

Chapter 17

Acid Sulfate Soils



17 Acid Sulfate Soils

This Chapter applies to land identified as Classes 1, 2, 3, 4 and 5 of the Lismore Local Environmental Plan 2012 *Acid Sulfate Soils Map*.

NOTE: Land use tables contained within Lismore Local Environmental Plan 2012 still apply. Although development consent may not be required within the land use tables, consent may be required for other purposes as provided by Clause 6.1 of the Lismore Local Environmental Plan 2012. Applicants should contact Council's Planning and Development Staff prior to commencing proposed works.

17.1 Objectives of this Chapter

1. To ensure effective management of areas affected by *acid sulfate soils*;
2. To provide guidance to landowners, consultants and the general community on the procedures involved in the management of areas affected by *acid sulfate soils*;
3. To ensure that activities located within an area of *acid sulfate soils* risk are identified;
4. To require a preliminary acid sulfate soil assessment be undertaken to clarify the extent of risk;
 - provide exceptions to the provisions for Council and County Councils for emergency works, routine maintenance and minor works;
 - to require, where necessary, an *acid sulfate soil management plan* to be prepared where the nature of development poses an acid sulfate soil risk.

17.2 Definitions

In this Chapter the following definitions apply:

acid sulfate soils (ASS) means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

Acid Sulfate Soils Manual means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

Acid Sulfate Soils Planning Map means the Lismore Local Environmental Plan 2012 Acid Sulfate Soils Map.

agricultural-related works means any farming or land management activities which will materially alter the shape or natural form of the land or which may alter groundwater levels and includes any of the following:

- drainage works;
- construction and maintenance of open drains;
- excavation works;
- extractive industries and mines;
- construction of dams, stock water holes, aquaculture ponds and the like;
- site levelling;
- flood mitigation works, including construction of levees (artificial waterbodies);
- topsoil removal and turf farming;

- laying of pipes, cables, conduits, etc;
- dewatering of wetlands, dams, and the like

NOTE: Definition does not include ploughing, scarifying, tiling or deep ripping (less than 30cm) below natural ground level.

council works means such works as are owned or controlled by Council.

county council has the meaning as in the Local Government Act 1993.

drain means man-made depression, ditch or channel deeper than 30cm, used to convey water from one area to another.

drainage management plan means a document that contains a full description of the management procedures to be applied to a site regarding existing drains and proposed drains. The Drainage Management Plan must comply with the requirements of the Acid Sulfate Soils Manual.

engineering works means works carried out under the supervision of a suitably qualified engineer and using equipment or plant. Such works may include any of the following:

- construction of roads, bridges, buildings, levees, dams, railways, drains
- laying of pipes, cables or conduits
- levelling of the ground
- extractive industries and mines
- dewatering of the ground
- flood mitigation works
or the like, and may include an agricultural-related work.

emergency work means the repair or replacement of any part of Council works or the works of a county council:

- a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or
- b) because it has ceased to function or suddenly ceased to function adequately.

Environment Protection Authority's Guidelines mean 'Environmental Guidelines: Assessing and Managing Acid Sulfate Soils', published by the New South Wales Environmental Protection Authority, as amended from time to time.

existing drains means a drain lawfully constructed prior to 26 August 1999 (being the date of exhibition of the Lismore Local Environmental Plan 2000 (Amendment No. 5)).

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

maintenance of existing drains refers to any works that will disturb or remove soil within existing drains.

pH refers to the scale of measurement for acidity or alkalinity. A pH of 7.0 denotes neutrality, higher values indicate increasing alkalinity, and lower values indicate increasing acidity.

potential acid sulfate soils (PASS) are soils which contain iron sulfides or sulfidic material which have not been exposed to air and oxidised. The field pH of these soils in their undisturbed state is pH 4 or more and may be neutral or slightly alkaline.

preliminary soils assessment means a soil survey involving soil sampling and laboratory methods outlined in the *Acid Sulfate Soils Manual*.

routine maintenance means the periodic inspection, cleaning, repair and replacement of Council works or a county council works, but does not include work that would result in an increase in the design capacity of any part of those works or necessitate the deepening of any existing works capacity, except where one (1) tonne, or less, of soil is disturbed.

soil management plan means a full description of the management procedures to be applied to a site. The Management Plan must comply with the requirements of the *Acid Sulfate Soils Manual*.

the Plan means the Lismore Local Environmental Plan 2012.

works that may alter groundwater levels means drainage works, ground water bores, wells, ground dewatering or the like on or adjacent to land containing acid sulfate soils which may lower the groundwater level in the general area.

