

20 January 2017

Director Environment and Building Policy  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2000

To whom it may concern,

**RE: Submission on the Draft NSW Coastal Management SEPP**

Thank you for providing Council with the opportunity to comment on the Draft Coastal Management State Environmental Planning Policy (Draft SEPP) which aims to integrate the Coastal Management Bill 2016 into the *Environmental Planning & Assessment Act 1979* (EP&A Act).

Council has considered the Draft SEPP in detail and strongly supports the following elements of the Draft SEPP:

1. The use of the term "*to be satisfied*" in the development controls. This terminology implies a higher standard of informational quality to be submitted to the consent authority for consideration and likely to achieve better planning and environmental outcomes. Notwithstanding, the Department should provide clarity as to what measures or informational standards are required to meet the "satisfactory consideration." This would avoid jurisdictional variances; however, the SEPP should be mindful that the standards are appropriate to the scale of development.
2. The acknowledgement that best-practice urban planning integrates and facilitates both advances in scientific knowledge, particularly regarding climate change, and technological advancements. To this end, the Draft SEPP (with the changes recommended in this submission) is viewed as an effective instrument for implementing the objects of the Coastal Management Bill 2016 and the Environmental Planning and Assessment Act 1979 in improving planning and developmental outcomes for coastal areas.
3. The provisions relating to improving public access to the Coastal Use Area is supported, as it provides a mechanism by which public access can be acquired and improved for current and future generations.

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049

**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040

**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

However, Council believes that in its current form the Draft SEPP will be ineffective in achieving its objects; *“to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the State”*. To facilitate this objective Council strongly suggests that the following list of recommendations is incorporated into the Draft SEPP prior to its implementation. The justification for each recommendation is discussed in further detail in the subsequent sections.

## Recommendations

Inner West Council recommends that:

1. State Environmental Planning Policy (Exempt and Complying Development Code) 2008 (the Codes SEPP) be amended to include appropriate provisions, in the form of specific land exemptions, to exclude development on land in the *“coastal zone”*.
2. The following amendments occur in Part 2 Development controls for coastal management areas:
  - a. That all four coastal management areas of the coastal zone be reviewed to ensure that they are consistent with, and relate to, all of the management objectives for the respective management area under the Coastal Management Bill 2016.
  - b. That all coastal management areas of the Draft SEPP are amended to incorporate a development control requirement; that all development in the coastal zone is to be consistent with the principles of *“ecologically sustainable development”*.
  - c. That the terminology used in the development controls for development in the four areas which comprise the *“coastal zone”* be amended to better reflect the objectives of the Coastal Management Bill 2016 *“to protect and enhance natural coastal processes and coastal environmental values,”* and *“to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making.”*
  - d. That the development controls for all four areas be amended to incorporate a development control requirement to consider the cumulative impacts of developments in the coastal zone.
  - e. That certain development controls are amended to address a range of other matters including potential interpretation issues.
3. An entire catchment-based approach is adopted to manage the coastal environment.
4. The requirements and methodologies for the mapping of each of the four management zones which comprise the *“coastal zone”* be clearly articulated and appropriately resourced.
5. The Draft SEPP provisions are strengthened to limit a council's ability to make amendments that reduce the *“coastal zone”*, in particular the *“coastal wetlands and littoral rainforests area”*.

Customer Service Centres

Petersham | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
Leichhardt | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
Ashfield | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

6. The Coastal Wetlands and Littoral Rainforests Map be amended to identify the Tempe Wetlands and Tempe Salt Marsh, and land identified as “proximity area for coastal wetlands” to the *Coastal wetlands area* and *Coastal wetlands proximity area map*.<sup>1</sup>
7. Other miscellaneous matters (see page 14).

The following sections provide justification for each of the above recommendations along with suggested phrasing for the Department's consideration.

### **Recommendation 1: Amendments to Codes SEPP**

Amendments to other instruments including State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) are contained in Schedule 3. The amendment to the Codes SEPP includes amendments to the definition of “**environmentally sensitive area**” in clause 1.5 (1).

