

30 January 2017

Director Environment and Building Policy  
NSW Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Reference: **Draft Coastal Management State Environment Planning Policy (SEPP)**

Dear Sir/Madam

Thank you for the opportunity to comment on the draft Coastal Management SEPP and associated maps.

Sydney Water welcomes reforms that assist us to plan and manage our water, wastewater and stormwater services in a way that is compatible with the community and NSW Government's objectives and long-term strategy for coastal areas. We appreciate the Department's consideration of the issues and suggestions raised in our submission on the coastal reforms in February 2016.

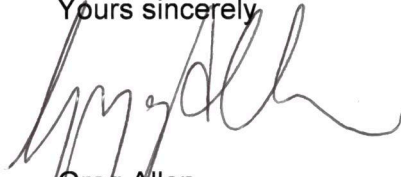
Sydney Water has reviewed the draft SEPP in line with our previous submission. Our detailed comments are attached to this letter. These comments are from the perspective of a utility interested in promoting efficient environmental regulation and clarity of policy outcomes. This reflects our three equal objectives under the *Sydney Water Act 1994* to protect the environment, protect public health and be a successful business.

Sydney Water actively considers the effects of coastal processes and climate change on our infrastructure and operations. An important element of coastal management is the inter-relationship between Council's decisions and our infrastructure management. Sydney Water looks forward to continuing to work with Councils on this in the future. We would welcome improved facilitation of whole-of catchment approaches to coastal management and greater consistency of data used by all authorities.

While Sydney Water supports the intended outcomes of the draft SEPP and new mapping, it may result in additional delays in the delivery of essential infrastructure as well as higher resourcing costs because of the approvals that Sydney Water will be required to obtain. This includes the delivery of asset renewals that result in significant environmental benefits (such as stormwater channel naturalisation). While we support the intent of the proposal, consideration should be given to alternative approaches that would facilitate the delivery of essential infrastructure by public water supply authorities for community benefit in a timely manner.

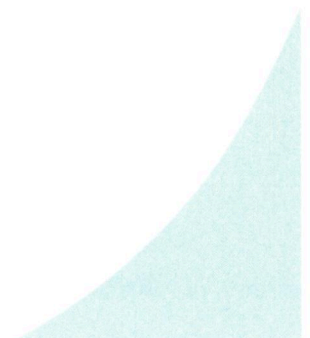
We have talked with the Sydney Coastal Councils Group (SCCG) about the potential to work together to further refine the draft SEPP. Sydney Water would welcome a meeting with you and the SCCG to discuss this and any other matters in more detail. We would also support opportunities to participate as the reform progresses, including changes to the Coastal Management Manual. Sydney Water also requests that we are consulted on subsequent changes to mapping in our area of operations. Please contact Freya Hartley at [freya.hartley@sydneywater.com.au](mailto:freya.hartley@sydneywater.com.au), or 8849 4632.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Greg Allen".

Greg Allen  
Manager, Corporate Strategy  
Customer Strategy and Regulation

Attachment: Sydney Water's detailed comments on the Draft Coastal Management SEPP



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Section	Comment
<b>Clause 3 – Aim of Policy</b>	Sydney Water welcomes improved integration and co-ordination of coastal and land use planning and management. As stated in our previous submission, we recommend the draft <i>State Environmental Planning Policy (Coastal Management) 2016</i> (CM SEPP) should be compatible with a whole-of-catchment approach in order to achieve objects of the <i>Coastal Management Act 2016</i> (CM Act) related to waterway health objectives.
<b>Clause 6 - Coastal wetland and littoral rainforest mapping</b>	<p>Sydney Water would appreciate the Department of Planning and Environment or Office of Environment and Heritage providing the criteria used to define coastal wetlands and littoral rainforest and the methodology used for mapping them. Releasing this information would help to ensure a consistent definition of these communities as changes to the mapping are proposed over time. Sydney Water has also compared the draft maps with field-based ecology surveys on some of our wastewater treatment plant sites which are inconsistent in some locations.</p> <p>Sydney Water's preference is that some areas mapped as coastal wetland or littoral rainforest on our wastewater treatment plant sites and sewage pumping station sites are removed from the draft maps and we will discuss this separately with Department officers.</p> <p>We note that the coastal vulnerability areas are yet to be fully mapped in the Sydney and Illawarra areas. Consultation with public authorities such as Sydney Water will be important to ensure a strategic and consistent approach and best use of available information in mapping these areas. We encourage approaches to make consistent data available for use by all councils and authorities undertaking planning and management in a coastal zone area, such as inundation mapping.</p> <p>Sydney Water would appreciate clarification on how the CM SEPP will apply to development when mapped areas are added or changed.</p>
<b>Clause 8 Maps</b>	<p>We appreciate the proposal for maps to be available on the NSW Planning Portal. The portability of the maps into our GIS systems is important.</p> <p>Sydney Water would like the process for updating maps to include consultation with public authorities. This could be, similar to the provisions of section 16 of the CM Act.</p>
<b>Clause 11 – Development of coastal wetlands or littoral rainforest land</b>	<p>While Sydney Water supports the intended outcomes of the new mapping of coastal wetlands and littoral rainforests in the Sydney metropolitan area, it may result in additional delays in the delivery of essential infrastructure as well as higher resourcing costs because of the approvals required.</p> <p>Sydney Water does not object to the proposal, however suggests that consideration should be given to alternative approaches that would facilitate the delivery of essential infrastructure by a water supply authority for community benefit in a timely manner, and still achieve the objective of protecting and restoring these ecological communities. We have</p>

