NEW SOUTH WALES: DATA CENTRE GUIDELINES PUBLISHED

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In August 2026, the New South Wales (NSW) government released its Data Centre Guidelines (the Guidelines), setting out how the state intends to balance rapid growth in data centre investment with the resource, environmental and community impacts that this growth brings. Although the Guidelines are not legislation, they signal the criteria against which the NSW Department of Planning, Housing and Infrastructure (DPHI) will assess data centre proposals and are intended to give proponents a faster, more predictable and transparent pathway for state significant development (SSD).

The Guidelines serve a dual function in assisting data centre proponents to put forward compliant development proposals that satisfy assessment expectations, subsequently improving approval timeframes and strengthening public confidence that the state's energy and water resources will be used efficiently, while risks to reliability and security are managed. A central theme put forward by the state government is the importance of appropriate site selection and early engagement with DPHI during the initial design phase. This reflects feedback that data centres generally present fewer planning and infrastructure complexities when located on brownfield sites with existing energy and water capacity, away from sensitive and densely populated areas.

The Guidelines build on the NSW government's Data Centre Consultation Paper released in March 2026, following a six-week stakeholder consultation period. It sets out six principles, supported by 17 specific performance measures which data centre proposals will be assessed against, together with a package of commitments intended to speed up planning outcomes for compliant projects.

WHY THE GUIDELINES MATTER

The government has acknowledged that current energy, water and planning regulatory frameworks are not fit for purpose to manage the impacts of rapid data centre growth or to provide certainty to the sector. The Guidelines are the government's interim response while broader regulatory reform is pursued. This issue is becoming more acute as the Australian Energy Market Operator forecasts that data centre consumption of grid-supplied energy will more than double by 2030, at the same time as roughly 7 gigawatts of coal-fired generation is scheduled to retire. Regulatory change is already contemplated for both the energy and water sectors to address cost recovery for energy and water infrastructure. Proponents and their advisers will need to consider how conditions imposed by the Guidelines interact with the existing statutory scheme, including how transitional arrangements will operate as the framework moves from guidance to more settled regulatory instruments.

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FASTER PATHWAYS FOR COMPLIANT PROJECTS

For projects that demonstrate compliance with the Guidelines and principles, DPHI is committing to a suite of process improvements, including the following:

- A dedicated concierge function within the DPHI, working with the planning assessment team, to provide proactive updates and troubleshooting throughout the assessment process.
- Pre-assessment support which begins before a site has been selected. This service is set to advise on site selection, note key issues to address, provide suggested amendments and identify stakeholders to engage with before a request for the Secretary's Environmental Assessment Requirements (SEARs) is made.
- A commitment to issue SEARs within two months, which are tailored to the specific project rather than a generic checklist.
- A commitment that development application assessment will take no longer than 75 days in state government hands.
- Dedicated post-consent staff within DPHI's assessment team for data centres.

Applicants will be expected to demonstrate compliance with the Guidelines as part of their assessment, with resulting obligations, mitigation measures and commitments outlined in their Environmental Impact Statements embedded as consent conditions and monitored through the DPHI's existing compliance framework.

THE SIX PRINCIPLES AND KEY PERFORMANCE MEASURES

The Guidelines are structured around six principles, each with associated performance measures. The principles are intended to work together and broadly cover efficient resource use, cost stability for consumers, funding of additional supply, community benefit, industry development and workforce investment.

Principle 1: World-Class Environmental and Efficiency Standards

This is the most technically detailed principle and includes efficiency and environmental design targets that proponents will need to plan around from an early stage, including the following:

- Design targets for power usage effectiveness and water usage effectiveness to promote the efficient use of resources.
- A requirement that data centres using water-intensive (or open-loop) cooling systems use recycled water for 100% of cooling operations or have an agreed transition pathway with their water utility for the transition to rainfall-independent water, to ensure agricultural and household water use is not adversely affected.
- Facility design which accounts for drought-related water restrictions, such as hybrid cooling systems that can operate on minimal water.
- Compliance with the “Group 6” air pollutant limits under the *Protection of the Environment Operations (Clean Air) Regulation 2022* for diesel backup generators, with a lower-stringency US Environmental

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Protection Agency “Tier 2” pathway available for facilities located outside of metropolitan cities, regional towns and sensitive receivers.

