

**Sydney Coastal Councils Group
and
Protecting Wetlands Steering Committee**

Model DCP: Protecting Sydney's Wetlands



Botany Wetlands

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CONTENTS

1.	BACKGROUND.....	3
1.1	WHAT IS THE PURPOSE OF THIS DCP?	3
1.2	WHAT ARE THE AIMS OF THIS DCP?.....	3
1.3	WHAT IS A WETLAND?.....	3
1.4	WHY ARE WETLANDS IMPORTANT?.....	4
1.5	WHERE DOES THIS DCP APPLY?	5
1.6	HOW ARE WETLAND BOUNDARIES DEFINED?	6
1.7	HOW HAVE WETLANDS BEEN MAPPED?	6
1.8	WHEN WAS THIS DCP ADOPTED?	6
1.9	HOW DOES THIS DCP RELATE TO OTHER PLANS?	6
1.10	WHERE CAN FURTHER INFORMATION BE OBTAINED?.....	7
2.	ASSESSMENT PROCESS.....	8
3.	ASSESSMENT CRITERIA	9
3.1	WETLAND ZONE ASSESSMENT CRITERIA	9
3.2	WETLAND PROTECTION AREA ASSESSMENT CRITERIA.....	11
3.3	WETLAND MANAGEMENT OBJECTIVES.....	13
3.3.1	<i>Hydrology</i>	13
3.3.2	<i>Water quality</i>	13
3.3.3	<i>Ecology & habitat</i>	14
3.3.4	<i>Social & cultural values</i>	15
3.3.5	<i>Compensatory wetlands</i>	16
3.3.6	<i>Bushfire hazard</i>	17
3.4	MINOR DEVELOPMENTS	17
4.	ABBREVIATIONS & TERMS.....	19

1. BACKGROUND

1.1 What is the purpose of this DCP?

The purpose of this Development Control Plan (DCP) is to provide a planning mechanism for consistent and co-ordinated protection and management of wetlands in the [*insert name*] Local Government Area.

1.2 What are the aims of this DCP?

To protect Sydney's wetlands from inappropriate development by preventing and/or regulating developments that have the potential to fragment, pollute, disturb or diminish the values of wetlands.

To protect, restore and maintain ecological processes, natural systems and biodiversity within wetlands.

To encourage best practice land use planning and environmental design measures that enhance the sustainability of wetlands functions and values.

To provide clear information and advice to potential developers, consent authorities, landowners and residents on the requirements for information for development proposals affected by this DCP.

To improve the quality of wetland planning, management and education by encouraging developments (where appropriate) related to wetland education and identifying linkages between developments, environmental impacts and outcomes through education.

To improve compliance with other legislation, plans and policies related to wetland protection and management.

1.3 What is a wetland?

Natural wetlands include marshes, saltmarshes, mangroves, seagrasses, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow water body when inundated cyclically, intermittently or permanently with fresh, brackish or salt water. The inundation determines the type and productivity of the soils and the plant and animal communities.

Non-natural wetlands include marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow water body when inundated cyclically, intermittently or permanently with fresh, brackish or salt water. They differ from natural wetlands by being constructed or formed by non-natural processes and vegetated with wetland plant communities.

These definitions are based on the Environmental Planning and Assessment Regulation 1994.



Wetland restoration works, Curl Curl Lagoon, Warringah Shire

The appearance, function and value of non-natural wetlands may be of little difference to natural wetlands, depending on such factors as the method of construction or length of time since construction. Non-natural wetlands may thus be just as worthy of protection as natural wetlands. For the purposes of this DCP, the same assessment criteria can be applied to natural and non-natural wetlands.

1.4 Why are wetlands important?

Wetlands are unique, valuable and productive ecosystems occurring at the margins between terrestrial and aquatic ecosystems. The full range of wetland values are many and varied. Natural ecological values include biological diversity, fish nurseries, important bird habitats and role in the water cycle. Human-based values include recreation, education, and historical, cultural and scientific significance.

Many of these wetland values have added significance in Sydney, where urban development has resulted in the loss of many of the region's wetlands. Whilst Sydney's remaining wetlands are already afforded some protection by local, State and Commonwealth legislation, plans and policies, this protection is not consistent across the region. This DCP aims to provide this consistency across the Sydney region and in the [*insert name*] Local Government Area.

