preliminary hazard analysis, and the consent authority must consider additional matters.

SEPP 44 - Koala Habitat Protection

This Policy seeks to protect koala habitat by requiring a plan of management for all developments in core koala habitat, and by encouraging core koala habitat to be included in environment protection zones in LEPs.

Case study: [Nambucca Valley Conservation Association Inc v Nambucca Shire Council & Anor](#)

The Nambucca Valley Conservation Association Inc (NVCA) brought proceedings in the Land and Environment Court challenging the decision of Nambucca Shire Council to allow a rural residential development to proceed in core koala habitat.

The NVCA's concerns include the incremental loss of koala habitat and the impact on koala corridors as a result of the proposed development; the refusal of Council to carry out the necessary public exhibition of the amended proposal; and the timing and manner in which the Council made its decision.

On 18 March 2010, Justice Biscoe upheld the NVCA's challenge and the development consent was declared invalid.

The Court held that the Council had failed to take into account public submissions made in relation to an earlier version of the development. In addition, the Council failed to advertise the final version of the development, which had changed significantly from the first application in 2003 to the final version in 2008.

SEPP 71 - Coastal Protection

This Policy seeks to protect land in the coastal zone by identifying State significant development in the coastal zone, requiring the referral of certain development applications to carry out development in sensitive coastal locations to the Director-General of DECCW for comment, and requiring some subdivisions in the coastal zone to have master plans.

For more information on SEPP 71, see our [Coastal Protection](#) Fact Sheet for more information.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The Mining SEPP deals with mining, CSG and extractive activities. It sets out additional requirements for the consideration of mining activity applications, non-

discretionary development standards, and the process for the assessment of mining and CSG activities on strategic agricultural land. See our [Strategic Regional Land Use Policy Package](#) Fact Sheet for more information.

SEPP (Infrastructure) 2007

The Infrastructure SEPP deals with a wide range of State infrastructure, such as telecommunications facilities, sewerage works and storm water management, and specifies when development consent is (and is not) required for such development to be carried out in certain zones.

SEPP (State and Regional Development) 2011

This Policy identifies the types of development to which the development assessment and approval process under Parts 4.1 and 5.1 of the EPA Act applies. The Policy makes the Planning Minister the approval authority for the types of developments defined as SSD and SSI, as well as specific sites defined as SSD and SSI in the SEPP.

How are SEPPs made?

The Governor makes SEPPs.² A SEPP can be made where they are 'for the purpose of environmental planning by the State'.³

Governor makes SEPPS

- **Minister chooses whether public consultation is required**

There are no mandatory public consultation requirements which must be met before a SEPP is made. The Planning Minister can publicise an explanation of the intended effect of a proposed SEPP, and seek and consider public submissions, but only if the Minister so chooses.⁴

- **Consultation with OEH where SEPP affects threatened species**

Special consultation procedures apply concerning threatened species. If threatened species, populations, ecological communities or their habitats will or may be adversely affected by the SEPP, then the Director-General of the Department of Planning and Environment must consult with the Director-General of OEH.⁵

² *Environmental Planning and Assessment Act 1979 (NSW)*, s. 37.

³ *Environmental Planning and Assessment Act 1979 (NSW)*, s. 37.

⁴ *Environmental Planning and Assessment Act 1979 (NSW)*, s. 38.

⁵ *Environmental Planning and Assessment Act 1979 (NSW)*, s. 34A.