17.3 Assessment

17.3.1 Local Environmental Plan - Acid Sulfate Soils Map

Council has prepared a series of sheets of the map marked “Lismore Local Environmental Plan 2012 Acid Sulfate Soils Map” based on data provided from the former Department of Natural Resources. Clause 6.1 of Lismore Local Environmental Plan 2012, requires proponents to seek development consent for specific works in five principal land classes. The table below indicates where development consent will be required for each of the classes of land.

Table 1 - Development Control Requirements

Class	Development Control Requirements
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 water table 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 Datum on adjacent Class 1, 2, 3 or 4 land.

Under Clause 6.1 Lismore LEP 2012 development consent is not required for some works located within the Acid Sulfate Soils Map. In particular, Clause 6.1(6), development consent is not required to carry out any works if:

- (a) The works involve the disturbance of less than 1 tonne of soil, and
- (b) The works are not likely to lower the watertable.

The onus is on the landowner, contractor and proponent proposing to undertake any works to check which class their land falls within and whether a Development Application is required under these or any other planning provisions. Land not classified on the *Acid Sulfate Soils Map* may still require development consent in accordance with the LEP land use tables of the particular zone. Applicants are advised to check with Council's planning staff prior to commencing works to determine whether a development application is required.

17.3.2 What types of Development Require Council's Consent?

The following activities, works, development and the like are subject to the need to obtain development consent if the land falls within Classes 1 - 5 inclusive and the relevant criteria are met:

- some agricultural-related works (refer to LEP 2012)
- flood mitigation works
- foundations
- works that may alter groundwater levels
- construction or maintenance of existing drains
- building and structures
- construction of roads
- aquaculture ponds
- sand and gravel extraction
- dewatering of dams, wetlands, or quarries
- land forming works
- engineering works
- construction of artificial waterbodies (including canals, dams and detention basins)

17.3.3 Public Authorities

Under Clause 6.1(5), development consent is not required for the carrying out of certain works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power). This includes:

- (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 management 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).

Despite these works not requiring consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, such activities may require assessment under Part 5 of the Act.

Where a Council or County Council encounters acid sulfate soils, the Council or the County Council must properly deal with those soils in accordance with the *Acid Sulfate Soils Management Guidelines* so as to minimise the actual or potential impact to the environment arising from disturbance to the soils.

17.3.4 Development Application Procedures

Figure 1 provides a flow-diagram outlining the general procedure landowners, applicants and proponents will need to follow when proposing to undertake certain works within lands classed 1 - 5 inclusive on the Lismore LEP 2012 Acid Sulfate Soils Map.

