



New South Wales

# State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

under the

Environmental Planning and Assessment Act 1979

Her 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*. (10/12614)

TONY KELLY, MLC  
Minister for Planning

## 2011 No 28

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

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## State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.

#### 2 Commencement

This Policy commences on 1 March 2011 and is required to be published on the NSW legislation website.

#### 3 Aims of Policy

The aims of this Policy are:

- (a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and
- (b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and
- (c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

**Note.** The water quality objectives for the Sydney drinking water catchment can be found in the Annual Water Quality Monitoring Reports published by the Authority. For example, see Table 5.1 in the *Annual Water Quality Monitoring Report 2008–2009*.

#### 4 Definitions

- (1) In this Policy:

**activity** has the same meaning as in Part 5 of the Act.

**Authority** means the Sydney Catchment Authority.

**Chief Executive** means the Chief Executive of the Authority.

**determining authority** has the same meaning as in Part 5 of the Act.

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Clause 5

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**NorBE Guideline** means the document titled *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2011* prepared by the Authority as published in the Gazette on the same day as this Policy was published on the NSW legislation website.

**NorBE Tool** means the tool titled *Neutral or Beneficial Effect on Water Quality Assessment Tool 2011* set out in Appendix 1 to the NorBE Guidelines.

**Note.** The Sydney Catchment Authority has prepared a software application that embodies the NorBE Tool. For access to the software application, see [www.sca.nsw.gov.au](http://www.sca.nsw.gov.au).

**Sydney drinking water catchment**—see clause 7.

**Sydney Drinking Water Catchment Map** means the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011—Sydney Drinking Water Catchment Map.

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

- (2) In this Policy, a reference to **the Authority's current recommended practices and standards** is a reference to any current recommended practices and performance standards endorsed or published by the Authority that relate to the protection of water quality.
- (3) Notes included in this Policy do not form part of this Policy.

### 5 Land to which Policy applies

This Policy applies to land within the Sydney drinking water catchment.

### 6 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

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## **7 Declaration of Sydney drinking water catchment**

For the purposes of section 34B (1) of the Act, the area of land identified as the Sydney drinking water catchment on the Sydney Drinking Water Catchment Map is declared to be the Sydney drinking water catchment.

**Note.** The Sydney drinking water catchment includes the following sub-catchments:

- (a) Back and Round Mountain Creeks,
- (b) Boro Creek,
- (c) Braidwood,
- (d) Bungonia Creek,
- (e) Endrick River,
- (f) Grose River,
- (g) Jerrabattagulla Creek,
- (h) Kangaroo River,
- (i) Kowmung River,
- (j) Lake Burragorang,
- (k) Little River,
- (l) Lower Coxs River,
- (m) Mid Coxs River,
- (n) Mid Shoalhaven River,
- (o) Mongarlowe River,
- (p) Mulwaree River,
- (q) Nattai River,
- (r) Nerrimunga Creek,
- (s) Reedy Creek,
- (t) Upper Coxs River,
- (u) Upper Nepean River,
- (v) Upper Shoalhaven River,
- (w) Upper Wollondilly River,
- (x) Werri Berri Creek,
- (y) Wingecarribee River,
- (z) Wollondilly River,
- (aa) Woronora River.

## **8 Relationship with other environmental planning instruments**

- (1) If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

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Part 1 Preliminary

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- (2) *Drinking Water Catchments Regional Environmental Plan No 1* is repealed.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a development standard imposed by this Policy.

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## **Part 2 Assessment and approval of development and activities**

### **9 Recommended practices and performance standards of the Sydney Catchment Authority**

- (1) Any development or activity proposed to be carried out on land to which this Policy applies should incorporate the Authority's current recommended practices and standards.
- (2) If any development or activity does not incorporate the Authority's current recommended practices and standards, the development or activity should demonstrate to the satisfaction of the consent authority or determining authority how the practices and performance standards proposed to be adopted will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards.
- (3) The Authority must ensure that:
  - (a) a list of each of the Authority's current recommended practices and standards is published on the Authority's website, and
  - (b) a copy of each of the Authority's current recommended practices and standards is available for public inspection at the office of the Authority without cost during ordinary office hours.

### **10 Development consent cannot be granted unless neutral or beneficial effect on water quality**

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.
- (2) For the purposes of determining whether the carrying out of the proposed development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality, the consent authority must, if the proposed development is one to which the NorBE Tool applies, undertake an assessment using that Tool.

**Note.** The NorBE Guideline provides information and guidance for consent authorities in the use of the NorBE Tool.

### **11 Development that needs concurrence of Chief Executive**

- (1) A consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment except with the concurrence of the Chief Executive.

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Catchment) 2011

Clause 11

Part 2

Assessment and approval of development and activities

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- (2) For the purposes of section 30 (3) of the Act, the matters that are to be taken into consideration by the Chief Executive in deciding whether to grant concurrence are:
  - (a) whether the development incorporates the Authority's current recommended practices and standards, and
  - (b) if the development does not incorporate those practices and standards, whether the alternative practices that relate to the protection of water quality that have been adopted in relation to the development will achieve outcomes not less than those achieved by the Authority's current recommended practices and standards, and
  - (c) whether the development would have a neutral or beneficial effect on water quality.
- (3) A consent authority must forward a copy of its determination of a development application that requires the concurrence of the Chief Executive to the Chief Executive within 10 days after the determination is made.
- (4) This clause does not apply if:
  - (a) the Minister is the consent authority, or
  - (b) the consent authority is satisfied that the proposed development has no identifiable potential impact on water quality.



