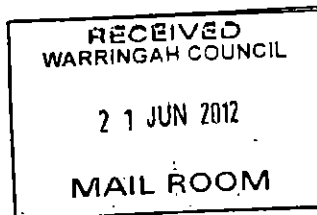




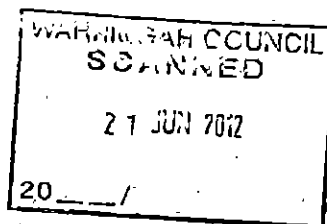
Planning & Infrastructure

Office of the Director General



Mr Rik Hart
General Manager
Warringah Council
Civic Centre
725 Pittwater Road Dee Why
NSW 2099

11/15405



18 June 2012

Dear Mr Hart:

I am writing to you to inform you of a change to the Model Local Provision 7.1 *Acid sulfate soils*.

The Department has reviewed this clause and is clarifying that, in subclause 7.1(6), a development consent is not required where the works will result in the displacement of less than 1 tonne of soil *and* are not likely to lower the watertable. Also, additional information has been added to the "General Information" accompanying the clause to advise this.

As a result, the acid sulfate soils local provision will need to be revised at the time of your next housekeeping LEP in line with this advice, or via a Gateway proposal if council considers it necessary to amend the clause sooner.

Should you have any queries regarding the implementation of the revised clause, including in published LEPs, please contact your local office of the Department of Planning and Infrastructure.

Yours sincerely

S Haddad

Sam Haddad
Director General

Note: The proposed edits are shown in blue.

Model local clauses for Standard Instrument LEPs

General Information

The Acid sulphate soils - Planning maps can be downloaded from <http://www.canri.nsw.gov.au/download/>.

An addition to this clause will be needed in sugar cane areas. Please contact the Department for details.

If the works involve the disturbance of more than 1 tonne of soil a development application is required.

If the work or works are likely to lower the water table, a development application is required.

Works may include, but are not limited to those which occur in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works.

Development consent is *not* required under clause 7.1(6) *only* in instances where both criteria specified are met (i.e. where the works involve less than 1 tonne of soil disturbance *and* where the works are not likely to lower the watertable).

7.1 Acid sulfate soils [local]

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height

- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority.
- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:
 - (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan need not be carried out for the works, and
 - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
 - (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
 - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
 - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if where both of the following criteria are met:
 - (a) ~~the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or and~~
 - (b) the works are not likely to lower the watertable.
- (7) Clause 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* does not apply to development that requires development consent under this clause.

Drafting direction.

Subclause (7) will need to be amended when the proposed Exempt and Complying SEPP commences.