The existing SEPP paragraph (c) in the definition is proposed to be amended to read:

“(c) *land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map (within the meaning of State Environmental Planning Policy (Coastal Management) 2016),”*

It is recommended that the proposed amendment to paragraph (c) be amended to read as follows:

- (c) land within the coastal zone, being:
- i. land identified as “coastal wetlands”, “littoral rainforest”, “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map (within the meaning of State Environmental Planning Policy (Coastal Management) 2016,
  - ii. land identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map or land identified as “coastal hazard land” on the Local Government Coastal Hazard Map (within the meaning of State Environmental Planning Policy (Coastal Management) 2016,
  - iii. land identified as “coastal environmental area” on the Coastal Environmental Area Map (within the meaning of State Environmental Planning Policy (Coastal Management) 2016,
  - iv. land identified as “coastal use area” on the Coastal Use Area Map (within the meaning of State Environmental Planning Policy (Coastal Management) 2016.

Currently, the NSW Department of Planning are considering amendments to the Codes SEPP to better facilitate medium density known as the 'missing middle'. There is potential for the complying development section to be expanded to include larger residential development types and subdivisions. The cumulative impacts of these types of development in the coastal zone will likely degrade the ecological function of the areas in the coastal zone and lessen its

---

<sup>1</sup> Approximate sites to be mapped in the Coastal Wetlands area are shown in Appendix 1.

environmental significance overtime. To avoid this, it is crucial that areas within the coastal zone are excluded from the Codes SEPP.

## **Recommendation 2: Changes to Part 2 Development controls for the coastal management areas.**

### **a) Revision of Development Controls to include the management objectives for the respective management area under the Coastal Management Bill 2016**

Some of the Part 2 Development controls for coastal management areas for the coastal management areas in the Draft SEPP are not consistent with the wording of the management objectives for the respective management area under the Coastal Management Bill 2016, and in some cases there is no corresponding development control relating to specific management objectives.

For example the Bill contains management objectives for the coastal environmental area including:

- (a) “to promote and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoon, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
- (b) to reduce threats and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
- (c) to maintain and improve water quality and estuary health”*

The Draft SEPP does not include development control requirements “to promote and enhance” or “to reduce threats and improve” or “to maintain and improve” for developments in a coastal environmental zone.

The Part 2 Development controls for coastal management areas in the Draft SEPP should be reviewed and reiterate this terminology in the Draft SEPP to ensure that they are consistent with, and relate to, all of the management objectives for the respective management area under the Coastal Management Bill 2016.

### **b) Ecologically sustainable development controls for the coastal management areas in the Draft SEPP**

The objects of the Coastal Management Bill 2016 are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular:

*“(3) Objects of this Act [...]*

- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making.”*

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

The current legislation includes specific references to “*ecologically sustainable development*”; for example, the LEP Clause 5.5 Development within the coastal zone of the Standard Instrument includes the following objective:

- (a) *to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,*

The NSW Protection of the Environment Administration Act 1991<sup>[1]</sup> refers to ‘ecologically sustainable development’ as requiring the effective integration of economic and environmental considerations in decision-making processes, achieved through the implementation of:

- (a) the precautionary principle
- (b) inter-generational equity
- (c) conservation of biological diversity and ecological integrity
- (d) improved valuation, pricing and incentive mechanisms

It is disappointing that the term “*ecologically sustainable development*” is not contained anywhere in the Draft SEPP. It is noted that the Draft SEPP seeks to implement a planning and decision-making framework which is consistent with the objects of the Coastal Management Bill 2016. However, the ESD objects of the Bill will only be properly and fully operationalised by a Coastal Management SEPP that requires decision makers to act consistently with all the principles of ESD when assessing and determining applications for development on land within all coastal management areas of the “coastal zone”.

Reliance on section 79c of *Environmental Planning & Assessment Act 1979* (EP&A Act) cannot be relied upon to achieve ESD objectives as there is no equivalent requirement under Part 3 of the EP&A Act 1979, this relates to rezonings of land (planning proposals) which will occur in the coastal zone. Accordingly, Council strongly recommends that the principles of ESD are expressly stated in Division 5 General development controls which apply to the coastal zone.