The DCP's purpose is consistent with increased recognition of the importance of preserving these valuable remnant ecosystems and to promote the principles of Ecologically Sustainable Development (ESD) within

Sydney's coastal zone. For the purposes of this DCP, ESD is defined as "development that improves the total quality of life both now and in the future, in a way that maintains the ecological processes on which life depends".

1.5 Where does this DCP apply?

This DCP applies to:

- **all developments within WETLAND ZONES** identified on DCP maps and defined by the [*insert council name*] Local Environmental Plan
- **specified developments within WETLAND PROTECTION AREAS** defined by a line 100m from WETLAND ZONES and identified on DCP maps

Specified developments, to which this DCP applies within WETLAND PROTECTION AREAS, are those that have the potential to fragment, pollute, disturb or diminish wetlands values. These include, but are not limited to, the following:

Advertising structures
Clearing of land
Draining of land
Dredging
Excavation works or extractive industries
Filling of land and stockpiling of soil and other fill materials
Flood control works
Mariculture and aquaculture
Marinas
Market gardens
Plant nurseries
Recreational facilities
Roads, bridges and overpasses
Sewerage works
Stock adjustment
Storage, stockpiling and/or use of chemicals and other substances
Subdivision
Turf farms
Viewing or access structures
Waste disposal and management facilities
Water extraction for any purpose

Exempted from the DCP are "minor developments", specified in Section 3.4 of this DCP, which are considered to have a neutral or positive impact on wetland values.

Whilst this DCP applies only to wetland areas and their immediate surrounds, it does recognise that wetlands are affected by the cumulative impact of developments across the entire catchment. It is, however, beyond the scope of this DCP to consider all catchment issues. This DCP is intended to provide

'last resort' protection to wetland areas and to become a component in a set of plans and policies that together act to protect and improve the health of the catchment.

1.6 How are wetland boundaries defined?

WETLAND ZONES are defined as mapped wetland areas appearing on the DCP maps. These mapped wetlands are based on a set of prior wetlands mapping studies.

WETLAND PROTECTION AREAS ('buffer zones') are defined by a line 100m from the WETLAND ZONE, marked on the DCP maps. They are intended to protect wetlands from peripheral impacts such as rubbish dumping, entry of sediment, weed invasion and inappropriate drainage. They are also intended to account for minor mapping boundary inaccuracies and wetland boundary movements attributable to surface and ground water fluctuations.

1.7 How have wetlands been mapped?

The Department of Urban Affairs and Planning (DUAP) has provided Geographic Information System (GIS) services to the Sydney Coastal Councils Group (SCCG) to collate available mapping information using the best available data from State and local government and other research sources.

1.8 When was this DCP adopted?

This DCP may be formerly cited as *[insert council name]* DCP No.*[insert number]*: *[insert DCP title]*. The Plan was adopted by Council on *[insert date]* and came into force on *[insert date]*.

This DCP has been prepared pursuant to the requirements of Section 72 of the *Environmental Planning and Assessment Act 1979*.

1.9 How does this DCP relate to other plans?

This DCP is supported by, and should be read in conjunction with, the following documents:

- **the LEP** for the *[insert name]* Local Government Area (LGA), which sets out the objectives and specific requirements for all zones in the LGA, including WETLAND ZONES
- **the DCP Resource Folder**, providing additional detail for the DCP's assessment criteria for the benefit of councils and applicants
- **any existing council plans and policies** relating to environmentally sensitive areas, including wetlands and estuaries

- **relevant State legislation** such as: the *Threatened Species Conservation Act 1995* (note that Sydney's freshwater wetlands have recently been listed as "threatened communities" under this legislation); the *Fisheries Management Act 1994*; and the *Water Act 2000*
- **relevant State policies** such as: the *NSW Wetlands Management Policy* ; the *NSW Estuary Management Policy*; and the *NSW Fisheries Policy & Guidelines for Aquatic Habitat Management and Fish Conservation*
- **relevant State planning instruments** such as: *Sydney Regional Environmental Plan 23: Sydney & Middle Harbour*
- **relevant Commonwealth legislation** such as the *Environment Protection & Biodiversity Conservation Act 1999*, which may require referral of the DA to the Commonwealth
- **relevant international agreements** such as *the China-Australia Migratory Birds Agreement (CAMBA)* the *Japan-Australia Migratory Birds Agreement (JAMBA)* and the Ramsar Convention agreement

