



New South Wales

# **State Environmental Planning Policy Amendment (Artificial Waterbodies) 2019**

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*.

ROBERT STOKES, MP  
Minister for Planning and Public Spaces

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Artificial Waterbodies) 2019*.

### **2 Commencement**

This Policy commences on the day on which it is published on the NSW legislation website.

### **3 Repeal of Policy**

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5(6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

## **Schedule 1      Amendment of State Environmental Planning Policy (Primary Production and Rural Development) 2019**

### **[1]    Clause 6 Relationship with other environmental planning instruments**

Omit clause 6(3)(a)(i). Insert instead—

- (i) when a consent authority determines a development application required by Part 3 of this Policy for land to which that Plan applies, and

### **[2]    Clause 12**

Omit the clause. Insert instead—

#### **12    Objects of Part**

The objects of this Part are as follows—

- (a) to allow the carrying out of development for the purpose of artificial waterbodies on land to which this Part applies only with development consent, except as referred to in paragraph (b),
- (b) to allow the carrying out of development without development consent on that land for the purposes of the following—
  - (i) small artificial waterbodies, such as those used for the purpose of storing water and for run-off for reuse, subject to certain restrictions as to location,
  - (ii) routine maintenance of irrigation channels, and the use of land for related access,
  - (iii) emergency work on irrigation channels by irrigation corporations and the use of land for related access.

### **[3]    Clauses 13A and 14**

Omit clause 14. Insert instead—

#### **13A    Consent required for certain artificial waterbodies**

- (1) Development for the purpose of an artificial waterbody may be carried out on land to which this Part applies only with development consent.

**Note.** The *Environmental Planning and Assessment Regulation 2000* declares certain artificial waterbodies to be designated development for the purposes of the Act, relevantly, those located on land referred to in clause 13 of this Policy that have a storage capacity of 800 megalitres or more, or that have a storage capacity of 100 megalitres or more and are in an environmentally sensitive area.

- (2) Subclause (1) does not apply to development for the purpose of an artificial waterbody—
  - (a) with a storage capacity of 15 megalitres or more but less than 100 megalitres, and
  - (b) that is carried out in an environmentally sensitive area.

**Note.** Standard instrument local environmental plans for an area that includes land referred to in clause 13 require development consent for the development referred to in this subclause.

**14 Certain artificial waterbodies permissible without consent**

Despite clause 13A, development for the purpose of an artificial waterbody may be carried out without development consent on land to which this Part applies if—

- (a) its storage capacity is less than 15 megalitres, and
- (b) it is not within 40 metres of a public road, natural waterbody, environmentally sensitive area or tree clearing operations.

**[4] Clauses 15(1) and 16(1)**

Omit “Development” wherever occurring.

Insert instead “Despite clause 13A, development”.

## **Schedule 2      Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

### **Clause 3D.3 Development that is complying development under this code**

Omit clause 3D.3(1)(c). Insert instead—

- (c) the erection of a farm building or detached development and the alteration of, or an addition to, a farm building or detached development.