### **c) Terminology that applies the objects of the Coastal Management Bill 2016**

The terminology used in the development controls for development in the four areas which comprise the “*coastal zone*” be amended to better reflect the objectives of the Coastal Management Bill 2016:

- (a) *“to protect and enhance natural coastal processes and coastal environmental values....., and*

---

<sup>[1]</sup>NSW Protection of the Environment Administration Act 1991. Available online: [http://www5.austlii.edu.au/au/legis/nsw/consol\\_act/poteaa1991485/s6.html](http://www5.austlii.edu.au/au/legis/nsw/consol_act/poteaa1991485/s6.html)

- (e) *to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) *to mitigate current and future risks from coastal hazards, taking into account the effects of climate change.”*

Some of the terminology used in the development controls for development in the coastal zone areas are considered contrary to the above objectives. For example, the development control terminology used in Clause 12 (1) “*will not significantly impact on*” is considered profusely inappropriate. The term “significantly” is subjective and creates the potential for damaging impacts to be overlooked in the planning approval process.

It is recommended that any form of impact that would be likely to degrade the ecological function of the coastal wetland or littoral rainforest and lessen their environmental significance, is included as a consideration in the development controls.

It is noted that the words “*adversely impact*” and “*adverse impact*” are used in other development control considerations contained within the SEPP (e.g. Clauses 14 (1) (e) and (g) and Clauses 15 (a) (iii), (iv) and (v)). Accordingly, it is recommended that the word “*significantly*” in clause 12(1) be replaced with the word “*adversely*”.

This would remove the possibility of only “significant adverse impacts” being considered via virtue of Clause 19 Hierarchy of development controls if overlapping, in the instance of the coastal wetlands and littoral rainforest areas or vulnerability areas competing with the provisions of environmental area or coastal use areas. It also removes the oddity whereby a greater level of protection is afforded to environmental and coastal use areas; than is given to the higher order coastal wetlands and littoral rainforest areas and coastal vulnerability areas.

Similar issues are raised in relation to the use of terminology “*is not likely to significantly impact*” in Clause 14 (1) (b).

The terminology used in some of the other development controls in the Draft SEPP is not as definitive as the terminology used in LEP *Clause 5.5 Development within the coastal zone* of the Standard Instrument. The Standard Instrument clause uses more definitive terminology such as to “protect, enhance, maintain and restore” and “protect and enhance”. Some of the Draft SEPP’s development controls use vague and ambiguous terms such as “*will not adversely impact*”, “*is not likely to alter/reduce*” and “*has taken into account*”. That type of terminology is subjective and affords much less protection to the coastal zone than is currently facilitated by the Standard Instrument clause.

For similar reasons it is also considered that the terminology “*is not likely to*” in Clause 13 (2) (b), (c) and (d) and Clause 14 (1) (a), (c) and (d) should be replaced with the words “will not”. This terminology will ensure that the objectives of the LEP Clause 5.5 will be transferred into

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131



the Draft SEPP. If the current terminology proceeds then both the Draft SEPP and Coastal Management Bill 2016 will facilitate development that adversely degrades coastal areas, despite having legislative objectives to the contrary.

#### **d) Consideration of Cumulative Impacts**

Noting that Clause 8 of State Environmental Planning Policy No. 71 (Coastal Protection) includes the following consideration:

- “(p) only in cases in which a development application in relation to proposed development is determined:*
- (i) the cumulative impacts of the proposed development on the environment, and...”*

This is in conjunction with Clause 5.5 Development within the coastal zone of the Standard Instrument includes the following development consent consideration:

- “(f) the cumulative impacts of the proposed development and other development on the coastal catchment.”* (Clause 5.5 (2) (f))

It is noted that the Draft SEPP does not include any provisions in relation to the cumulative impacts of developments on the coastal zone, other than a reference in Clause 14(1) (c) to the "marine estate".

The cumulative impacts of development in the coastal zone and on land in proximity to the coastal zone can have an adverse impact on the coastal zone. For example, the cumulative impacts of developments on land in the vicinity of coastal wetlands or a littoral rainforest is likely to degrade the ecological function and lessen their environmental significance overtime.

It is considered a retrograde step to not include a development control requiring an assessment of the cumulative impacts of proposed developments on the ecological environment of the coastal zone.

