



New South Wales

# **State Environmental Planning Policy No 58—Protecting Sydney's Water Supply**

under the

**Environmental Planning and Assessment Act 1979**

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Urban Affairs and Planning.

Minister for Urban Affairs and Planning

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## 1998 No 725

Clause 1 State Environmental Planning Policy No 58—Protecting Sydney's Water Supply

Part 1 Preliminary

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# State Environmental Planning Policy No 58— Protecting Sydney's Water Supply

## Part 1 Preliminary

### 1 Name of Policy

This Policy is *State Environmental Planning Policy No 58—Protecting Sydney's Water Supply*

### 2 Commencement

This Policy commences on 1 February 1999.

### 3 Aims of Policy

This Policy aims:

- (a) to ensure that development in the hydrological catchment from which Sydney draws its drinking water supply does not have a detrimental impact on water quality. and
- (b) to provide, pending the commencement of the *Sydney Water Catchment Management Act 1998*, a concurrence or notification role for the Director-General of the Department of Urban Affairs and Planning in relation to development in the hydrological catchment that is likely to have an impact on water quality, and
- (c) to ensure that there is a consistent approach to the assessment and control of development in the hydrological catchment that is likely to have an impact on water quality.

### 4 Definitions

- (1) In this Policy

***Director-General*** means the Director-General of the Department of Urban Affairs and Planning.

***hydrological catchment*** means the area of land within the Warragamba, Upper Nepean, Woronora, Blue Mountains and Shoalhaven catchments within the outer edge of the heavy black line shown on the maps.

**Note.** The hydrological catchment as defined includes the special areas.

*special area* means an area of land to which this Policy applies that was declared by an order in force, immediately before the commencement of this Policy, under section 81 of the *Sydney Water Act 1994* (formerly known as the *Water Board (Corporatisation) Act 1994*) to be a special area.

**Note.** The special areas are shown on the maps.

*the Act* means the *Environmental Planning and Assessment Act 1979*.

*the maps* means the series of maps marked "State Environmental Planning Policy No 58—Protecting Sydney's Water Supply" deposited in the Head Office of the Department of Urban Affairs and Planning and copies of which are deposited in the offices of the councils of the local government areas to which this Policy applies.

- (2) Notes in this Policy do not form part of this Policy.

## 5 Land to which this Policy applies

This Policy applies to the land within the hydrological catchment.

**Note.** This Policy applies to the whole or parts of the following local government areas:

Blue Mountains	Goulburn	Mulwaree	Tallaganda
Campbelltown	Gunning	Oberon	Wingecarribee
Crookwell	Kiama	Shoalhaven	Wollondilly
Eurobodalla	Lithgow	Sutherland	Wollongong

## 6 Relationship to other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument applying to land to which this Policy applies, whether made before or after this Policy, this Policy applies to the extent of the inconsistency.

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- (2) A reference to Sydney Water, however expressed, in any of the following provisions of an environmental planning instrument is, in relation to an application to carry out development to which clause 11 or 12 applies, taken to be a reference to the Director-General:

*Blue Mountains Local Environmental Plan No 4*, clauses 44 and 58A (4) (c)

*Blue Mountains Local Environmental Plan 1991*, clause 11.6 (a)

*Interim Development Order No 15—City of Campbelltown* clause 12 (1)

*Mulwaree Local Environmental Plan 1995*, clauses 36 and 39

*City of Shoalhaven Local Environmental Plan 1985*, clause 25 (1)

*Sutherland Shire Local Environmental Plan 1993*, paragraph (2) of Zone 7 (c) in the Zoning Table

*Tallaganda Local Environmental Plan 1991*, clause 43 (1)

*Wingecarribee Local Environmental Plan 1989*, clauses 38F (3) and 43 (1)

*Wollondilly Local Environmental Plan 1991*, clause 17

*City of Wollongong Local Environmental Plan 1990*, clause 16

## 7 Suspension of laws

- (1) For the purpose of enabling development to be carried out in accordance with this Policy or in accordance with a consent granted under the Act, sections 78 and 84 of, and clause 8 of Schedule 9 to, the *Sydney Water Act 1994*, to the extent necessary to serve that purpose, do not apply to any such development.
- (2) Pursuant to section 28 of the Act, before the making of this Policy, the Governor approved of subclause (1) with the prior concurrence in writing of the Minister administering the *Sydney Water Act 1994*.

## Part 2 Carrying out of development

### 8 Consent to Schedule 1 or 2 development

A person must not carry out development specified in Schedule 1 or 2 except with the consent of the consent authority.

### 9 Consent authority

The relevant council is the consent authority for development specified in Schedule 1 or 2, other than State significant development.