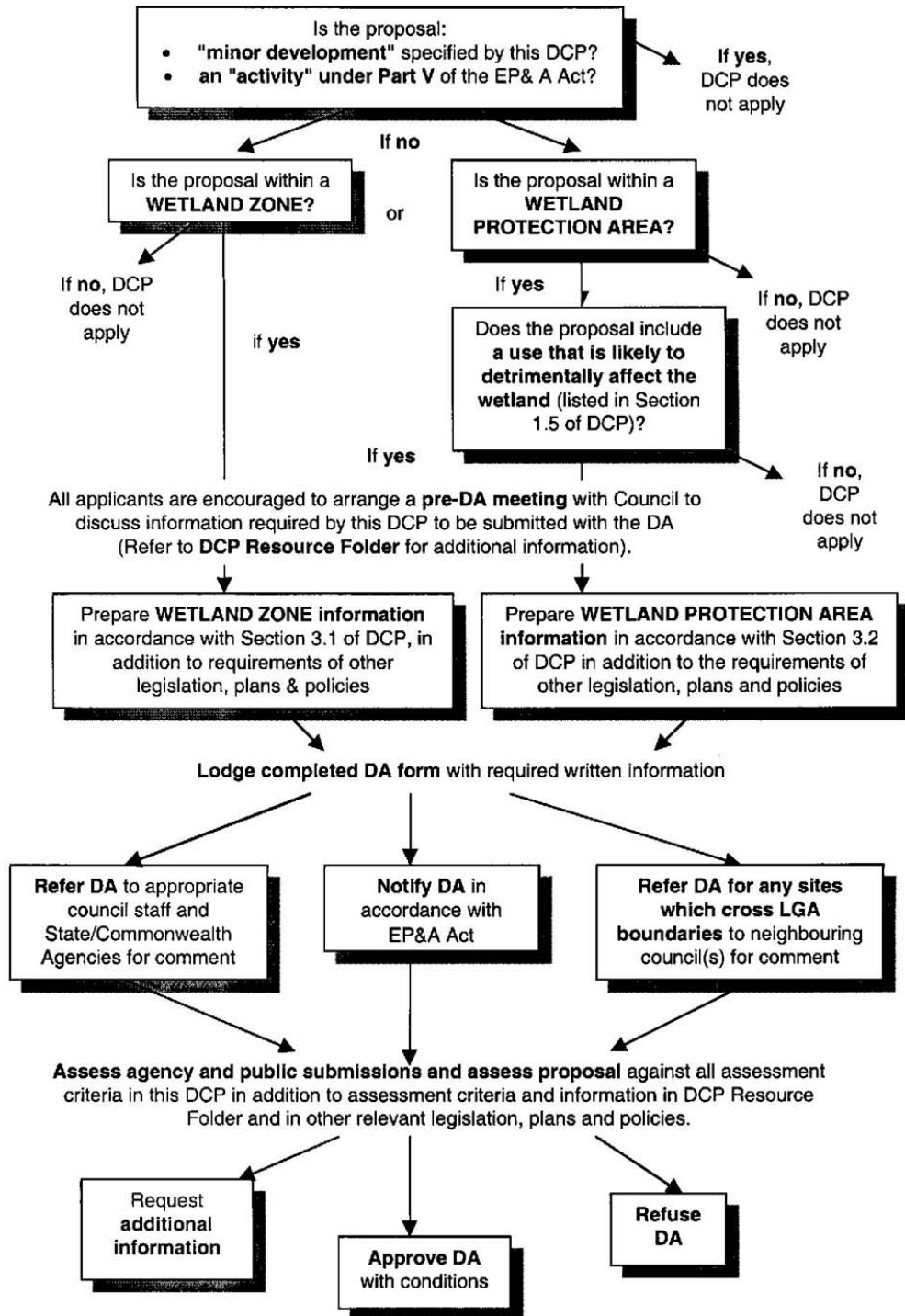
A full list of relevant legislation, plans and policies is included in the Resource Folder Appendix.