#### **e) Other changes to development controls for coastal management areas**

##### Division 1 Coastal wetlands and littoral rainforest land

Clause 12 (1) (b) reads as follows:

- “(b) the quantity and quality of surface and ground water flows to the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.”*

The above development consent consideration is too general, particularly if the consideration “*will not significantly impact on*” remains. Performance measures/standards

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

need to be incorporated into the document which is based on best practice water sensitive urban design principles, governing the “*quantity*” and “*quality*” of surface and groundwater flows into the adjacent coastal wetland or littoral rainforest to protect those areas.

The “*quality*” should not necessarily be based on the existing quality of surface and ground waters flowing into the coastal wetland or littoral rainforest, particularly if that quality is already degraded.

The land to which the clause applies is land wholly or partly identified as “*proximity area for coastal wetlands*” or “*proximity area for littoral rainforest*” on the Coastal Wetlands and Littoral Rainforests Area Map and the proximity areas are likely relate to land that falls within the catchment area of the respective “*coastal wetland*” or “*littoral rainforest*”. Consequently the words in the clause “*if the development is on land within the catchment of the coastal wetland or littoral rainforest*” are superfluous.

Council considers that residential development in proximity to “*coastal wetlands*” or “*littoral rainforest*” is likely to have a significant impact on the coastal zone. In order to manage development in the coastal zone and protect the environmental assets of the coast, the provisions relating to development on land in proximity to coastal wetlands or littoral rainforest land should apply to all land uses regardless of the zoning of that land.

In light of this, clause 12 (2) (a) which excludes residential development in proximity to “*coastal wetlands*” or “*littoral rainforest*” areas from planning consideration should be deleted.

Council also considers clause 12(2) (b) to be superfluous. The clause states that the provisions relating to the proximity area do not relate to areas identified as 'coastal wetlands' or 'littoral rainforests'. However, the maps do not include any land identified as a “coastal wetlands” or "littoral rainforest" as also within a "proximity area". Accordingly, clause 12 (2) (b) is not required.

#### Division 2 Coastal vulnerability area

The Draft NSW Coastal Management SEPPS Maps do not contain a “Coastal Vulnerability Area Map”. This has implications for Division 2 Coastal vulnerability area of the SEPP.

Clause 13 (1) of Division 2 relating to Development on certain land within the coastal vulnerability area reads as follows:

*(1) This clause applies to land that is wholly or partly within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map.*



As the clause only applies to land that is wholly or partly within the area identified as “*coastal vulnerability area*” on the Coastal Vulnerability Area Map and the SEPP does not contain a “*Coastal Vulnerability Area Map*”, the clause has no application.

Clause 6 (3) of the Draft SEPP reads as follows:

- “(3) *The coastal vulnerability area is any of the following land:*
- (a) land identified as such by the Coastal Vulnerability Area Map,*
  - (b) land identified as “coastal hazard land” on the Local Government Coastal Hazard Map.”*

The Draft SEPP Maps include a Local Government Coastal Hazard Map. That map identifies certain land as “*coastal hazard land*” rather than identifying such land as “*coastal vulnerability land*”.

To address applicability issues with Division 2 it is recommended that Clause 13 (1) be amended to read as follows:

- “(1) *This clause applies to land that is:*
- (i) wholly or partly within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map, or*
  - (ii) wholly or partly within the area identified as “coastal hazard land” on the Local Government Coastal Hazard Map.*

Notwithstanding the above, the Coastal Vulnerability Area Maps need to be prepared before any Coastal Management SEPP comes into force.

Clause 13 (2) contains a number of development controls for assessing development applications on land within the “*coastal vulnerability area*”. These controls do not specify a requirement to consider the ecological impacts of development.

It is considered essential that an additional development control added to Clause 13 (2) require that the consent authority is satisfied that a proposed development on land within the coastal vulnerability area would not adversely impact ecology. It is noted that a development control requirement to that effect applies to proposed developments in the coastal environment area (Clause 14 (1) (a)), an area of the “*coastal zone*” lower than the “*coastal vulnerability area*” in the hierarchy of areas which comprise the “*coastal zone*”.