- Quantitative noise and vibration impact assessments prepared by suitably qualified acoustic consultants.
- Fire and explosion risk management addressing diesel fuel storage, lithium-ion battery and complex electrical work risks, in line with guidance from Fire and Rescue NSW and SafeWork NSW.
- Provision of maximum and average water and energy demand forecasts, as well as installation of smart energy and water meters, to support the provision of data for infrastructure planning.

Principle 2: Impose No Net Cost to Consumers and Communities

This principle addresses the risk that data centre demand drives up network costs that are ultimately borne by ordinary consumers. Performance measures require proponents to demonstrate an ability to reduce grid-supplied electricity demand by 25% of the data centre forecasted average load, for up to two hours, thus reducing demand during peak periods and preventing electricity price increases. There will be a focus on load shifting and on-site/proximate renewable generation and battery storage. This performance measure cannot be met using diesel backup generators. There is an expectation on proponents to secure commercial arrangements with energy and water utilities, such as take or pay arrangements, prepayments or upfront capital contributions, that protect the broader customer base from stranded asset risk. Notably, data centres located outside the Sydney Ring and closer to renewable energy zones are expected to face smaller contribution obligations given the greater existing grid capacity. The second principle considers issues experienced in other jurisdictions during the emergence of data centre development and seeks to address these issues in the early stages of development for NSW.

Principle 3: Fund Additional Supply of Water and Energy

Proponents are expected to enter into power purchase agreements and firming arrangements for additional renewable generation to meet their electricity demand, including a minimum 40% wind generation component, storage capacity of at least 25% of generation capacity over a four-hour duration and agreements of at least 10 years' duration. Where recycled water is unavailable, proponents must negotiate a plan with their water utility to fully offset interim potable water use.

Principle 4: Enhance Local Community Infrastructure and Amenity

Proponents are encouraged, though not required as part of the development application itself, to engage in benefit sharing with local communities, informed by the principles applied in the renewable energy sector, where benefit sharing is standard practice, collaborative, transparent, community focused, proportionate and delivers lasting positive outcomes. Meaningful community consultation and ongoing council engagement remain as requirements embedded in the SEARs for SSD projects.

Principle 5: Invest in Future Industries Across the Supply Chain

The Guidelines encourage proponents to prioritise the use of local content and engage with the NSW government on opportunities to support local supply chains, particularly given the state's projected growth in its technology workforce from more than 340,000 current workers to approximately 500,000 by 2030.

Principle 6: Demonstrate a Commitment to Training and Skills to Support Jobs

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Proponents are expected to demonstrate support for training and skills development of workers involved in the construction and operation of their facilities, including apprenticeships, partnerships with recognised training providers such as Technical and Further Education (TAFE) NSW, and scholarship programs connected to employment.

LOOKING TO OTHER JURISDICTIONS

A notable feature of the Guidelines is the extent to which each performance measure is benchmarked against comparable frameworks overseas and interstate, including directives and regimes from the European Union, Singapore, the United States of America and Victorian state-level guidelines. This positions the NSW approach with international best practices, while adapting settings to the state's specific resource conditions.

WHAT THIS MEANS FOR PROPONENTS

The DPHI has made clear that compliance with the Guidelines will influence the efficiency of the assessment process. Proponents should treat the Guidelines as a practical checklist to be worked through from the earliest stages of project design, well before a development application is lodged.

The NSW government has flagged that it will establish an Industry Advisory Forum to review the Guidelines annually and has signalled further reform activity, including a review of the *Protection of the Environment Operations Act 1997* framework, updates to water and energy cost recovery frameworks and refinement of environmental performance standards to ensure the regulations are fit for purpose for data centre developments. Proponents with projects in the pipeline should monitor these developments closely, as they may affect both the applicable performance measures and the underlying arrangements for energy and water infrastructure.

K&L Gates' planning and environment team is following developments under the Guidelines closely and is available to assist proponents with site selection, planning strategy and structuring of resource agreements to meet the Guidelines' performance measures.

The authors would like to thank graduate Juliette Petro for her contributions to this legal insight.

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