## **Part 3 Miscellaneous**

### **12 Public authorities to consider effect on water quality**

A public authority must, before it carries out any activity to which Part 5 of the Act applies, consider whether the activity would have a neutral or beneficial effect on water quality.

### **13 Savings**

A development application that has been made but not finally determined before the commencement of this Policy, or an amendment to this Policy, must be determined as if this Policy or the amendment had not commenced.

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Schedule 1 Amendment of other environmental planning instruments

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## Schedule 1 Amendment of other environmental planning instruments

### 1.1 Gunning Local Environmental Plan 1997

#### Clause 21A Development within the Sydney drinking water catchment comprising intensive plant growing

Omit clause 21A (1) and (2). Insert instead:

- (1) This clause applies to the Sydney drinking water catchment within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.
- (2) The objective of this clause is to ensure that development with the potential to adversely impact on water quality in the Sydney drinking water catchment requires development consent.

### 1.2 Lithgow City Local Environmental Plan 1994

#### Clause 30A Development within the Sydney drinking water catchment comprising intensive plant growing

Omit clause 30A (1) and (2). Insert instead:

- (1) This clause applies to the Sydney drinking water catchment within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.
- (2) The objective of this clause is to ensure that development with the potential to adversely impact on water quality in the Sydney drinking water catchment requires development consent.

### 1.3 Mulwaree Local Environmental Plan 1995

#### Clause 36A Development within the Sydney drinking water catchment comprising intensive plant growing

Omit clause 36A (1) and (2). Insert instead:

- (1) This clause applies to the Sydney drinking water catchment within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.
- (2) The objective of this clause is to ensure that development with the potential to adversely impact on water quality in the Sydney drinking water catchment requires development consent.

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## 1.4 Oberon Local Environmental Plan 1998

### [1] Clause 6 Definitions

Omit the definition of *hydrological catchment* from clause 6 (1).

Insert in alphabetical order:

*Sydney drinking water catchment* has the same meaning as in *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.

### [2] Clause 41 Development within water catchment areas (excluding the Sydney drinking water catchment)

Omit “hydrological catchment”.

Insert instead “Sydney drinking water catchment”.

### [3] Clause 42 Development within water catchment areas (including the Sydney drinking water catchment)

Omit “hydrological catchment”.

Insert instead “Sydney drinking water catchment”.

### [4] Clause 43 Development within the Sydney drinking water catchment comprising intensive plant growing

Omit “hydrological catchment” wherever occurring in clause 43 (1) and (3).

Insert instead “Sydney drinking water catchment”.

## 1.5 Shoalhaven Local Environmental Plan 1985

### Clause 24A Development within the Sydney drinking water catchment comprising intensive plant growing

Omit clause 24A (1) and (2). Insert instead:

- (1) This clause applies to the Sydney drinking water catchment within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.
- (2) The objective of this clause is to ensure that development with the potential to adversely impact on water quality in the Sydney drinking water catchment requires development consent.

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### **1.6 State Environmental Planning Policy No 60—Exempt and Complying Development**

#### **Clause 9 What development is complying development?**

Omit “*Drinking Water Catchments Regional Environmental Plan No 1*” from clause 9 (3) (d) (viii).

Insert instead “*State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*”.

### **1.7 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

#### **Clause 1.19 Land on which exempt development and complying development may not be carried out (as amended by State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010)**

Omit “*Drinking Water Catchments Regional Environmental Plan No 1*” wherever occurring from clause 1.19 (6) (h) (i) and (7) (a).

Insert instead “*State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*”.

### **1.8 Tallaganda Local Environmental Plan 1991**

#### **Clause 43A Development within the Sydney drinking water catchment comprising intensive plant growing**

Omit clause 43A (1) and (2). Insert instead:

- (1) This clause applies to the Sydney drinking water catchment within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.
- (2) The objective of this clause is to ensure that development with the potential to adversely impact on water quality in the Sydney drinking water catchment requires development consent.

### **1.9 Upper Lachlan Local Environmental Plan 2010**

#### **Clause 3.2 Complying development**

Omit “*Drinking Water Catchments Regional Environmental Plan No 1*” from clause 3.2 (3) (c2).

Insert instead “*State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*”.

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## 1.10 Wollongong Local Environmental Plan 2009

### [1] Part 2 Permitted or prohibited development

Omit “the Sydney Catchment Authority’s hydrological catchment” from item 1 of the matter relating to Zone E2 Environmental Conservation in the Land Use Table at the end of the Part.

Insert instead “the Sydney drinking water catchment (within the meaning of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*)”.

### [2] Clause 3.2 Complying development

Omit “*Drinking Water Catchments Regional Environmental Plan No 1*” from clause 3.2 (4A) (d).

Insert instead “*State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*”.