

Key NRM legislation for local government



There are many laws that cover Natural Resource Management (NRM), and although the NSW Government is responsible for regulating most NRM matters, many environmental responsibilities are delegated to local councils. The following fact sheet summarises some of the most important laws relevant to local government's management of natural resources.

For a complete outline of local government requirements under these Acts, plus relevant amendments, please visit www.legislation.nsw.gov.au.

Other relevant NRM legislation (not listed here) includes: *Catchment Management Authorities Act 2003*; *Heritage Act 1977*; *Natural Resources Commission Act 2003*; *Pesticides Act 1999*; *Protection of the Environment Administration Act 1991*; *Soil Conservation Act 1938*; *Water Act 1912*.

The following websites can also provide further information for councils:

- LGSA (Court Reporter): www.lgsa.org.au/courtreporter
- NSW Environmental Defender's Office: www.edo.org.au/edonsw
- Land and Environment Court: www.lawlink.nsw.gov.au/lec
- Australasian Legal Information Institute: www.austlii.edu.au
- Environment and Planning Law Association of NSW: www.epla.org.au

Environmental Planning and Assessment Act 1979

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| Administration | NSW Department of Planning (DOP) www.planning.nsw.gov.au |
| Objectives | Containing multiple objectives, this Act strives to encourage ecologically sustainable development; to promote the sharing of the responsibility for environmental planning between the different levels of government in the State; and to provide increased opportunity for public involvement and participation in environmental planning and assessment. |
| Relevance | The Act is the main law regulating land use in NSW and it allows "plans" to be created to guide the process of development and to regulate competing land uses. All councils have a <i>Local Environmental Plan</i> created under the Act to guide local planning decisions. Councils must consider the Act when developing their Local Environmental Plan (LEP) and associated Development Control Plans (DCP); assessing development applications & granting conditions of consent; and undertaking council works. |

Native Vegetation Act 2003

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| Administration | NSW Department of Environment & Climate Change (DECC) www.environment.nsw.gov.au |
| Objectives | To promote the management of native vegetation on a regional basis; prevent broad scale clearing; protect high conservation value vegetation; improve existing native vegetation condition; and to encourage the revegetation and rehabilitation of land in accordance with ESD principles. |
| Relevance | The Act regulates the clearing of native vegetation on all land in NSW except for land listed in Schedule 1 of the Act. Councils under the Act may be involved in dual consent (under the Act and EP&A Act); information sharing procedures with CMAs (where jurisdiction overlaps); examining what is excluded & permitted local government land or activities under the Act; Rezoning & consultation (section 62); Property Vegetation Plans (PVP) & S149 planning certificates; developing Environmental Planning Instrument provisions (LEP). |
| Further Info | See Native Vegetation Information Sheets No. 17 & 20: www.environment.nsw.gov.au/vegetation/publications.htm |

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Threatened Species Conservation Act 1995

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| Administration | NSW Department of Environment & Climate Change (DECC) www.environment.nsw.gov.au/threatenedspecies |
| Objectives | To conserve biological diversity and promote ecologically sustainable development; prevent the extinction and promote the recovery of threatened species, populations and ecological communities; protect the critical habitat of those that are endangered; eliminate or manage threatening processes; properly assess the impact of any action; and to encourage conservation through co-operative management. |
| Relevance | Areas of relevance include the ability for council to “certify” environmental planning instruments (eg LEP) should the EPI contribute to “overall improvement or maintenance of biodiversity values”; awareness of threatened species listings; assessment of significance, which allows applicants/proponents to analyse the likely impacts of a proposed development and whether further assessment needs to be undertaken through a species impact statement; and councils can target funding to priority threatened species recovery and threat abatement actions. |

National Parks & Wildlife Act 1974

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| Administration | NSW Department of Environment & Climate Change (DECC) www.environment.nsw.gov.au |
| Objectives | The conservation of nature (see Act for definition); the conservation of objects, places or features (including biological diversity) of cultural value within the landscape; fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation; and providing for the management of land reserved under this Act. |
| Relevance | This Act generally relates to the State Government’s (DECC) management of land reserved under the Act. However it is paramount that councils consider Part 8A of the Act when carrying out any activity or work that may harm or damage a threatened species, population or ecological community, their habitats and critical habitat. |

