

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

[2011-28]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all 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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New South Wales

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State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011



New South Wales

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.

4 Definitions

(1) In this Policy:

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

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

NorBE Guideline means the document titled *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015* prepared by the former Sydney Catchment Authority as published in the Gazette on the same day as *State Environmental*

[Planning Policy \(Sydney Drinking Water Catchment\) Amendment 2015](#) was published on the NSW legislation website.

NorBE Tool means the tool titled *Neutral or Beneficial Effect on Water Quality Assessment Tool 2015* set out in Appendix 1 to the NorBE Guideline.

Regulatory Authority has the same meaning as in the [Water NSW Act 2014](#).

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](#).

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Policy.

- (2) In this Policy, a reference to **Water NSW's current recommended practices and standards** is a reference to any current recommended practices and performance standards endorsed or published by Water NSW 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.

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.

- (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.

Part 2 Assessment and approval of development and activities

9 Recommended practices and performance standards of Water NSW

- (1) Any development or activity proposed to be carried out on land to which this Policy applies should incorporate Water NSW's current recommended practices and standards.
- (2) If any development or activity does not incorporate Water NSW'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 Water NSW's current recommended practices and standards.
- (3) Water NSW must ensure that:
 - (a) a list of each of Water NSW's current recommended practices and standards is published on Water NSW's website, and
 - (b) a copy of each of Water NSW's current recommended practices and standards is available for public inspection at the office of Water NSW 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 Regulatory Authority

- (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 Regulatory Authority.
- (2) For the purposes of section 30 (3) of the Act, the matters that are to be taken into consideration by the Regulatory Authority in deciding whether to grant concurrence are:
 - (a) whether the development incorporates Water NSW'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 Water NSW'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 Regulatory Authority to the Regulatory Authority 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.

11A Neutral or beneficial effect on water quality—continuing development

- (1) This clause applies for the purposes of determining under this Policy whether the carrying out of continuing development on land in the Sydney drinking water catchment would have a neutral or beneficial effect on water quality.
- (2) **Continuing development** is any development (such as mining) for which development consent was limited to the carrying out of the development for a particular time or to a particular area or intensity, but which was likely to be the subject of future applications for consent for its extension or expansion.
- (3) If:
 - (a) development consent was granted for continuing development ("the existing development consent"), and

(b) a development application is made for consent to extend or expand the carrying out of the development (“the proposed development”), and

(c) the development application is made before the authority conferred by the existing development consent expires or is exhausted,

the carrying out of the proposed development will have a neutral or beneficial effect on water quality if it will have the same or a lesser adverse impact on water quality when compared to the adverse impact that the continuing development would have if it were extended or expanded under similar conditions as the existing development consent.

(4) Subclause (3) extends to an existing development consent that is to be surrendered if consent is granted on the determination of the development application.

(5) In this clause, a reference to an existing development consent includes a reference to a project approved under Part 3A of the Act before its repeal (or granted after its repeal pursuant to Schedule 6A to the Act).

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.

Schedule 1 (Repealed)