



State Environmental Planning Policy (State and Regional Development) 2011 – Water Treatment Facilities Amendment

Explanation of Intended Effect

January 2020



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

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Subtitle: Explanation of Intended Effect

First published: January 2020

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Introduction

An amendment is proposed to *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP), to permit water supply public authorities, such as Sydney Water and Hunter Water, to self-determine all upgrades to existing water treatment facilities. Self-determination would only be possible in circumstances where those upgrades are not likely to have a significant effect on the environment. The amendment is to assist in expediting important drought response infrastructure that will help maintain water supply and water quality to Sydney and regional areas.

This explanation of intended effect (EIE) sets out the existing planning pathways for water treatment facilities and describes the proposed changes to the State and Regional Development SEPP to support the ongoing efficient upgrade of existing water treatment facilities.

Background

State and Regional Development SEPP – State significant infrastructure

The State and Regional Development SEPP identifies certain types of development and infrastructure of State and regional planning significance.

State significant infrastructure (SSI) includes major infrastructure projects that have a wider significance and impact than just the local area and includes:

- general public authority activities likely to have a significant effect on the environment
- certain development for port, wharf and boating facilities
- rail infrastructure
- water storage and water treatment facilities
- pipelines where a licence is required under the *Pipelines Act 1967*
- submarine telecommunications cables used for communications between Australia and other countries
- certain development in reserved land under the National Parks and Wildlife Act 1974.
- Specified development on specified land (e.g. certain development in the Northern Beaches Hospital Precinct; Merimbula Sewage Treatment Plant Upgrade and Ocean Outfall; development with a capital investment value of more than \$100 million on the New Maitland Hospital project).

General public authority activities

Division 5.1 of the *Environmental Planning and Assessment Act 1979* (the Act) provides that, when a public authority proposes to carry out an infrastructure activity a 'determining authority' is nominated to assess potential environmental impact. The determining authority's approval is required before the activity can be carried out. Section 5.5 of the Act obligates determining authorities to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

The determining authority undertakes a Review of Environmental Factors. If it is identified that there is likely to be a significant effect on the environment then the public authority must, before proceeding any further, prepare or cause to be prepared, an Environmental Impact Statement (EIS) which comprehensively assesses all potential environmental impacts.

When the determining authority is also the proponent of the activity, and there is likely to be a significant effect on the environment, the infrastructure activity becomes State significant infrastructure (SSI) under Schedule 3,(1) of the State and Regional Development SEPP. The Minister for Planning and Public Spaces is the approval authority for SSI.

Water Treatment Facilities

water treatment facility means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility

Schedule 3 of the State and Regional Development SEPP also identifies classes of infrastructure that must be assessed as SSI because it meets a capital investment value (see definition below) threshold or other criteria. Currently, Clause 4 of Schedule 3 provides that ‘water treatment facilities’ are SSI if they are:

‘(1) Development for the purpose of water storage or **water treatment facilities** (not including desalination plants) carried out by or on behalf of a public authority that has a capital investment value of more than \$30 million’.

This means that when a public authority such as Sydney Water or Hunter Water proposes to carry out development for the purpose of water treatment facilities, and the capital investment value exceeds \$30 million, it is assessed as SSI (irrespective of whether it is likely to have a significant effect on the environment or not) and determined by the Minister for Planning and Public Spaces (or delegate).

This clause currently applies to both new water treatment facilities and any upgrades of existing facilities.

Capital Investment Value (CIV)

Capital investment value of a development or project includes all costs necessary to establish and operate the project, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment, other than the following costs—

- (a) amounts payable, or the cost of land dedicated or any other benefit provided, under a condition imposed under Division 7.1 or 7.2 of the Act or a planning agreement under that Division,
 - (b) costs relating to any part of the development or project that is the subject of a separate development consent or project approval,
 - (c) land costs (including any costs of marketing and selling land),
 - (d) GST (within the meaning of A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth).
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Proposed amendment

An amendment to Clause 4 of Schedule 3 of the State and Regional Development SEPP is proposed to enable upgrades to existing water treatment facilities (excluding desalination plants) with a capital investment value greater than \$30 million to occur without the project becoming SSI.