Environmental Protection and Biodiversity Conservation Act 1999

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| Administration | Department of Environment, Water, Heritage and the Arts (Commonwealth legislation) www.environment.gov.au/epbc |
| Objectives | Its objectives are to provide for the protection of the environment, especially matters of national environmental significance; conserve Australian biodiversity; provide a streamlined national environmental assessment and approvals process; enhance the protection and management of important natural and cultural places; control the international movement of plants and animals (wildlife), wildlife specimens and products made or derived from wildlife; promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources. |
| Relevance | Local government works activities may require approval if there is a likely significant impact on a matter protected by the EPBC Act. This means activities involving, for example, clearing native vegetation, changing the natural flow of water, or controlling weeds and other pests should be referred to the Environment Minister if it is likely the action would have a significant impact on a matter protected under the EPBC Act. |

Fisheries Management Act 1994

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| Administration | NSW Department of Primary Industries (DPI), however Part 7A, which mirrors the TSC Act, is jointly administered by DECC & DPI – www.dpi.nsw.gov.au |
| Objectives | To conserve, develop and share the fishery resources of the State for the benefit of present and future generations, in particular to conserve fish stocks, key fish habitats, threatened species populations and ecological communities of fish, and marine vegetation. |
| Relevance | Councils often undertake works that have the potential to impact on fishery resources and waterways, for example the building & maintenance of causeways, bridges, installation of pipelines (water, sewer), seawalls walls, wharves/jetties, stormwater treatment devices, and weirs. Council needs to have consideration for the Act, and refer proposals to DPI, when council work involves dredging or reclamation, obstruction to fish passage, potential harm to marine vegetation, protected areas, aquatic threatened species, populations and ecological communities. |
| Further Info | See www.dpi.nsw.gov.au/aboutus/resources/factsheets/fisheries |

Coastal Protection Act 1979

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| Administration | Department of Environment & Climate Change (DECC) www.environment.nsw.gov.au |
| Objectives | To provide for the protection of the coastal environment of the State for the benefit of both present and future generations. |
| Relevance | The Act outlines approved use and works that can be carried out within the “NSW Coastal Zone”. Planning and development within the <i>NSW Coastal Zone</i> (as declared under the Act) is subject to a Ministerial direction for coastal protection; the NSW Coastal Policy, SEPP 71 – Coastal Protection; and the Major Projects SEPP (which identifies coastal development that will need the approval of the Minister for Planning). |
| Further Info | See www.planning.nsw.gov.au/plansforaction/coastalprotection.asp |

Water Management Act 2000

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| Administration | NSW Department of Water & Energy & NSW Department of Environment and Climate Change www.dwe.nsw.gov.au/water/leg_policy.shtml ; www.environment.nsw.gov.au/water |
| Objectives | The objects of this Act are to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations. Some amendments have been made to the Act to give effect to the Commonwealth’s <i>National Water Initiative</i> and strengthen compliance and enforcement powers in response to water theft. Other issues covered include separate land and water title; secure water titles including perpetual licences; improved health of the State’s water; and processes for community involvement. <i>Note that the Water Act 1912 is being progressively phased out and replaced by the WMA 2000, but some provisions are still in force.</i> |
| Relevance | The role of local government in water management can involve making an LEP and/or DCP with water in mind; considering the implications for water of development applications; consultation with DWE about impacts of new development; and management of local water utility access licences (where applicable). |

Protection of the Environment Operations Act 1997

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| Administration | NSW Department of Environment & Climate Change (DECC) www.environment.nsw.gov.au |
| Objectives | To protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development; to provide increased opportunities for public involvement and participation in environment protection; to ensure that the community has access to relevant and meaningful information about pollution; to reduce risks to human health and prevent the degradation of the environment. |
| Relevance | There is a broad allocation of responsibilities under the Act between DECC, local councils and other public authorities. DECC is made the regulatory authority for activities listed in Schedule 1 to the Act and the premises where they are carried on; activities carried on by a State or public authority; and other activities in relation to which a licence regulating water pollution is issued. In nearly all other cases, the regulatory authority is the relevant local council. Council in general will employ a compliance officer (Ranger) to implement key areas under the Act including issuing of environment protection notices for clean-up; prevention and prohibition; and investigating compliance with environment protection legislation. Council also needs to consider Protection of the Environment Policies where relevant in decision making processes. |

