

# Drinking Water Catchments Regional Environmental Plan No 1 (2006 EPI 289)

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New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Does not include amendments by**  
[Environmental Planning and Assessment Amendment Act 2008 No 36](#) (not commenced)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Drinking Water Catchments Regional Environmental Plan No 1 (2006 EPI 289)



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Drinking Water Catchments Regional Environmental Plan No 1*.

### 2 Commencement

This plan commences on 1 January 2007.

### 3 Aims of plan

This plan aims:

- (a) to create healthy water catchments that will deliver high quality water while sustaining diverse and prosperous communities, and
- (b) to provide the statutory components in Sustaining the Catchments that, together with the non-statutory components in Sustaining the Catchments, will achieve the aim set out in paragraph (a), and
- (c) to achieve the water quality management goals of:
  - (i) improving water quality in degraded areas and critical locations where water quality is not suitable for the relevant environmental values, and
  - (ii) maintaining or improving water quality where it is currently suitable for the relevant environmental values.

### 4 Authority for plan

This plan is made pursuant to the power conferred by the Act and section 53 of the *Sydney Water Catchment Management Act 1998*.

### 5 Definitions

In this plan:

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

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

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

**hydrological catchment** means the area of land within the region declared by order under section 4 (6) of the Act published in Gazette No 175 of 16 November 2001 on page 9268 that is within the outer edge of the heavy black line shown on the map.

**Note—**

The hydrological catchment includes the following sub-catchments:

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

***Sustaining the Catchments*** means the plan for Sydney's drinking water catchments and adjacent regional centres entitled *Sustaining the Catchments* published by the Department of Planning and the Sydney Catchment Authority before the commencement of this plan.

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

**the map** means the series of maps marked “*Drinking Water Catchments Regional Environmental Plan No 1*” deposited in the head offices of the Sydney Catchment Authority and the Department of Planning and copies of which are deposited in the offices of the councils of the areas to which this plan applies.

**water quality objectives**—see clause 8.

## 6 Land to which plan applies

This plan applies to the land within the hydrological catchment.

## 7 Relationship with other environmental planning instruments

- (1) This plan prevails over any other regional environmental plan or any local environmental plan, whether made before or after this plan, to the extent of any inconsistency.
- (2) This plan does not permit development that is prohibited by another environmental planning instrument.
- (3) *State Environmental Planning Policy No 58—Protecting Sydney’s Water Supply* is repealed.
- (4) *State Environmental Planning Policy No 1—Development Standards* does not apply to a development standard imposed by this plan.
- (5) Nothing in this plan affects clause 11E of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* and, for the purposes of this plan, a reference in clause 11E to Sydney Water Corporation Limited is taken to include a reference to the Sydney Catchment Authority.
- (6) Part 3 (Complying development) of *State Environmental Planning Policy No 60—Exempt and Complying Development* does not apply to unsewered land to which this plan applies.
- (7) (Repealed)

## Part 2 Water quality objectives

### 8 Water quality objectives

- (1) For the purposes of this plan, the **water quality objectives** for the environmental values specified in subclause (2) are:
  - (a) except as provided by paragraph (b), the water quality objectives specified in the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000*

published by the Australian and New Zealand Environment and Conservation Council and the Agriculture and Resource Management Council of Australia and New Zealand (***the Water Quality Guidelines***), or in any publication published by those Councils in substitution for or replacement of the Water Quality Guidelines, or

(b) the water quality objectives referred to in paragraph (a) as varied in accordance with the methodology specified in the Water Quality Guidelines, or in any publication published, as referred to in paragraph (a), in substitution for or replacement of the Water Quality Guidelines.

(2) The environmental values that apply to the whole of the hydrological catchment are as follows:

(a) Aquatic Ecosystems,

(b) Recreational Water—primary contact, secondary contact and visual use,

(c) Drinking Water (raw water),

(d) Primary Industries—irrigation and general water use, livestock drinking water and aquaculture and human consumers of aquatic foods.