State Environmental Planning Policy (SEPP) No.14: Coastal Wetlands does not apply to the Sydney region, although this DCP is consistent with the SEPP's aim to protect coastal wetlands.

1.10 Where can further information be obtained?

Further information is included in the Model DCP Resource Folder, and a range of relevant references are listed in the Resource Folder Appendix. Applicants are encouraged to familiarise themselves with this material and to discuss their development proposals with council staff well in advance of submitting a development application (DA).

2. ASSESSMENT PROCESS



3. ASSESSMENT CRITERIA

With the exception of "minor developments" specified in Section 3.4 of this DCP, applications for developments within a WETLAND ZONE or specified developments within a WETLAND PROTECTION AREA are to be accompanied by written information which addresses the assessment criteria below. Development applications will be assessed against those criteria in addition to the criteria of other relevant plans and policies.

The information is to be prepared by appropriately qualified persons, who should regularly liaise with council and refer to the DCP Resource Folder. Compliance with the criteria does not guarantee that consent will be granted. Council's determination will be based on an overall assessment of the merits of the development.

3.1 WETLAND ZONE assessment criteria

A description of the proposal and its relationship to the wetland in a catchment context, including a map (at a scale of 1:4,000). This is to verify and add detail to DCP maps and identify the WETLAND ZONE and WETLAND PROTECTION AREA boundaries. It is also to define the boundary of the proposed development, including prominent site features.

The aims of the proposal and any possible alternatives, including the reasons and justifications for choosing the proposal at this location.

Compliance with the wetland management objectives in this DCP, including a description of the features of the proposal to mitigate against any non-compliance with these objectives.

Identification and description of wetland type, including ecological values and hydrological characteristics of the site.

A vegetation survey of the site, including:

- survey method
- terrestrial and aquatic vegetation
- extent of weed infestation
- conservation status within the State's reserve system of vegetation communities
- the occurrence of any plant species/communities listed under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, *NSW Threatened Species Conservation Act 1995* and *NSW Fisheries Management Act 1994* or recognised to have local or regional conservation significance

- the extent, species (or vegetation community type), quality and location of vegetation proposed to be cleared from the site

A fauna survey of the site, including:

- survey method
- a statement of the abundance, distribution and changes of any species including indigenous and migratory birds, reptiles, amphibians, mammals and aquatic organisms that occur or have the potential to occur on the site
- a statement on non-local/introduced species with estimated populations, such as Mosquito Fish and European Carp
- a statement on the occurrence of any fauna species/communities/populations listed under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, *NSW Threatened Species Conservation Act 1995*, *NSW Fisheries Management Act 1994* or any species recognised to have local or regional conservation significance

Surface and groundwater quality and hydrological regime of the site, wetland and its immediate catchment. This is to include a demonstration that wetland boundary fluctuations have been considered and, if possible, high and low water levels have been mapped.

An acid sulfate soils analysis, consistent with the *NSW Acid Sulfate Soils Manual* to assess the presence and extent of acid sulfate soils. If necessary, a management plan including measures consistent with the Manual to manage acid sulfate soils if these are encountered.

Measures proposed compensate for impacts associated with the proposal, including:

- measures to restore wetlands disturbed by the proposal
- rehabilitation programs for affected flora and fauna
- enhancement of wetlands not affected by the proposal
- construction of non-natural wetlands

The cultural and social values analysis of the site, including recreational, educational, historic, scenic/visual and scientific values. This is to include systems for monitoring of the impact of any educational and recreational activities on the wetlands. It is also to include measures for safeguarding against wetland degradation from such developments as boardwalks, viewing platforms and information points.