Local Government Act 1993

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| Administration | NSW Department of Local Government (DLG) www.dlg.nsw.gov.au |
| Objectives | This Act “provides a legislative framework reflecting modern community expectations and gives council broad powers to plan for and provide local community services and facilities” (DLG website 2009). It also requires Council, councillors and Council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities (see the <i>Charter</i>). |
| Relevance | The Act outlines key Council functions, roles & responsibilities; regulatory & enforcement powers; community services and utility management (eg. water, sewerage & stormwater). In addition, councils have responsibilities under the Act for the management of public land in their LGA. A Council must under the Act prepare a Plan of Management for community land (s.36), especially where the land is declared to be “critical habitat” under the <i>Threatened Species Conservation Act 1995</i> (s.36A), or where the land contains significant natural or cultural features. |

Crown Lands Act 1989

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| Administration | NSW Department of Lands www.lands.nsw.gov.au |
| Objectives | To ensure that Crown land is managed for the benefit of the community and in particular to provide for proper Crown land management, development and conservation. |
| Relevance | Councils are responsible for the management of some parcels of Crown land retained or acquired by the State and set aside for specific public purposes, known as Crown reserves. As a reserve trust manager, a Council may initiate the preparation of a Plan of Management in consultation with the Department of Lands. |
| Further Info | See Trust Managers Handbook 2005: www.lands.nsw.gov.au/crown_land/crown_reserves |

Rural Fires Act 1997

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| Administration | NSW Rural Fires Service www.rfs.nsw.gov.au |
| Objectives | The prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts; and for the co-ordination of bush fire fighting and bush fire prevention throughout the State; and for the protection of persons from injury or death, and property from damage, arising from fires; and for the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i> . |
| Relevance | The Act is divided into seven parts with the most relevant to Council being “bush fire prevention”, such as duty to prevent bush fires, hazard reduction, and the development of bush fire prone land. Sections of the <i>EP&A Act 1979</i> also pertain to bushfire prone lands, bushfire hazards and bushfire emergencies but are administered by the NSW Rural Fires Service. Bushfire Environmental Assessment (BEA) Codes may also be created under this section for environmentally sensitive lands. Other relevant parts include coordinated bush fire fighting and the development of bush fire risk management plans. |
| Further Info | See also RFS guidelines & codes: www.rfs.nsw.gov.au/dsp_content.cfm?cat_id=1030 ; www.rfs.nsw.gov.au/dsp_content.cfm?CAT_ID=536 |

Noxious Weeds Act 1993

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| Administration | NSW Department of Primary Industries (DPI) www.dpi.nsw.gov.au |
| Objectives | To reduce the negative impact of weeds on the economy, community and environment by establishing control mechanisms to prevent the establishment of significant new weeds, the spread and area of existing significant weeds, and to report & monitor the effectiveness of management strategies put in place under the Act. |
| Relevance | Once a weed is declared to be “noxious” under the Act, control by all occupiers is compulsory (private landholders, LCA & public authorities) and management requirements will vary according to the 5 declared control classes. Weed control is generally carried out by a Local Control Authority (LCA), formed by councils and county councils. Their responsibilities involve inspection of private property, enforcement, data management, control of noxious weeds on council land and working with neighbouring LCAs, for example through regional weed advisory committees. |
| Further Info | See www.dpi.nsw.gov.au/agriculture/pests-weeds/weeds/legislation |

Rural Lands Protection Act 1998

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| Administration | Department of Primary Industries www.dpi.nsw.gov.au |
| Objectives | To provide for the protection of rural lands; to provide for the establishment & governance of the State Policy & State Management Councils of Livestock Health and Pest Authorities; to regulate travelling stock reserves, stock watering places and the transportation of stock by vehicle; to provide for the control of certain pests; and for other purposes. |
| Relevance | Under the Act all land managers in NSW, whether on public or private land, have an obligation to control declared pest species on their land. <i>Livestock Health & Pest Authorities</i> (formerly Rural Lands Protection Boards) operate under the Act and work with councils to develop vertebrate pest management plans and cooperative management programs. |
| Further Info | See www.dpi.nsw.gov.au/aboutus/about/legislation-acts/rural-lands-protection ; LHPA: www.lhpa.org.au/pest-control |