**Note.** Under section 76A (9) of the Act, the Minister is the consent authority for State significant development.

### 10 Matters for consideration

In relation to any development or activity proposed to be carried out on land to which this Policy applies, a consent authority in exercising functions under Part 4 of the Act, a proponent or determining authority in exercising functions under Part 5 of the Act, and the Director-General in exercising functions under this Policy, must consider the following:

- (a) whether the development or activity will have a neutral or beneficial effect on the water quality of rivers, streams or groundwater in the hydrological catchment, including during periods of wet weather.
- (b) whether the water quality management practices proposed to be carried out as part of the development or activity are sustainable over the long term,
- (c) whether the development or activity is compatible with relevant environmental objectives and water quality standards for the hydrological catchment when these objectives and standards are established by the Government.

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Part 2 Carrying out of development

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### 11 Concurrence of Director-General

- (1) This clause applies to:
  - (a) development (other than State 'significant development) specified in Schedule 1 that is proposed to be carried out on any land to which this Policy applies, other than land within the Shoalhaven Catchment as shown on the maps, and
  - (b) development (other than State significant development) specified in Schedule 1 or 2 that is proposed to be carried out on land within a special area (including the Shoalhaven Special Area).
- (2) A consent authority cannot grant consent to a development application to carry out development to which this clause applies, except with the concurrence of the Director-General.
- (3) For the purposes of section 30 (3) of the Act, the matters that are to be taken into consideration by the Director-General in deciding whether concurrence should be granted are:
  - (a) the matters set out in Part 2, and
  - (b) a water cycle management study relating to the proposed development.
- (4) The Director-General may refuse to grant concurrence under this clause in relation to a particular development if the Director-General has not been furnished with:
  - (a) a water cycle management study prepared in respect of the development that addresses the following matters:
    - (i) pre-development and post-development run off volumes and pollutant loads from the site of the proposed development,
    - (ii) the assessment of the proposed development against the matters for consideration specified in clause 10,
    - (iii) the impacts of the development on receiving waters.
    - (iv) the water cycle management strategies and best management practices proposed to be employed to address those impacts.

- (v) the arrangements to be made for the ongoing maintenance and monitoring of the water cycle management system, and
- (b) the results of consultations concerning the proposed development with the Environment Protection Authority, the Department of Land and Water Conservation and other relevant agencies.

## 12 Notification of Director-General

- (1) This clause applies to:
  - (a) development (other than State significant development) specified in Schedule 1 that is proposed to be carried out on land within the Shoalhaven Catchment as shown on the maps. and
  - (b) development (other than State significant development) specified in Schedule 2 that is proposed to be carried out on any land to which this Policy applies. other than land within a special area.
- (2) A consent authority must, within 2 days after the receipt of a development application for consent to carry out development to which this clause applies, notify the Director-General of the receipt of the application.
- (3) The consent authority, in determining whether or not to grant consent to the development application (and, if consent is granted, in determining any conditions to which the consent is to be subject), must take into account any comments made by the Director-General that are received by the consent authority:
  - (a) within 21 days after the consent authority notified the Director-General of the receipt of the application, or
  - (b) within such longer period as is advised within the 21-day period referred to in paragraph (a) by the Director-General to the consent authority.

## 13 Prohibited development

This Part does not apply to development the carrying out of which is prohibited by an environmental planning instrument.

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Clause 14      State Environmental Planning Policy No 58—Protecting Sydney's Water Supply

Part 3          Transitional provision

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**Part 3      Transitional provision**

**14   Application of Policy to certain development applications**

A development application made to a consent authority before the date of commencement of this Policy and that was not finally determined before that date is to be determined as if this Policy had not been made.



## Schedule 1

(Clauses 8, 9, 11 and 12)

Designated development under Schedule 3 to the *Environmental Planning and Assessment Regulation 1994*

Biosolids application and effluent re-use schemes

Dairies accommodating more than 1,000 head of cattle

Sewerage systems or works, including package sewage treatment plants

Stormwater systems or works involving disposal of untreated runoff

Tourist and recreation facilities that:

- (a) are unsewered, or
- (b) involve significant land modification, or
- (c) involve periods of significant use

Unsewered rural residential development, being the subdivision of land into 4 or more lots intended to be used for rural residential development where the lots are unsewered

Unsewered urban development

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Schedule 2

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**Schedule 2**

(Clauses 8, 9, 11 and 12)

Agricultural facilities, including stock and saleyards

Dairies accommodating more than 50 but not more than 1,000 head of cattle

Food or beverage processing industries

Forestry (private)

Intensive agriculture

Intensive horticulture

Irrigated agriculture

Service stations

Transport facilities

Unsewered rural residential development. being:

- (a) the subdivision of land into less than 4 lots intended to be used for rural residential development where the lots are unsewered. or
- (b) the erection of a dwelling on an allotment of rural land that is unsewered, except where the subdivision of the land has been the subject of concurrence under clause 11 or notification under clause 12