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	<p>discussed this issue with the Sydney Coastal Councils Group (SCCG). They support potentially working together with Sydney Water and the Department to further refine the draft CM SEPP.</p> <p>Sydney Water's preference is that the draft CM SEPP is revised to allow public water supply authorities to undertake certain essential infrastructure activities in coastal wetlands and littoral rainforests without development consent (whilst being obliged to meet the environmental assessment obligations of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&amp;A Act) and other relevant laws). Specifically this could apply to activities that the CM Act defines as 'essential infrastructure' and by a 'water supply authority' as defined in the <i>State Environmental Planning Policy (Infrastructure) 2007</i> (ISEPP) clause 20C and that the ISEPP provides are otherwise permissible without consent.</p> <p>This could include adding a provision to Part 2 Division 1 of the ISEPP requiring consultation with the local council, similar to that for development on land within a coastal vulnerability area. We provide some more context to our suggestion below.</p> <p>Sydney Water has extensive essential infrastructure across greater Sydney and the Illawarra and our gravity wastewater systems and stormwater channels in particular are often in low-lying areas where coastal wetlands exist. We upgrade existing infrastructure and construct new infrastructure across our area of operations, including for:</p> <ul style="list-style-type: none"> <li>- maintenance and renewal</li> <li>- servicing growth including for the NSW Government's urban renewal areas such as Greater Parramatta to Olympic Peninsula, and</li> <li>- improving our city's liveability through projects such as stormwater channel naturalisation and wetland construction such as on the Cooks River.</li> </ul> <p>Mapping of coastal wetlands and littoral rainforests in the Sydney metropolitan area is new to this draft CM SEPP. The draft CM SEPP also expands the types of development requiring consent. Although much of our work is aimed at achieving improved environmental outcomes and we try to avoid impacts to these communities and rarely have significant impacts, sometimes the nature and location of our works means we cannot avoid them entirely (such as constructing emergency relief structures to waterways). In the Sydney metropolitan area, works frequently involve multiple council areas and potentially multiple coastal management plans. For example, our Powells Creek naturalisation project involved separate councils responsible for each bank.</p> <p>We think providing an approval pathway where public authorities can proceed without development consent minimises the administration, time and cost of planning approvals, and still achieves the objective of protecting and restoring these ecological communities because:</p> <ul style="list-style-type: none"> <li>- Sydney Water and other public authorities have stringent environmental obligations under Part 5 of the EP&amp;A Act for activities able to be carried out without development consent. This includes clause 111 requirements 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'. Under section 112, any activity that is likely to significantly affect the</li> </ul>

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	<p>environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats will require Sydney Water to prepare an EIS and undertake public consultation in accordance with the requirements of the EP&amp;A Act. By following our obligations under Part 5, we would essentially be addressing the consent authority considerations under clause 11(4) of the draft CM SEPP.</p> <ul style="list-style-type: none"> <li>- Protecting the environment is a fundamental part of Sydney Water's business and the <i>Sydney Water Act 1994</i> legislates it as one of our principal objectives, similar to other State Owned Corporations. Sydney Water also has a range of measures that ensure we follow appropriate environmental practice, including an environmental policy and plan, certified Environmental Management System with environmental impact assessment procedures, and environmental reporting obligations in accordance with our Operating Licence.</li> <li>- Sydney Water is required under section 23 of the CM Act, as are other public authorities, to have regard to applicable coastal management programs and the coastal management manual to the extent relevant to the exercise of our functions including the development of plans of management.</li> <li>- Under clause 89 of the EP&amp;A Act, Councils cannot refuse a Crown development application (except with Ministerial approval) or impose conditions (except with applicant or Ministerial approval). Council's views and local knowledge could be effectively incorporated through including a consultation requirement in the ISEPP, without imposing the additional time and cost of a development application. Sydney Water's community consultation processes under Part 5 of the EP&amp;A Act would ensure appropriate consultation with the community.</li> <li>- The current proposal would likely result in increased workload for Councils as they receive additional development applications from public authorities. Our experience with local Councils in Sydney is that many are already reluctant to use their existing authorities to approve water and wastewater infrastructure under Part 4 of the EP&amp;A Act (for example where works are being done by developers).</li> <li>- Our works generally involve linear infrastructure or major projects that would include some work inside and some outside of the mapped areas. The draft CM SEPP would likely increase the complexity of the planning process. This is because if one planning approval pathway is followed, then Councils would be assessing elements of a project that are not related to impacts on the mapped areas. Alternatively, Sydney Water would follow two separate planning approval pathways and prepare separate environmental assessment documents for parts of the project inside and outside the mapped areas. The consent process could be further complicated for the provision of essential services by having to obtain development consent from two or more councils (especially for linear infrastructure).</li> </ul>
<b>Clause 11 – Environmental protection works</b>	<p>Sydney Water recommends the definition of environmental protection works includes environmental improvement works. This is important to enable asset renewals that result in significant environmental benefits such as stormwater channel naturalisation by or on behalf of a public authority to be able to be carried out without consent. Sydney Water would like clarity on how to proceed with environment protection works when a coastal management program (CMP) is not yet developed. We also suggest the Coastal Management Manual includes a process to enable regular updating of projects</p>

