

31 March 2017

Planning legislation updates 2017
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Reference: **Draft Environmental Planning and Assessment Amendment Bill 2017**

Dear Sir/Madam

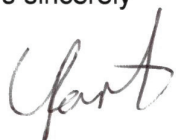
Sydney Water is pleased to have the opportunity to provide feedback on the planning legislation updates in the draft *Environmental Planning and Assessment (EP&A) Amendment Bill 2017*.

Sydney Water welcomes reforms that assist us to plan and deliver our water services in a growing city in a way that is compatible with the community and NSW Government's objectives and strategic plans. We appreciate the alignment and coordination the amendments will give to urban planning in NSW. In general, Sydney Water supports the proposed amendments to enhance community participation, promote strategic planning, improve decision-making and streamline planning processes.

Sydney Water's specific comments on the proposed changes are in Attachment 1. 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 looks forward to ongoing discussions with the Department of Planning and Environment on the updates and implementation of the NSW planning legislation. If you need any further information please contact Freya Hartley at freya.hartley@sydneywater.com.au, or 8849 4632.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Clare", written in a cursive style.

Clare Porter
Manager, Corporate Strategy
Customer Strategy and Regulation

Attachment: Sydney Water's detailed comments on the planning legislation updates and Draft *EP&A Amendment Bill 2017*

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Section	Comment
Objects of the Act Schedule 1, 1.1 section 1.4	Sydney Water supports the inclusion of a new object promoting good design in the built environment. We encourage the Department to adopt water sensitive urban design and integrated water cycle solutions into the explanation of the intent of this object. The incorporation of water in urban design presents a significant opportunity to contribute to more sustainable, resilient, productive and liveable cities into the future. Sydney Water will be working in partnership with the Department of Planning and Environment, the Greater Sydney Commission and Metro Water on the WaterSmart Cities Program to further consider planning and regulatory barriers and enablers. While Sydney Water supports the updated objects, we suggest that the provision of essential infrastructure for community benefit is of sufficiently policy importance to remain as an object of the Act, similar to current object (iii).
Community Participation Plans Schedule 2, 2.1 [1] section 2.23	If Sydney Water requires an EIS under Division 5.1 for a project with significant impacts, the project is declared to be State Significant Infrastructure (Schedule 3 of State and Regional Development SEPP). Although the approval pathway for the project has been triggered under Division 5.1, the assessment requirements are set by the Secretary under Division 5.2. We cannot envisage a scenario where we would determine an EIS under Division 5.1. Sydney Water understands that we will be able to adopt the general community participation plan prepared by the Planning Secretary as outlined in clause 2.23. We seek confirmation that we would not need to prepare our own community participation plan for our EISs and request the opportunity to be consulted on the proposed general plan.
Definitions Schedule 1 [7], section 1.5 note	The note to section 1.5 refers to Part 4, Part 5.1 and Part 5.2. Given the Bill's proposed renaming, should these references be to Divisions?
Conditions replaced by other legislative controls	Sydney Water notes the proposed amendments facilitate the transferral of conditions of development consent. Sydney Water's State Significant Infrastructure projects are often regulated by other approvals

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Schedule 4, 4.1 [6] section 80A(4A)	such as Environment Protection Licences under the <i>Protection of the Environment Operations Act 1997</i>. This can cause additional administrative effort to modify the State Significant Infrastructure approval to reflect any changes to these other approvals. We support improved conditioning approaches for State Significant Infrastructure that enable certain conditions to lapse when they no longer need to apply because they are regulated by an authorisation under another Act. We appreciate the opportunity for continued involvement with the Department in developing the EIA guidelines for major projects.
Imposition of conditions - offsets Schedule 4, 4.1 [6] Section 80A Consultation Note	The paper discusses the possibility of conditions that apply offsetting to any environmental impacts of a development. Sydney Water requests the opportunity to be consulted on possible conditioning offset arrangements in the EP&A Act for environmental impacts relating to waterways. In our submission to Environment Protection Authority's Issue Paper on the Review of the Load Based Licensing Scheme (December 2016), we identified the benefits of a scheme where pollutant reductions can be linked to environmental outcomes, with costs established through market-based trading schemes as a long term objective. As an interim measure, we suggested that an amended regulatory framework including offset arrangements, could provide flexibility to reduce pollutants from a number of sources, improve the effectiveness of economic incentives and increase the potential for positive environmental outcomes.
Staged State significant development Schedule 4, 4.1 [10] Section 89D	Sydney Water supports conditioning approaches that enable other approval pathways for staged State Significant Infrastructure. Sydney Water suggests the Department consider incorporating a provision in section 115ZD of the Act if needed so the Minister may determine that subsequent stages of a staged infrastructure application could be determined under Division 5.1.
Integrated development Summary of proposals	As a major infrastructure provider, referrals of development applications to Sydney Water are important to ensure the community's water servicing needs are accommodated and assets protected. Sydney Water requests that we are consulted in the Department's proposed review of integrated development referrals and concurrences.
Infrastructure corridors	Sydney Water supports the intent of protecting certain infrastructure corridors and we currently work proactively with other infrastructure agencies to minimise impacts of our activities on these. The implications

Section	Comment
Schedule 5, 5.1 [1] Division 5.3	for us providing emergency, maintenance and essential infrastructure works are unclear. Sydney Water requests the Department consider the following in finalising these provisions: • for essential infrastructure, change the provision to a requirement to seek advice from a public authority rather than seek concurrence, to minimise delay and cost of delivering other essential infrastructure • exclude emergency, maintenance and minor work on existing infrastructure assets from the need to obtain concurrence, or include a provision where certain activities are in accordance with an agreed consultation protocol with the public authority managing the infrastructure corridor. This could be similar to the current exceptions to consultation with councils and public authorities in the Infrastructure SEPP clause 17. • that information about location and extent of these infrastructure corridors (including maps in GIS format) is readily accessible to determining authorities in a single location to help us assess relevance for our projects. Sydney Water understands that under the proposed amendments, a SEPP can designate an infrastructure corridor if strategic plan, including a District Plan, identifies it for that future use. Given the importance of South Creek to water management, public access and active transport, our submission to the Greater Sydney Commission requests that South Creek is formally identified as an infrastructure corridor. We would appreciate the opportunity to discuss the process for planning major infrastructure corridors further with the Department.
Discontinuing Part 3A Schedule 10, 10.2 [7] schedule 6A	Sydney Water has several Part 3A approvals and approvals under Division 4 of Part 5 (approved before the establishment of Part 3A). We support removal of the Part 3A transitional arrangements, provided the regulations (which are not available for review) include similar provisions to allow us to modify, surrender or revoke these existing approvals. We understand the intent is for our former Division 4, Part 5 projects (we have 14 of these) to remain under division 5.1 EIS approvals.