To address this issue it is recommended that an additional development control be added to Clause 13 (2) reading as follows:

- “(x) will not cause adverse ecological impacts”

Furthermore, in relation to Clause 13 (3) (b), the subject clause reads as follows:

- “(b) *whether any use of land should be a temporary use of land.*”

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049

**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040

**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

The term “*temporary use of land*” should be amended to avoid interpretation issues with *Clause 2.8 Temporary use of land* of the Standard Instrument as follows:

“(b) *whether any use of land should be temporary.*”

### Division 3 Coastal environment area

The following comments relate to Clause 14 Development on land within the coastal environment area, its sub-clause (1) (a) includes the wording “(surface and groundwater)” after the word “*hydrological*”. Earlier clauses which contain the word “*hydrological*” do not contain those words e.g. Clause 11 (4). A uniform approach should be adopted for this terminology.

Similar issues to those in Clause 12(1) are raised in relation to the use of the terminology “is not likely to significantly impact” in Clause 14 (1) (b).

In relation to sub-clause (1) (c), it is considered that “*sensitive coastal lakes*” should not be specifically singled out. The clause applies to the marine estate whether that marine estate is a “*sensitive coastal lake*”, a “*coastal lake*” or the other matters that fall under the meaning of “*marine estate*” (as stated under Clause 6 of the Marine Estate Management Act 2014). It is suggested that the words “including sensitive coastal lakes” be deleted from sub-clause (1)(c). The deletion of those words would negate the need for sub-clause (2).

It is suggested that the following definition be included in Part 4 Definitions of the SEPP:

“***marine estate*** has the same meaning as in Clause 6 of the *Marine Estate Management Act 2014*.”

### Division 4 Coastal use area

The development controls for the coastal use area do not require specific consideration to be given to impacts of proposed developments on land within a coastal use area on the environment. The development controls for the “coastal use area” under the Draft SEPP essentially only relate to the social, recreational and cultural values of this area (i.e. access, scenic qualities, visual amenity, Aboriginal culture). The development controls for this area should also include “environmental values” in addition to “scenic, social and cultural values”

To address this issue it is recommended that Clause 15 (a) (iii) be amended to read as follows:

(iii) *will not adversely impact the environment, or on the visual amenity and scenic qualities of the coast, including coastal headlands*”

Clause 15 (b) reads as follows:

“(b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*”

Customer Service Centres

Petersham | P (02) 9335 2222 | E council@marrickville.nsw.gov.au | 2-14 Fisher Street, Petersham NSW 2049

Leichhardt | P (02) 9367 9222 | E leichhardt@lmc.nsw.gov.au | 7-15 Wetherill Street, Leichhardt NSW 2040

Ashfield | P (02) 9716 1800 | E info@ashfield.nsw.gov.au | 260 Liverpool Road, Ashfield NSW 2131

The above clause should be amended to better reflect the management objective for the “coastal use area” specified in Clause 9 (2) (a) (i) of the Coastal Management Bill 2016. In this regard it is recommended that the above clause be amended to read as follows:

*“(b) has taken into account whether the type, bulk, scale and size of the development is appropriate for the location and natural scenic quality of the coast.”*

#### Division 5 General

In relation to Clause 16 *Development in coastal zone generally - development is not to increase risk of coastal hazard* it is questioned why there is a sunset clause that ceases to have effect at the end of 31 December 2021? At the end of that period the development consent consideration would only apply to development in a “coastal vulnerability area”.

Perhaps it is intended that all NSW Council will have completed a Coastal Management Plan by this date; however, in reality this is unlikely to occur. The preparation of those “coastal management programs” would be an enormous resourcing issue for individual councils, especially for those council areas which did not previously contain land in the “coastal zone” under the Coastal Protection Act 1979.

It is noted that both the Draft SEPP and Coastal Management Bill 2016 rely on councils voluntarily initiating Coastal Management Programs with other councils in their coastal sediment compartments over the next 5 years. In reality, this is unlikely to occur unless there is some mandate or incentive to do so. If there is no requirement or incentive than it is likely that approaches to coastal management programs will continue on an ad hoc basis, or not at all. This approach is unlikely to achieve the holistic objectives stated in the Bill or Draft SEPP. It is strongly suggested the Department provide local government with financial assistance and additional resources such as expertise in coastal management and environmental sciences.