## **9 Achievement of water quality objectives—preparation of draft planning instruments**

(1) A person who prepares a draft environmental planning instrument that applies to any land within the hydrological catchment must ensure that the provisions of the instrument will enable, and not prevent, the achievement of the water quality objectives.

(2) This clause does not affect the validity of any environmental planning instrument made by the Governor or the Minister.

## **10 Summary reports on water quality**

Within 6 months after a catchment audit under section 42 (2) of the [Sydney Water Catchment Management Act 1998](#) is presented to the Minister, the Sydney Catchment Authority is to prepare and make available on its website a summary of water quality outcomes within the relevant part of the hydrological catchment when measured against the water quality objectives.

## **Part 3 Rectification action plans**

### **11 Requirement for preparation of rectification action plans**

The Sydney Catchment Authority must prepare rectification action plans to rectify the impact of existing development and activities that do not have a neutral or beneficial effect on water quality in the hydrological catchment.



## **12 Content of rectification action plans**

- (1) A rectification action plan is a document consisting of written information, maps and diagrams that identifies and prioritises actions designed to rectify or ameliorate the deleterious impacts on water quality within the hydrological catchment of existing development and activities.
- (2) A rectification action plan must be consistent with Sustaining the Catchments.

## **13 Preparation of rectification action plans**

- (1) The Sydney Catchment Authority must prepare a draft rectification action plan for each sub-catchment.
- (2) The Sydney Catchment Authority may comply with subclause (1) by preparing a draft rectification action plan for two or more such sub-catchments.
- (3) The Sydney Catchment Authority may determine priorities for the preparation of draft rectification action plans based on the catchment audit and any other relevant matter.
- (4) A draft rectification action plan is to be prepared in consultation with relevant councils, State agencies, natural resource management bodies, interest groups and communities.
- (5) A draft rectification action plan must be prepared for all sub-catchments as soon as practicable after the date of commencement of this plan and no later than 5 years after that date.
- (6) Draft rectification action plans for the highest priority sub-catchments, determined in accordance with subclause (3), are to be prepared within 2 years after the commencement of this plan.

## **14 Public consultation**

- (1) After a draft rectification action plan has been prepared, the Sydney Catchment Authority must publicly exhibit the draft plan for comment for not less than 40 days.
- (2) The Chief Executive must ensure that the public is notified of the exhibition of the draft rectification action plan through advertisements in local newspapers and at least one newspaper that has Statewide circulation.
- (3) This clause does not apply to a draft plan that amends an existing plan if the Chief Executive considers that the change to the plan is of a minor nature only.

## **15 Making of rectification action plans**

After considering any comment received from the public exhibition of a draft rectification action plan, the Chief Executive may make a rectification action plan in accordance with the draft plan, or the draft plan as amended.

## 16 Effect of rectification action plans

- (1) A rectification action plan is made for the purpose of enabling it to be used by the Sydney Catchment Authority and other State agencies and councils to inform their budgetary decisions and programs.
- (2) However a rectification action plan is not binding on any person and does not affect the exercise of a person's statutory discretion.

## 17 Amendment and repeal of rectification action plans

A rectification action plan may be amended or repealed by a rectification action plan.

## 18 Review of rectification action plans

Each rectification action plan must be reviewed by the Sydney Catchment Authority within 5 years after the date on which it is made.

## 19 Availability of rectification action plans

The Sydney Catchment Authority must make a copy of each rectification action plan available for public inspection at the office of the Authority without cost during ordinary office hours and on the Authority's website.

## 20 Performance review

The Sydney Catchment Authority must report publicly every 2 years, or at such intervals as are determined by the Minister administering the [Sydney Water Catchment Management Act 1998](#), on the status of the preparation, implementation or review of each rectification action plan and draft rectification action plan.

# Part 4 Strategic land and water capability assessment

## 21 Definition

In this Part, **strategic land and water capability assessment** means an assessment of the physical capability of natural features of land and waterways to identify appropriate types and intensities of land use that will not adversely impact on water quality and catchment health.