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	in a CMP (such as through an attached schedule) to satisfy clause 11(3) because long term planning of this type of work is not generally feasible.
<b>Clause 12 – Development on land in proximity to coastal wetlands or littoral rainforest land</b>	Sydney Water’s interpretation of clause 12 is that it only applies to development requiring development consent in proximity areas (inside the coastal wetlands and littoral rainforest area to which clause 11 of the draft CM SEPP and new clause 8 of the ISEPP apply).
<b>Clause 14 – Development on land within the coastal environment area</b>	Sydney Water supports broad consideration of impacts on waterway health and the incorporation of water sensitive design. Sydney Water would like to reiterate our previous comment that whole-of-catchment management is important to manage the health of coastal waterways and needs to be built into the planning framework.
<b>Clause 15 – Development on land within the coastal use area</b>	Sydney Water would like to reiterate our previous comment that the proposed development controls for the coastal use area should include controls to mitigate impacts of development in the area on essential infrastructure and adjacent CMAs, particularly the coastal environment area.
<b>Clause 21 – Coastal protection works</b>	Sydney Water considers there is an ambiguity as to whether development consent is needed for coastal protection works and emergency coastal protection works by a public authority that are carried out in land identified as ‘coastal wetlands’ or ‘littoral rainforest’. It would be helpful if a change could be made to the CMSEPP to clarify this issue.
<b>Clause 24 – Savings and transitional provisions</b>	Clause 24 of the draft CM SEPP identifies that clause 11 will not apply to any development which already has a development application lodged in respect of it, however clause 24 is silent with respect to existing development carried out under a Part 5 determination. The draft CM SEPP and the CM Act do not give any indication that they are to affect existing development that is being carried out in accordance with legislation in place at the relevant time . Nevertheless for clarity it would be helpful if the CM SEPP identify that clause 11 does not apply to existing development the subject of a Part 5 assessment under the EP&A Act or which has been assessed as exempt development under an environmental planning instrument.
<b>Schedule 3, section 3.4 – Changes to Infrastructure SEPP – emergency and routine maintenance</b>	Sydney Water supports the provisions under the new clause 8 that the ISEPP would prevail over clauses 11 and 12 of the CM SEPP for emergency works or routine maintenance works that can be carried out without development consent. We note that this is only if any adverse effect on the land concerned is restricted to the minimum possible to allow the works to be carried out.
<b>Schedule 3, section 3.4 – Changes to Infrastructure SEPP – consultation with</b>	Sydney Water would like to reiterate its previous submission on the <i>Coastal Management Bill</i> . We request that the Department of Planning and Environment and/or Office of Environment and Heritage provide up to date information on their website listing where CMPs have been certified by the Minister and gazetted. This should include the location of current coastal zone management plans (including emergency action sub-plans) certified under the <i>Coastal Protection</i>

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<b>Council</b>	<p><i>Act 1979</i> that continue to have effect until superseded by a CMP during the transition period.</p> <p>Considering the number of Councils that Sydney Water will need to liaise with on CMPs in our area of operations, it would be useful to provide consistent wording on our infrastructure in the CMPs across all council areas. Sydney Water would like to discuss further with the Department the potential for providing a standard set of comments for Councils to include in their CMPs and consult with Sydney Water on their appropriateness.</p>
<b>Schedule 3, section 3.7 SEPP (State Significant Precincts) 2005</b>	<p>Sydney Water suggests the Department consider applying a similar clause to that for Part 24 Sandon Point site to other state significant precincts in the Sydney metropolitan area such as Parramatta, Bays and Olympic Park to facilitate the delivery of essential infrastructure for community benefit in a timely manner.</p>