

Ref: D2017/42070

Director, Industry and Infrastructure Policy
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Sir/Madam,

Infrastructure SEPP Review

Thank you for the opportunity to comment on the review of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).

WaterNSW is Australia's largest water supplier of raw water. We deliver water from 42 large dams, pipelines, canals and the State's rivers. We ensure that the water supplied is reliable and, where that water is to be used by end use customers for drinking, it meets relevant water quality standards. WaterNSW plays a key role in the delivery of the NSW Government's \$1 billion commitment to the delivery of water supply infrastructure as outlined in the State Infrastructure Strategy.

WaterNSW is regulated by, amongst other things, the *Water NSW Act 2014*. This defines the manner by which WaterNSW must perform its statutory functions in accordance with its operating licences,

*"(i) to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services to capture, store, release or supply water, and
(ii) to ensure that the systems and services meet the performance standards specified in the operating licence in relation to water delivery, water quality, service interruptions or any other matters set out in the operating licence". (s12, Water NSW Act 2014)*

WaterNSW currently holds certification to ISO standards in management systems for Environmental, Asset Management and Work Health and Safety. Additionally WaterNSW has a dedicated team of environmental assessment professionals who assist the organisation in undertaking its environmental assessment functions consistent with legislation, including the ISEPP.

To date, the ISEPP has been helpful to WaterNSW as it establishes a clear permissibility, assessment and approval process for most of the projects and works WaterNSW undertakes.

WaterNSW has reviewed the public consultation draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016 and acknowledges that the Department is proposing a number of amendments to the ISEPP in response to our submissions lodged with the Department in 2016. WaterNSW appreciates these proposals.

Nevertheless, WaterNSW considers further amendments to the ISEPP are necessary, consistent with the aims of the policy, to:

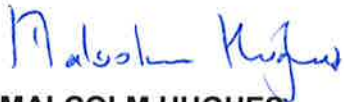
- provide a clearer and more efficient assessment path for strategic projects, and
- ensure WaterNSW can effectively operate in accordance with its statutory functions.

WaterNSW is, in particular, concerned that the proposed ISEPP provisions would hamper and prevent WaterNSW from undertaking development for water supply systems in circumstances highlighted in the attachment.

WaterNSW therefore requests amendments to the ISEPP to address these constraints and discussions on how these may be addressed. WaterNSW's detailed comments are attached.

If you have any queries regarding the above please contact me on 4724 2452 or at malcolm.hughes@waternsw.com.au.

Yours sincerely,



MALCOLM HUGHES
Manager Catchment Protection

7/4/17

Attachment

WaterNSW Comments and Requests – Review of the Infrastructure SEPP

Division 24 Water supply systems

Provisions	Comments
Clause 125 – Development permitted without consent Proposal to omit clause 125(2) and (3) and insert: 2) Development for the purpose of water storage facilities may be carried out without consent if it is carried out by or on behalf of: a) Water NSW on land within the Sydney catchment area within the meaning of the <i>Water NSW Act 2014</i>, or b) Any other public authority on land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone SP1 Special Activities, Zone SP2 Infrastructure or an equivalent land use zone. 3) A reference in subclause (2) to development for the purpose of water storage facilities, includes a reference to development for any of the following purposes: a) catchment management works, b) recreation areas associated with a water storage facility. 3A) Development for the purpose of water treatment facilities may be carried out by or on behalf of a public authority without consent on land in a prescribed zone. 3B) Routine maintenance works for the purpose of water treatment facilities may be carried out by or on behalf of a public authority without consent on land in any zone.	<u>Our concerns</u> WaterNSW is concerned about the proposed provision because: i) it reverses current provisions (the proposed clause 2)b) has the effect of precluding its current ability to undertake water storage facilities without consent within prescribed zones in NSW (except within the Sydney catchment area)). ii) there are circumstances where current LEP zonings already: a. prohibit WaterNSW from undertaking water storage facilities where these facilities are currently located – thus preventing WaterNSW from carrying out activities such as maintenance, and b. would require WaterNSW to obtain development consent from a local council, and, as such, it imposes further substantial and onerous obligations on WaterNSW's ability to perform its statutory function in accordance with its operating licences, namely, “(i) to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services to capture, store, release or supply water, and (ii) to ensure that the systems and services meet the performance standards specified in the operating licence in relation to water delivery, water quality, service interruptions or any other matters set out in the operating licence”. (s12, Water NSW Act 2014) <u>Requested amendment</u> WaterNSW considers it should have the opportunity to carry out water storage facilities on any land without consent. WaterNSW therefore requests that clause 125(2) state: a) ‘Water NSW on any land, or’.