An outline of a management program detailing ongoing environmental management commitments. If the development is approved, a detailed management plan may be required as a condition of consent. The outline is to include:

- construction and operational impact safeguards

- maintenance and monitoring programs
- details of ongoing management responsibilities

Consideration of other relevant legislation, policies and plans, such as:

- any existing council plans and policies relating to environmentally sensitive areas, including wetlands and estuaries
- relevant State legislation such as: the *Threatened Species Conservation Act 1995* (note that Sydney's freshwater wetlands have recently been listed as "threatened communities" under this legislation); the *Fisheries Management Act 1994*; and the *Water Act 2000*
- relevant State policies such as: the *NSW Wetlands Management Policy*; the *NSW Estuary Management Policy*; and the *NSW Fisheries Policy & Guidelines for Aquatic Habitat Management and Fish Conservation*
- relevant State planning instruments such as: *Sydney Regional Environmental Plan 23: Sydney & Middle Harbour*
- relevant Commonwealth legislation such as the *Environment Protection & Biodiversity Conservation Act 1999*, which may require referral of the DA to the Commonwealth
- relevant international agreements such as the *China-Australia Migratory Birds Agreement (CAMBA)* the *Japan-Australia Migratory Birds Agreement (JAMBA)* and the Ramsar Convention agreement



Dee Why Lagoon wetlands, Warringah Shire

3.2 WETLAND PROTECTION AREA assessment criteria

A description of the proposal, including a map to indicate the current wetland boundary and the boundary of the proposed development.

Identification and description of the type of the nearby wetland, including ecological values, vegetation communities and hydrological characteristics of the wetland and site.

Compliance with the wetland management objectives in this DCP, including a description of the features of the proposal to mitigate against any non-compliance with these objectives.

The nearby wetland's cultural and social values, including recreational, educational, historical, scenic/visual and scientific values.

Predicted environmental impacts, and proposed measures for mitigation, which include (but are not limited to) impacts on:

- native terrestrial and aquatic plant and animal species and communities
- and surface and groundwater quality and characteristics
- scenic value

An outline of a management program detailing ongoing environmental management commitments. If the development is approved, a detailed management plan may be required as a condition of consent. The outline is to include:

- construction and operational impact safeguards
- maintenance and monitoring programs
- details of ongoing management responsibilities

Consideration of other relevant legislation, policies and plans, such as:

- any existing council plans and policies relating to environmentally sensitive areas, including wetlands and estuaries
- relevant State legislation such as: the *Threatened Species Conservation Act 1995* (note that Sydney's freshwater wetlands have recently been listed as "threatened communities" under this legislation); the *Fisheries Management Act 1994*; and the *Water Act 2000*
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- relevant State planning instruments such as: *Sydney Regional Environmental Plan 23: Sydney & Middle Harbour*
- relevant Commonwealth legislation such as the *Environment Protection & Biodiversity Conservation Act 1999*, which may require referral of the DA to the Commonwealth

- relevant international agreements such as *the China-Australia Migratory Birds Agreement (CAMBA)* the *Japan-Australia Migratory Birds Agreement (JAMBA)* and the Ramsar Convention agreement

3.3 Wetland management objectives

The following wetland management objectives are intended to provide a broad set of objectives-based assessment criteria in addition to the more specific criteria above. These criteria apply to both WETLAND ZONES and specified developments within WETLAND PROTECTION AREAS. Further information and guidance on the means of achieving each objective is included in the DCP Resource Folder.

3.3.1 Hydrology

Objective: To improve, maintain or restore the physical, chemical and biological processes of the wetland by minimising negative impacts created by changes to wetland hydrology from adjoining landuses in the catchment.

Criteria:

Development to minimise changes to the local surface runoff and groundwater flows and ensure that appropriate water flow regimes are maintained to the wetland.

Stormwater flow to mimic natural conditions wherever possible and ensure a dispersed pattern of flow, avoiding centralised or concentrated discharge points into the wetland.

Management plans which include monitoring of short and long term hydrological changes before and after the development to accompany DAs that have the potential to significantly alter the hydrology of the catchment's surface and groundwater flows.

3.3.2 Water quality

Objective: To improve, maintain and restore the quality of water within the wetland and entering the wetland to ensure that wetland values and natural ecological functions are not diminished.

Criteria:

Changes to temperature, salinity, chemical makeup and sediment loads of water entering the wetland to be avoided.

Disturbance to stream and wetland sediments to be avoided.

The need for nutrient control devices and other stormwater pre-treatment measures to be indicated and be constructed well away from wetland areas.

Litter transport into wetland areas to be avoided and appropriate pollution control devices to be installed.

An acid sulfate soil assessment and management plan to be prepared if acid sulfate soils are likely to be exposed through, for example, the lowering of the water table in high risk areas. Refer to Council acid sulfate soils maps.