## 22 Preparation of assessments

- (1) The Sydney Catchment Authority is required to prepare strategic land and water capability assessments for the hydrological catchment.
- (2) A copy of each strategic land and water capability assessment prepared by the Sydney Catchment Authority must be available for public inspection at the office of the Authority without cost during ordinary office hours and on the Authority's website.

### **23 Assessments to be taken into consideration when preparing LEPs**

- (1) A council, in preparing a draft local environmental plan that applies to land within the hydrological catchment, must take into consideration any strategic land and water capability assessment prepared for the land, or any part of it, by the Sydney Catchment Authority.
- (2) Prior to the preparation of a strategic land and water capability assessment by the Sydney Catchment Authority, a council may prepare or approve an assessment that is equivalent to a strategic land and water capability assessment to assist it in preparing a draft local environmental plan.
- (3) A copy of each assessment prepared or approved under this clause that is equivalent to a strategic land and water capability assessment must be available for public inspection at the office of the relevant council without cost during ordinary office hours and on the council's website.

### **24 Assessments may be used by public authorities**

A public authority, in exercising statutory powers in respect of land use within the hydrological catchment, may take into consideration any relevant strategic land and water capability assessment.

## **Part 5 Assessment and approval of development and activities**

### **25 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 plan applies should incorporate any current recommended practices and performance standards endorsed or published by the Sydney Catchment Authority that relate to the protection of water quality (***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 the Authority's current recommended practices and standards.
- (3) A copy of each of the Authority's current recommended practices and standards must be available for public inspection at the office of the Authority without cost during ordinary office hours and on the Authority's website.

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

A consent authority must not grant consent to the carrying out of development under Part

4 of the Act on land in the hydrological catchment unless:

- (a) it has considered whether the proposed development will have a neutral or beneficial effect on water quality, and
- (b) it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.

## **27 Assessment under Part 5 to consider effect on water quality**

An environmental assessment required to be obtained under Part 5 of the Act in relation to an activity proposed to be carried out on land in the hydrological catchment must include an assessment of whether the activity will have a neutral or beneficial effect on water quality.

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

- (1) A person must not carry out development on land in the hydrological catchment except with the concurrence of the Chief Executive (except as provided by subclause (3)).
- (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 any current recommended practices and performance standards endorsed or published by the Sydney Catchment Authority that relate to the protection of water quality, 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 at least the same outcomes as those practices and standards, and
  - (c) whether the development will have a neutral or beneficial effect on water quality.
- (3) This clause does not apply if the consent authority is satisfied that the proposed development:
  - (a) has no identifiable potential impact on water quality, or
  - (b) will contain any such impact on the site of the development and prevent it from reaching any watercourse, waterbody or drainage depression on the site, or
  - (c) will transfer any such impact outside the site by treatment in a facility and disposal approved by the consent authority (but only if the consent authority is satisfied that water quality after treatment will be of the required standard).
- (4) For the purposes of subclause (3), **site** means the site of the proposed development.

(5) A consent authority must forward a copy of its determination of a development application which required the concurrence of the Chief Executive to the Chief Executive within 10 days after the determination is made.

(6) This clause does not apply to where the Minister is the consent authority.

### **29 Development that needs to be notified to Chief Executive**

(1) A consent authority must, at the end of March, June, September and December each year, provide details to the Chief Executive of all development applications relating to land within the hydrological catchment determined by it within the preceding 3 months.

(2) A determining authority must, at the end of March, June, September and December each year, provide details to the Chief Executive of all applications for approval relating to land within the hydrological catchment determined by it within the preceding 3 months.

## **Part 6 Miscellaneous**

### **30 Savings**

This plan does not apply to:

- (a) a development application or an application for approval of an activity that was made to a consent authority or a determining authority and that was not finally determined before the commencement of this plan, or
- (b) any development or activity for which development consent or approval was granted before the commencement of this plan.

### **31 Review**

(1) The Director-General of the Department of Planning is to commence a review of this plan within 5 years after this plan takes effect to assess if it has achieved its aims.

(2) A copy of the review is to be made available for public inspection.

## **Schedule 1 (Repealed)**