



Director, Planning Frameworks
Department of Planning and Environment
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Submission on Explanation of Intended Effect for the proposed Environment SEPP

Thank you for the opportunity to comment on the SEPP (Environment), Explanation of Intended Effect.

1. Proposed provisions to replace SEPP 19 – Bushland in Urban Areas.

Mosman Parks and Bushland Association (MPBA) strongly supports the retaining and strengthening the provisions of SEPP 19 in the proposed Environment SEPP. The protection of urban bushland outlined in the Explanation of Intended Effect does seem to retain the level of protection in SEPP 19 which MPBA regard as a necessary minimum. MPBA considers the following matters need further consideration, clarification or strengthening.

Land to which the provisions would apply

We support the extension of the SEPP 19 provisions to apply to urban areas in other councils which are experiencing urban expansion, for example in Wyong, Lake Macquarie, Newcastle, Wollongong, Port Stephens, Maitland and Port Macquarie.

The provisions should clearly apply to local council land classified as “community” or “operational” under the Local Government Act. The provisions should also apply to bushland on land identified as “unmade roads”. The proposed definition of “public bushland” should be able to apply to any bushland on community and operational lands as well as unmade roads.

Currently the SEPP 19 provisions require consent to disturb bushland zoned or reserved for public open space. There needs to be clarification of the zones where these provisions would apply as land is no longer zoned as “public open space”. The equivalent under the Standard Instrument zones could include RE1 Public Recreation, E2 Environment Conservation, E3 Environment Management and possibly SP1 Special Activities Zones.

However the proposal to introduce a term “public bushland” which includes all non-rural zones and would apply to “*land owned or managed by council or a public authority, or reserved for acquisition for open space or environmental conservation by council or a public authority*” with vegetation which meets the definition of bushland. It needs to be clarified if SEPP 19 provisions would then apply to land used or reserved for public housing, schools, water storage and sewerage facilities and hospital sites which have bushland on it.

Land which adjoins public bushland

It is extremely important that provisions relating to land which adjoins public bushland retain the level of protection set out in clauses 9 of the current SEPP. This is particularly important for protecting biodiversity in our shrinking public and private urban bushland. These lands should be identified on council maps to provide greater clarity as to where these provisions apply.

Ministerial Directions

The proposed new Ministerial Direction is intended to function largely the same way as clause 10 of SEPP 19. However there is no mandate requiring a Minister to make such a Direction. If it is at the Minister's discretion, we can imagine a situation in the future where development pressures reduces the priority given to retaining bushland and the Direction is weakened or removed. Historically, many Ministers have not consistently favoured the environment in their decisions. Having a provision in the SEPP would provide certainty.

Plans of Management

We note that in the existing SEPP, Clause 8 provides the option for councils to prepare a Plan of Management for bushland covered by the SEPP and specifies matters that should be addressed in the plans. We suggest that councils should be required to prepare a plan of management for council owned bushland – both on community and operational land, rather than it being optional.

2. Proposed provisions to replace Sydney REP (Sydney Harbour Catchment) 2005

The MPBA strongly supports the continued emphasis on the protection and enhancement of the natural and scenic qualities of Sydney Harbour and the maintenance and enhancement of public accessibility to and along the foreshore and within the waterways themselves.

Matters for consideration

It is understood that the current nine sets of matters for consideration in the Harbour REP that apply in the Foreshore and Waterways Area are to be updated and consolidated. It is essential that these provisions do not get weakened. Development along the foreshore and waterways must continue to maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores - and that public access to the foreshore is maintained and enhanced.

Water zones

Currently there are 9 zones applying to the Sydney Harbour waterways. It is proposed to update 4 of these zones to bring them in alignment with the Standard Instrument LEP zones. The retention of the 9 zones is supported.

Subdivision on foreshore land

Clause 18A of the Harbour Regional Environmental Plan was introduced in 2011 and prohibits subdivision of the Harbour to prevent privatisation of our unique public asset. A limited number of exceptions were made to this rule. Now it is proposed to extend these exceptions to allow Roads and Maritime Services, who is the owner and consent authority of Sydney Harbour, to subdivide for the purposes of managing reclaimed Harbour land.

There is a conflict of interest in this proposal. The amendment will allow businesses and property owners who currently have short term leases of land on the harbour foreshore, to obtain long term leases. These require subdivision to meet the requirements of the Conveyancing Act. The amendment will ensure subdivision is possible regardless of any provisions in local environmental plans that extend outside the local government area boundary. This amendment will retain the requirement for the consent authority to consider whether, and to what extent, a subdivision is likely to result in any reduction in public access to the foreshore or waterways, including planned public access and potential future public access.

However such a proposal is in conflict with the objectives of the current REP and the proposed Environment SEPP and is strongly opposed.

Ministerial Directions

It is proposed that Clause 13, 14 and 15 will be replaced by two Ministerial Directions to provide guidance to councils on preparing LEP provisions. The first will combine all catchment management and water quality and quantity provisions from the other catchment SEPPs. The second will focus on Sydney Harbour foreshores and waterways. As with the SEPP 19 provisions, there are serious concerns as to whether these Directions will provide adequate guidance to ensure appropriate protection is provided in council's LEPs to ensure the objectives of the existing REPs/SEPPs are delivered.

In particular the Directions should emphasise the importance of maintaining and enhancing public access to the foreshore.

3. Canal Estates Developments

We support the expansion of the application of SEPP No. 50 – Canal Estate Development and its integration into the Environment SEPP.

Next Stage in the development of the Environment SEPP

Because of the diversity and complexity of matters to be integrated into the Environment SEPP, it would be much appreciated if a draft of the SEPP could be exhibited for comment prior to the making of the SEPP.

Thank you for the opportunity to make a submission at this stage of the process.

Y Stone
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