Any proposed upgrades to existing facilities (or new facilities) that are likely to have a significant effect on the environment would continue to be SSI due to the 'general public authority activities' provisions in Schedule 3,(1) of the State and Regional Development SEPP.

Intent of the proposal

The worsening drought has brought forward the need to make upgrades to existing water treatment facilities, in order to maintain water supply and water quality for Sydney and Regional areas. The urgency of these projects has been recognised by the government in its drought planning strategies prepared by Sydney Water and WaterNSW.

Rising construction costs, inflation, the high costs of design and manufacture of water filtration and treatment equipment means that an increasing number of water treatment facility projects, both new and upgrades of existing facilities, will be captured as SSI compared to when the capital investment value thresholds were established in 2011.

The current level of assessment required in the SSI approval pathway (including preparation of an EIS and a public exhibition) is disproportionate to the level of environmental impact of water treatment facility upgrades that are associated with existing facilities. Most upgrades involve replacement of existing filtration and treatment technology with new equipment and technology, or additional functionality.

Upgrades to four existing water treatment facilities in Sydney and the Blue Mountains are planned in 2020 to address the problems being caused to water supply systems in those Regions by current drought conditions. One project (Macarthur Water Filtration Plant) was less than \$30 million capital investment value and was approved by Sydney Water under Division 5.1 of the EP&A Act.

There are three imminent projects (due to commence construction in 2020/21) that are either part of Sydney Water's drought response or their need is exacerbated by the drought, each with a capital investment value likely to be greater than \$30 million.

They include:

- Cascade Water Filtration Plant
- Nepean Water Filtration Plant
- Prospect Water Filtration Plant

The upgrades to those facilities are unlikely to have a significant effect on the environment but may have a capital investment value exceeding \$30 million. If so, they will become SSI under the current SEPP provisions. Their assessment and approval under the SSI pathway may delay the commencement of their construction and place further pressure on existing water treatment infrastructure.

In addition to these three projects, a worsening drought may bring forward the need for projects, that may exceed a capital investment value of \$30 million, at other water treatment facilities. These too are likely to need urgent planning and assessment timeframes.

Other drought water servicing activities being undertaken by water supply public authorities (e.g. pipelines, pumping stations and reservoirs) do not usually trigger the State and Regional Development SEPP, unless they are likely to have a significant effect on the environment.

New Water Treatment Facilities

The proposed amendment only affects upgrades associated with an existing facility. No amendments are proposed regarding new water treatment facilities, any water storage facilities or desalination plants.

All new water treatment facility projects that have a CIV of greater than \$30 million, will continue to be State significant infrastructure for which the Minister for Planning and Public Spaces will remain the approval authority and have the final say as to whether the project is approved. Because of the very high cost of new water treatment facilities, it is anticipated that any new facilities will be assessed as State significant infrastructure.

The proposed amendment seeks to update and modernise this provision of the State and Regional Development SEPP to account for high costs of water filtration technology and design, inflation and rising construction costs. These changes will help the continued successful operation of the SEPP, while ensuring it retains the same planning pathway for new water treatment facilities which are of genuine State significance.

Making a submission

You can make a submission on the EIE by completing the online feedback form at

<https://www.planningportal.nsw.gov.au/draftplans/on-exhibition>

Submissions may address the issues raised in this EIE or provide additional input into how emergency water treatment infrastructure delivery can be improved in NSW. DPIE will publish a response to submissions following the close of the exhibition and pursue amendments to the State and Regional Development SEPP, taking into account the submissions received. You may also contact DPIE at any time with feedback on the State and Regional Development SEPP through our website.