State Environmental Planning Policy No 58—Protecting Sydney's Water Supply (1998 EPI 725)

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New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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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 a concurrence or notification role for the Chief Executive of the Sydney Catchment Authority 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:

Chief Executive means the Chief Executive of the Sydney Catchment Authority.

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 declared for the time being under the *Sydney Water Catchment Management Act 1998* 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 office of the Sydney Catchment Authority and in the offices of the councils of the local government areas to which this Policy applies, as amended by the maps marked as follows and so deposited:

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the Policy.

State Environmental Planning Policy No 58—Protecting Sydney's Water Supply (Amendment No 1)

State Environmental Planning Policy No 58—Protecting Sydney's Water Supply (Amendment No 2)

(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.

(1A) Nothing in this Policy affects clause 11E of *State Environmental Planning Policy No 4—Development Without Consent* and, for the purposes of this Policy, the reference in that clause to Sydney Water Corporation Limited is taken to include a reference to the Sydney Catchment Authority.

(1B) Part 3 (Complying development) of *State Environmental Planning Policy No 60—Exempt and Complying Development* does not apply to unsewered land to which this Policy applies.

(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 Chief Executive:

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 12 (7), 13 (4), 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, clauses 13 (4), 14 (4), 15 (4) and 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 (Repealed)

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 Chief Executive 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.

11 Concurrence of Chief Executive

(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 that part of the Shoalhaven Catchment as shown on the maps that is not within:

(i) the Kangaroo Valley Area as shown on the maps, or

(ii) a special area, and

(b) development (other than State significant development) specified in Schedule 2 that is proposed to be carried out on land within:

(i) the Kangaroo Valley Area as shown on the maps, or

(ii) a 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 Chief Executive.

(3) 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 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 Chief Executive may refuse to grant concurrence under this clause in relation to a particular development if the Chief Executive 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 Chief Executive

(1) This clause applies to:

(a) development (other than State significant development) specified in Schedule 1 that is proposed to be carried out within that part of the Shoalhaven Catchment as shown on the maps that is not within:

(i) the Kangaroo Valley Area as shown on the maps, or

(ii) a special area, 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:

(i) the Kangaroo Valley Area as shown on the maps, or

(ii) 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, provide the Chief

Executive with a copy of the application and information as to the probable effect of the development on water quality.

(2A) The Chief Executive may require the consent authority to provide additional information if the information provided under subclause (2) is not sufficient to enable an adequate assessment to be made of the probable effect of the development on water quality.

(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 Chief Executive that are received by the consent authority:

(a) within 21 days after the consent authority provided the Chief Executive with information that is sufficient to enable an adequate assessment to be made of the probable effect of the development on water quality, or

(b) within such longer period as is advised within the 21-day period referred to in paragraph (a) by the Chief Executive to the consent authority.

12A Copies of determinations of development applications to Chief Executive

A consent authority is to forward a copy of its determination of a development application for development to which clause 11 or 12 applies to the Chief Executive within 10 days after the determination is made.

13 Prohibited development

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

Part 3 Transitional provisions

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.

15 Granting of concurrence to certain development applications

If, before the commencement of this clause, the concurrence of the Director-General of the Department of Urban Affairs and Planning has been sought or is required under clause 11 in relation to development the subject of a development application and the Director-General has not decided whether concurrence should be granted, the decision as to whether concurrence should be granted is to be made by the Chief Executive.

16 Notification of certain development applications

If, before the commencement of this clause, a consent authority has notified, or is required to notify, the Director-General of the Department of Urban Affairs and Planning under clause 12 in relation to development the subject of a development application and the Director-General has not made any comments concerning the development, 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 Chief Executive 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 or the Chief Executive to the consent authority.

Schedule 1

(Clauses 8, 9, 11 and 12)

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

Biosolids application excluding unrestricted biosolids (where "biosolids" and "unrestricted biosolids" have the same meanings as in *Environmental Guidelines—Use and Disposal of Biosolids Products* published by the Environment Protection Authority in October 1997)

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 development for any residential purpose in a rural zone, being the subdivision of land into 4 or more lots intended to be used for rural residential development where the lots are unsewered

Unsewered development in urban zones that will create or increase the need for on-site effluent management, not including ancillary development such as garages, awnings or alterations to buildings that do not require any alteration to an on-site effluent system

Schedule 2

(Clauses 8, 9, 11 and 12)

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

Stock and saleyards used for commercial purposes

Transport facilities, being the construction of facilities such as truck stops, bus terminals, rail marshalling yards, container shipping terminals, major rail works and major road works, but not including the repair or maintenance of those facilities

Unsewered development for any residential purpose in a rural zone, 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, including alterations and additions that will create or increase the need for on-site effluent management, except where the subdivision of the land has been the subject of concurrence under clause 11 or notification under clause 12.