Ideally, a Coastal Management Program (CMP) for the whole sediment compartment (as listed in Schedule 1 of Coastal Management Bill 2016) would be developed to provide recommendations to each local government area. This would allow development controls in the LEP/DCPs to be coordinated, uniform and unique to the area. However, the current process allows councils to proceed individually 'having regard to' the sediment compartment. This process will not ensure Clause 12 of the Bill is effectively integrated; “to set the long term strategy for the co-ordinated management of land within the coastal zone with a focus on achieving the objects of this Act.” Instead, it facilitates a continuance of the piecemeal approach to coastal management.

To facilitate councils to prepare catchment wide, coordinated coastal management programs the Department would also need to provide leadership with catchment-wide policies and/or plans that provide focus including standard minimum targets which councils can collaborate

#### **Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

on to deliver the coastal management programs with community and stakeholder participation. For the reasons discussed previously, "*coastal management programs*" need to relate to entire catchment areas of the respective coastal zone.

### **Recommendation 3 - An entire catchment-based approach be adopted to manage the coastal environment.**

Under the Draft SEPP and Coastal Management Bill 2016 the "coastal zone", as currently mapped and/or identified in *Part 2 Estuaries of Schedule 1 – Local government areas, coastal sediment compartments and border estuaries* of the Bill, does not include the entire catchment areas of estuaries. If the headwaters flowing into the sediment compartments are already polluted, then the potential benefits of any CMPs are negligible in benefiting coastal environments, water quality and sedimentation processes. Consequently, the Draft SEPP would not provide catchment wide environmental protection.

A primary principle in catchment management is to protect the headwaters of any catchment. The "coastal zone" as currently mapped/identified does not include the headwaters of catchment areas. For example, the area identified as the Cooks River Estuary does not include the headwaters of the Cooks River catchment (above the tidal area). Those headwaters are located in the local government area of Strathfield, and Strathfield is not listed in Part 2 Estuaries of Schedule 1 of the Bill for that estuary.

Without the inclusion of those areas within the "coastal zone" the object of the Bill to manage the coastal environment will not be achieved. The headwaters of catchments have "flow on effects" and consequently it is essential that those areas are included in the "*coastal zone*".

The exclusion of those areas in the "*coastal zone*" also has implications for "*coastal management programs*". Under Clause 13 Requirement for coastal management programs of the Bill "coastal management plans" are required to "*be made in relation to the whole, or any part of the area included within the coastal zone*". In other words under the current provision a "*coastal management program*" can't be made for land outside the "*coastal zone*". Council requests that the Department revise their approach to CMPs and the Draft SEPP be amended to include headwater river catchment areas.

### **Recommendation 4 - Requirements and methodologies for mapping the coastal zone**

Neither the Coastal Management Bill or the Draft SEPP provide a clear explanation detailing how the four coastal management areas which comprise the coastal zone have been mapped or how the "*coastal vulnerability areas*" are to be mapped.

To ensure consistency the requirements and methodologies the mapping of each of the four management zones which comprise the "*coastal zone*" needs to be clearly articulated and appropriately resourced.

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

## **Recommendation 5 - Council's ability to make mapping amendments to the coastal zone**

The Draft SEPP allows for councils to amend the coastal zone mapping through planning proposals proceeding under the Gateway Review (Part 3 of the EP&A Act 1979). Council acknowledges that this procedure provides a useful mechanism whereby coastal management studies can be quickly and efficiently implemented into the SEPP's mapping. However, this procedure also places significant risk that coastal wetlands and littoral rainforests as they may be purposely degraded and removed from the mapping due to political or developmental pressures.

For example, the aforementioned scenario has highlighted how cumulative impacts from development just outside the proximity area may not be considered under this proposed planning regulation. Overtime it is foreseeable then that the environmental significance may be compromised due to these cumulative impacts. A local government area may propose to remove the identified coastal wetland or littoral rainforests from the SEPP's mapping through a planning proposal, as the environment has been degraded to a point where it is no longer holds any environmental significance. As the damage has already occurred to the environment there would seem little reason to prevent such a mapping amendment to proceed through the Gateway Process. Thus, it becomes apparent that the Draft SEPP may encourage the degradation of coastal wetlands and littoral rainforest areas overtime, rather than protect them.