For larger developments, a water cycle management strategy to be prepared and pre and post development water quality assessment to be conducted.

3.3.3 Ecology & habitat

Objective: To protect and enhance the natural values and ecological functions of wetland habitat from potential impacts of adjoining or upstream/downstream land uses. This includes elevated nutrient and sediment loads, stormwater runoff, removal of vegetation and changes to landform.

Criteria:

Clearing of indigenous vegetation discouraged and planting with indigenous species encouraged within wetlands, buffer zones and in areas 40m either side of nearby watercourses.

Existing wildlife corridors to be maintained and functional habitat links provided between isolated units wherever possible.

A vegetation management plan to be prepared and submitted with the development application to ensure remnant vegetation is protected and weed invasion controlled.



Wetlands within Eastlakes Golf Course
City of Botany Bay

3.3.4 Social & cultural values

Objective: To conserve and enhance the indigenous and non-indigenous social and cultural values of wetland areas, including intrinsic, aesthetic, visual, scientific, cultural heritage, archaeological, educational and recreational values.

Criteria:

Development to be designed to ensure that areas of high scenic value are to be preserved.

Development to include measures to minimise the visual impact on the wetland, such as use of natural and non-reflective materials and appropriate landscaped screens

Development to contribute (directly or via developer contributions to council) to enhancing and maintaining the social, education and recreational values of wetland area. This is to be achieved through such measures boardwalks (if appropriate), information signs, collection of background information and consideration of indigenous and non-indigenous cultural heritage.

Developments to monitor any wetland degradation attributable to recreational and educational activities in wetlands, such as boardwalks, viewing platforms, and information points.



Boardwalk through Careel Bay Mangrove Wetlands, Pittwater Shire

3.3.5 Compensatory wetlands

Objective: To provide for wetland restoration or construction of non-natural wetlands to compensate for unusual events where other imperatives require the harmful modification of natural wetland areas.

Criteria:

Creation of compensatory wetlands to replace a significantly modified wetland is discouraged as is considered as a 'last resort' measure only.

Creation of compensatory wetlands to be a component of any proposal to significantly modify any wetland.

Creation of compensatory wetlands should only be an option provided a greater area of wetland to be established than that lost, the wetland to be modified is not considered to be of high quality and the compensatory wetland is located within close proximity to the modified wetland and is the same kind of wetland.

Any approval for construction of an off-site compensatory wetland to be the subject of a detailed agreement between council, the applicant and other relevant parties.

An independent panel of experts to be established to arrive at a majority consensus of agreement on a plan of management for any compensatory wetland.

3.3.6 Bushfire hazard

Objective: To consider appropriate fire management regimes and permanent hazard reduction techniques for wetlands and their catchments to conserve biodiversity, ecological processes and other wetland values.

Criteria:

Wetland management to be guided by existing fire management plans for the area.

The use of permanent fuel hazard reduction measures, such as building setbacks and fire trails in areas adjacent to urban areas preferred over broad area controlled burning.

Vegetation not to be removed for bushfire hazard reduction without written approval of council.

Fire hazard reduction areas to be located outside of wetland areas wherever possible.

3.4 Minor developments

The following types "minor developments" are considered to have a minor potential for negative environmental impact, a neutral impact or a positive impact on wetland areas. As such, this DCP does not apply to these developments. Written confirmation of their "minor development" status is however required from council.

Small developments intended to maintain or restore wetlands, such as removal of accumulated waste material including sediment, silt and rubbish and weed control by approved means.

Developments related to education and recreation that are unlikely to adversely affect any wetland values and functions.

Essential maintenance of existing structures or works for mechanical and operational purposes and to rectify structural inadequacies or concerns about public safety.

Removal of vegetation within 0.5 metres of the boundary between any properties for the purpose of enabling a survey to be carried out along that boundary by a surveyor registered under the *Surveyor's Act 1929*.

Trimming of trees in accordance with the *Electricity (Overhead Line Safety) Regulation 1991* and the *Electricity (Tree Preservation) Regulation 1995* removal or trimming of trees in accordance with clauses 88, 107, 138 and 139 of the *Roads Act 1993*.