17.3.5 Soils Assessment and/or Soil Management Plan

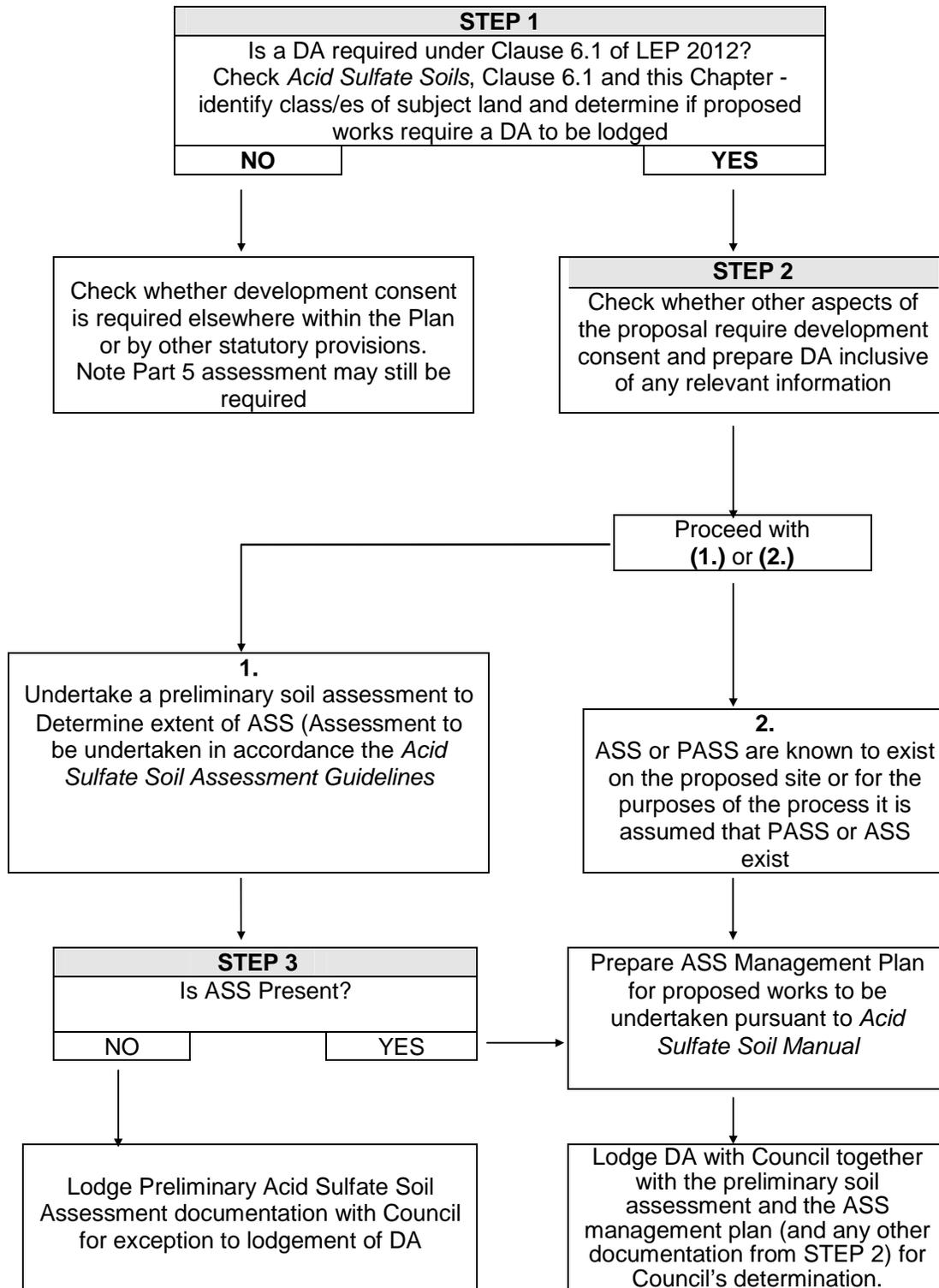
Where it is proposed to carry out any works requiring development consent under Clause 6.1 of Lismore LEP 2012, the application must be lodged with a preliminary acid sulphate soil assessment and/or soil management plan.

A preliminary soils assessment must be prepared by a suitably qualified person. The assessment must include the matters outlined in the Acid Sulfate Soils Manual prepared by the NSW Acid Sulfate Soil Management Advisory Committee, August 1998. As illustrated in Figure 1, all applicants have the opportunity to assume that a proposed development site contains Acid Sulfate Soil and bypass the need to undertake a preliminary soils assessment. However, this will still necessitate a soil management plan to be undertaken.

17.3.6 Joint Applications

Where a development involves, or may impact upon, a number of properties in the one locality, Council encourages the proponents to prepare and lodge a joint Development Application for the proposed works and ongoing management. Examples where joint Development Applications would prove advantageous would be where a development may involve maintenance of new and/or existing drains that traverses two or more properties or where proposed flood mitigation works may impact upon a specific area.

Figure 1 - Development Application Process for Proposed Works within ASS and PASS



ASS = Acid Sulfate Soils
PASS = Potential Acid Sulfate Soils

17.3.7 Drainage Management Plans

Where a property contains a series of drains or works that would require development consent for each individual section, the owner is encouraged to submit a drainage management plan for the whole property. This plan would form part of the Development Application. Such a management plan would cover all the drains on that specific property, including their maintenance and rehabilitation details, as needed.

Council encourages this approach by landowners as it promotes better overall management and provides Council with a more complete overview of the location, ongoing maintenance and interaction of such drains.

A property owner who has prepared a drainage management plan may also enter into a joint application, however, the applicant should be aware that in the case of a joint development consent any amendment to the drainage management plan would require the written support of each landowner involved in the consent.

17.3.8 Determination by Council

In the case of a joint application or a drainage management plan Council will determine the application in accordance with the provisions of the Plan and this DCP. Where development consent is given, no further development application will be required for those works provided any ongoing maintenance and management is carried out in accordance with the terms and conditions of the consent. For example, if an approved drain is to be deepened, widened, extended, etc and the original consent did not allow for that work, then further development consent would be required. Likewise, if the applicant continued maintaining the drain in accordance with the consent, then no further application would be required.

An applicant working under a joint development consent or drainage management plan is encouraged to contact Council if there is any question as to the terms and conditions of consent. New owners of land should also contact Council regarding the terms and conditions of any development consent issued which apply to the property. When a property is bought or sold the consent stays with the property. The new owner must comply with the consent or where an amendment is sought, have support, in writing, of all the joint applicants.