The Department should consider the following ways of preventing or restricting mapping changes to coastal wetlands or littoral rainforest to discourage their degradation:

- Impose restrictions on the ability to amend identified areas of coastal wetlands or littoral rainforests.
- Impose requirements that the coastal wetland or littoral rainforest area be subject to a period of rehabilitation rather than proceeding through the Gateway Process.
- Acknowledge that such environmental areas are subject to ongoing threats such as natural hazards and climate change, by the imposition of custodian responsibilities on the appropriate governmental body to ensure that environmental significance is preserved for the benefit of future generations.

An objective approval process is required for making changes to the coastal zone maps under the Draft SEPP. Therefore all amendments whether requested by a council (or otherwise) should require a submission to be made to the Coastal Management Council who considers that submission and then makes a recommendation to the Minister on whether or not to approve.

Amendments to Coastal zones which are located in more than one local government area should be done holistically and not individually for each local government area to ensure catchment wide consistency in the management of the coastal environment.

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131

It is also considered that a single policy, similar to a Sydney Regional Environmental Plan, should be developed covering the entire catchments of the Cooks River, Georges River, Botany Bay, Hawkesbury Nepean River system, Parramatta River and Sydney Harbour.

### **Recommendation 6 - Inclusion of Tempe Wetlands and Tempe Salt Marsh on Coastal Wetlands and Littoral Rainforest Map**

Council's considers that the Tempe Reserve Wetlands and Tempe Reserve Salt Marsh should be included in the Coastal wetland area. The areas identified as such are shown on the [attached map](#).

Council requests that the Coastal Wetlands and Littoral Rainforests Map be amended to identify the Tempe Wetlands and Tempe Salt Marsh, and land identified as "proximity area for coastal wetlands" to the Coastal wetlands area and Coastal wetlands proximity area map.

### **Recommendation 7 - Other matters**

Council raises two final issues to be addressed prior to the Draft SEPP's implementation:

- i. The 90 day time limitation on temporary coastal protection works will not allow sufficient time for councils to coordinate appropriate alternative actions and threats are unlikely to have abated within this timeframe. A more flexible approach should be allowed along with requirements that temporary protections works are ultimately removed (without causing environmental degradation); and
- ii. There are competing clauses between the Draft SEPP, *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SHREP), and *Sydney Regional Environmental Plan No. 26 - City West* (SHREP No. 26) regarding which is the prevailing environmental planning instrument (see s7(1) of Draft SEPP, s7(2) of SHREP and s5 of SREP No. 26). Clarification is needed to establish which EPI prevails as it is foreseeable that the objectives of the Draft SEPP's coastal environmental area and the SHREP's W5 Water Recreation zone will clash; one gives preference to amenity and environmental factors whilst the other gives preference to commercial-dependent development.

### **Conclusion**

This submission has identified a number of issues with the Draft Coastal Management SEPP and includes a number of recommended changes to help address these issues identified.

Council trusts the submission assists the Department in its deliberations.

Council would ask that the issues identified in this submission be appropriately addressed to manage the coastal environment prior to the finalisation of the Draft Coastal Management SEPP.

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049  
**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040  
**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131



If you wish to discuss the matter please contact Katie Miles, Strategic Planner (Leichhardt Division, Inner West Council) on 9367 9114.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R H Rankin'.

Roger Rankin  
**Team Leader Strategic Planning**

**Customer Service Centres**

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049

**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040

**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131



## Appendix 1: Coastal Wetlands and Littoral Rainforests Map Amendment

### Tempe Wetlands and Tempe Salt Marsh



#### Customer Service Centres

**Petersham** | P (02) 9335 2222 | E [council@marrickville.nsw.gov.au](mailto:council@marrickville.nsw.gov.au) | 2-14 Fisher Street, Petersham NSW 2049

**Leichhardt** | P (02) 9367 9222 | E [leichhardt@lmc.nsw.gov.au](mailto:leichhardt@lmc.nsw.gov.au) | 7-15 Wetherill Street, Leichhardt NSW 2040

**Ashfield** | P (02) 9716 1800 | E [info@ashfield.nsw.gov.au](mailto:info@ashfield.nsw.gov.au) | 260 Liverpool Road, Ashfield NSW 2131