Reasons

WaterNSW has reviewed the zones and provisions within LEPs that apply to land adjoining a number of its existing water storage facilities. This review has highlighted the following:-

- Where there are E1 zones adjoining dams, water storage facilities (or water supply systems) are prohibited in these zones.
- There were a few E3 zones adjoining dams where these developments are permissible with consent, but the Albury LEP E3 zone prohibits these developments, including at the Hume Dam. Burrinjuck Dam wall and infrastructure are on land zoned E3.
- These developments are permissible with consent under the RE2 zone of the Wellington LEP, adjacent to the Burrendong Dam.
- The majority of dams are surrounded by RU1-RU5 zones – so a mix of where water storage facilities (or water supply systems) are permissible with consent or without (under the ISEPP).
- However, the Inverell LEP RU1 zone adjacent to the Pindari Dam prohibits water storage facilities (or water supply systems).
- The Tumut Shire LEP RU3 zone adjacent to the Blowering Dam also prohibits these types of developments.

WaterNSW notes that those of its water supply projects which:

- require an environmental impact statement to be obtained under Part 5 of the EP&A Act, and/or
- have a capital investment value of more than \$30 million,

would be classified as State significant infrastructure. Accordingly, the assessment would be undertaken by the Department and determined by the Minister for Planning.

WaterNSW also notes that there is precedent in the ISEPP for a range of types of public infrastructure that are permissible without consent on any land – railway or rail infrastructure; telecommunication facilities; electricity transmission or distribution networks; and water reticulation systems.

WaterNSW acknowledges that the proposed provision provides for it to undertake development for the purpose of water storage facilities without consent on land within the Sydney catchment area. This addresses the current zoning constraints that either prohibit water storage facilities in land immediately adjacent to existing WaterNSW water storage facilities (such as the E2 zoning within the Wollongong LEP) or requires WaterNSW to obtain consent from a council (such as Wollondilly LEP). WaterNSW requests a similar provision to enable it to carry out water storage facilities on any land across NSW.

WaterNSW supports this proposal. WaterNSW has maintenance depots and buildings at

Proposal to insert after clause 125(5)(k): l) schemes for the reuse of water treatment residuals, m) maintenance depots, n) buildings, including buildings containing amenities for staff, that have a height of not more than 5m above ground level (existing). Note. The term building is defined in the <i>Environmental Planning and Assessment Act 1979</i> as including any structure.	many of its dams across NSW and therefore there inclusion in the definition of water supply systems assists in ensuring the definition is complete.
Clause 127 Exempt development Proposal to omit clause 127(b) and insert: b) environmental management works	WaterNSW supports this proposal. WaterNSW undertakes works for the purpose of avoiding, reducing, minimising or managing the environmental effects of development. Noting that this is consistent with our statutory objective where our "activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development". WaterNSW notes that the current clause 127(b) is proposed to be transferred to Schedule 1 of the ISEPP and listed as Exempt development – general. WaterNSW supports this proposal. WaterNSW regularly carries out investigations (including geotechnical and other testing, surveying and sampling).
Clause 127(j) Proposal to omit (j) and insert: j) maintenance of access tracks or fire trails (including access tracks along or to corridors, pipelines or other infrastructure),	WaterNSW supports this proposal. WaterNSW has approximately 500 kilometres of existing fire trails that it is required to maintain for access and to prevent water quality impacts.
Clause 127(l)-(m2) Proposal to omit clause 127(l) and (m) and insert: l) alterations to existing enclosures or buildings (but not alterations involving additional pump station equipment or its replacement), m) maintenance or replacement of components of water supply systems other than for the purpose of substantially increasing capacity, m1) any of the following in relation to water meters: i) installation of water meters having a height, width and depth no greater than 1.2m, 300mm	WaterNSW supports this proposal subject to m2)i) being amended to provide for the installation of telemetric equipment having a width and height no greater than 600mm and 2m, respectively and the scope extended to telemetric equipment associated with monitoring water in watercourses and water meters. WaterNSW operates a range of telemetric equipment associated with water metering; monitoring at dams, weirs and reservoirs; and monitoring water in watercourses (hydrometrics).

and 1.5m, respectively, ii) installation of bollards (to protect water meters from vehicles) having a height no greater than 1.2m, iii) maintenance or decommissioning of water meters, m2) any of the following in relation to telemetric equipment that is associated with dams, weirs or reservoirs: i) installation of telemetric equipment having a width and height no greater than 300mm and 1.2m, respectively, ii) maintenance or decommissioning of telemetric equipment,	
Clause 127(n)(iv) Proposal to insert at the end of clause 127(n)(iii): iv) slope stability works,	WaterNSW supports this proposal. It will assist in ensuring WaterNSW can undertake, as exempt development, slope stabilisation works as 'preventative' works to avoid the need for future emergency works (for example when slope failure may be blocking access along a fire trail).

Division 4 Exempt Development

Provisions	Comments
Clause 20(2)(g) (2) To be exempt development, the development: g) must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.	WaterNSW requests the Department amends this clause to provide for this vegetation removal or pruning to be exempt development where it is associated with public infrastructure. WaterNSW is required to remove and prune vegetation adjacent to its infrastructure to ensure it can continue to be operated as designed and often in addition for safety and/or fire management purposes.