Removal of proclaimed noxious weeds within the meaning of the *Noxious Weeds Act 1993* or as identified on Council's 'noxious weeds list'.

Removal of trees which are a bushfire hazard, where council has authorised a hazard reduction burn as part of an approved hazard program pursuant to Section 41A of the *Bushfires Act 1949*.

4. ABBREVIATIONS & TERMS

ANZECC	Australia and New Zealand Environment & Conservation Council
CAMBA	China-Australia Migratory Birds Agreement
DA	Development Application
DCP	Development Control Plan
DLWC	Department of Land & Water Conservation
DUAP	Department of Urban Affairs & Planning
EP&A Act	Environmental Planning & Assessment Act 1979
EP&A Regulation	Environmental Planning & Assessment Regulation 1994
EPA	Environment Protection Authority
EPBC Act	Commonwealth Environment Protection & Biodiversity Conservation Act 1999
ESD	Ecologically Sustainable Development
GIS	Geographic Information System
JAMBA	The Japan-Australia Migratory Birds Agreement
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Urban Affairs & Planning
Model DCP	Model DCP: Protecting Sydney's Wetlands
NCC	Nature Conservation Council
NPWS	NSW National Parks & Wildlife Service
NSW	New South Wales
PWSC	Protecting Wetlands Steering Committee
REP	Regional Environmental Plan
RTA	NSW Roads & Traffic Authority
SCCG	Sydney Coastal Councils Group
SEPP	State Environmental Planning Policy
SREP	Sydney Regional Environmental Plan
SWAC	State Wetlands Advisory Committee

Buffer zone: A defined area of land around a wetland managed so as to protect the wetland from peripheral impacts such as weed invasion.

Catchment: The area draining surface and ground water to a particular location. It may include catchments of tributary streams as well as the main stream.

Clearing: Clearing of native vegetation and/or soil, i.e. removing vegetation/soil or injuring, killing, damaging or burning native vegetation.

Compensatory wetland: The restoration of an existing degraded wetland or creation of a new wetland at a nearby location to compensate for the loss of a wetland. Such action is discouraged and is considered a 'last resort' measure.

Concurrence: Is the requirement for a government agency to consider development proposals in light of its specialised functions and policies, and to decide whether it agrees with the development

Development Control Plan: A plan made by councils under the EP&A Act to control development, generally adding detail to broader provisions contained in an LEP, and having less statutory force than an LEP.

Draining of land: The use of artificial depressions, ditches or channels to convey water from one area to another. This includes constructing, deepening or widening any drains or installing any pipes for the purposes of drainage.

Environmental planning instruments: Are LEPs, REPs and SEPPs. They describe the current planning status and/or the future development of an area.

Filling: Changing the existing ground level by placement of soil or any other solid material on or under the ground.

Integrated development: Is development that requires a DA plus a specified permit/approval from a State agency, e.g. a NSW Fisheries or EPA license

Listed migratory species: is a species listed under one or more of the following agreements: the Bonn Convention; Japan Australia Migratory Bird Agreement (JAMBA); or China Australia Migratory Bird Agreement (CAMBA).

Local Environmental Plan (LEP): A legally binding planning instrument made by councils and approved by the Minister for Urban Affairs & Planning under the EP&A Act which sets the broad framework for development across a broad area or a particular site.

Regional Environmental Plan (REP): A planning instrument proposed by the Minister or Director-General of Urban Affairs & Planning and approved by the Minister. They address matters of regional significance.

Ramsar wetlands: Sites that are recognised under the Convention on Wetlands of International Importance (Ramsar Convention) as being of international significance. Australia has 53 Ramsar wetlands including, for example, the Towra Point wetlands in Sutherland Shire.

State Environmental Planning Policy (SEPP): A planning instrument proposed by the Minister for Urban Affairs and Planning and approved by the Governor to address matters of State significance.

Wetland restoration: The re-establishment of wetland characteristics and functions at a site where they previously existed but are now degraded or absent.

Zoning: This is the system of categorising land uses as prohibited, requiring consent or not requiring consent within particular areas. Zones, such as Residential or Commercial) are shown in plan form and explained in environmental planning instruments.



Manly Lagoon, Warringah Shire and Manly Municipality