



**P.O. Box 2127
Boronia Park 2111**

Director Industry and Infrastructure Policy,
GPO Box 39,
Sydney NSW 2001
10 April 2017

RE: State Environmental Planning Policy (Infrastructure) 2007 Review

Dear Sir/Madam,

We wish to comment on the review of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). We apologise for the lateness in sending our submission. Thank you for permission to lodge a submission today.

Overall, we would have serious concerns if the intent of the review is solely to facilitate fast tracked infrastructure across NSW at the expense of the State's natural and cultural heritage. The assessment of all development in NSW must be underpinned by rigorous consideration of any proposal based on the principles of ecologically sustainable development. This should be regardless of political priorities "of the day". Without a rigorous and transparent environmental and assessment process, both current and future generations may be left with the environmental legacy of failed infrastructure that is poorly planned, located and developed.

Our submission is primarily concerned with our experience of how the Infrastructure SEPP operates on local public parks which contain bushland. This experience has been various with some local Councils undertaking rigorous assessment to progress proposals for sportsfield upgrades and new lighting and others using in an overly casual manner the exempt provisions of the Infrastructure SEPP for their new works, most notably Hunters Hill Council in new works at Boronia Park, Hunters Hill.

Prior to making specific comments on the Boronia Park works we note some major inadequacies within the current Infrastructure SEPP and the incapacity within the review process to provide meaningful public engagement to undertake a genuine review of these inadequacies. We do not consider that "fast tracking" of infrastructure is the best driver of a review of such an important planning instrument operating across NSW.

Our observations locally have been that:

- The Infrastructure SEPP often operates outside of other controls applying within the local planning instruments;

- Council officers have various interpretations of how exempt development provisions apply and can be used;
- the Infrastructure SEPP itself requires no audit or monitoring of how it operates both as a stand alone SEPP and in its co-ordination with other planning controls;
- exempt development provisions can be used across different activities with a range of environmental impacts yet there is no clear statement of what triggers these provisions and the decision that the activity has a minimal environmental impact;
- there is confusion amongst some Council officers and Councillors between the Plan of Management process and the planning assessment process.

COMMENT 1:

Hunters Hill Council and the Hunters Hill Rugby Club have used the exempt development clauses within the current Infrastructure SEPP to undertake a range of works on Boronia Park Crown Reserve, Hunters Hill. Boronia Park is a locally listed heritage item and contains a number of Aboriginal heritage sites.

The works of major concern were the construction of a new third oval. The works were considered by Hunters Hill Council to be “exempt development under Division 12 - Parks and other public reserves, clause 66 Exempt development of the State Environmental Planning policy (Infrastructure) 2007.”

There was an undersized oval on Boronia Park prior to the works commencing in 2011. Tonnes of fill, mostly clean fill from the M2 widening project were brought onto the oval by the Hunters Hill Rugby Club to dramatically increase its size. The Club received payment for the fill. At one stage a small amount of contaminated fill was brought on to the site when the gate access was not properly controlled. Prior to the fill being placed on the oval around 25 trees were removed.

A four metre high rock batter was installed but we are unaware of any structural engineer sign-off of the batter. No geo fabric was installed during construction of the batter and major pollution of the Lane Cove River continues to occur when sediments from the batter wash down local stormwater drains. There has been a significant impact on the amenity of the Great North Walk which passes below the rock batter as it enters Boronia Park.

Hunters Hill Council undertook a new Plan of Management for the Park. This Plan was prepared by independent consultants but finalised by Hunters Hill’s Councillors. The new Plan authorises an “appropriately sized amenity building” on Boronia Park, on-park parking, turning circle and an upgrade to the road access used for maintenance. While the Plan suggests an “amenity building” the Hunters Hill Rugby Club has previously expressed interest in building a rugby club on Boronia Park.

The community has been informed that the access works and parking are to commence soon but it is unclear what environmental planning and assessment process will be undertaken by Council for these works. We presume via the exempt provisions of the infrastructure SEPP once again despite the independent consultants indicating that a Review of Environmental Factors would be required for any sensitive works such as where the turning circle is located.

OBJECTION 1: We object to Councils being able to use the exempt provisions within the Infrastructure SEPP in the way outlined above. What constitutes “minimal impact” needs to be determined via transparent and rigorous benchmarks and clearly stated in the SEPP. It must be demonstrated that works have been undertaken by Council itself and not a third party. There is need for some sort of audit provisions to be included within the Infrastructure SEPP to ensure that the exempt provisions are not abused.

CONCERN 2:

The horse riding facility on Crown land at Culloden Road, Marsfield was approved under the Infrastructure SEPP and outside the local Council’s planning instruments. It is now proposed to transfer all the provisions of the Infrastructure SEPP to the Ryde Local Environmental Plan 2014. This is justified by the comment that the site’s provisions are site specific to the Ryde Local Government Area but the intent of the SEPP is a Statewide focus.

We find this an abrogation of the State’s responsibility and highlights the damage that can occur when infrastructure is fast tracked via relaxed environmental assessment processes. It exposes at this local scale the failure of the Infrastructure SEPP to deliver a project which ensures the protection of the local environment.

The history of the decision to include this facility under the Infrastructure SEPP identifies that political decisions interfere with a transparent and robust land use assessment process. This interference does not ensure good environmental outcomes.

The inclusion of the facility in the Infrastructure SEPP was made by the previous State government. At the time Council officers and Councillors had expressed serious concerns at the poor location of the facility and its potential to pollute local drainage lines, negatively affect the amenity of the adjoining student housing complex and destroy Crown shale forest protected under State and Commonwealth legislation.

The so called provisions being returned to the local Council are limited and inadequate to address the significant and ongoing environmental damage caused by the inappropriate location of the riding facility. No proper and rigorous environmental assessment accompanied the approval conditions for this development. The provisions within the Infrastructure SEPP were mostly numerical regards shed size, car parking, etc and approved by an independent certifier who had limited control over the impact of the development. One significant change of land use was that horses were permitted to be housed on site.

At no stage was there any assessment of the suitability of this facility in that location. It was not zoned for the facility and the Infrastructure SEPP had the effect of rezoning but in the complete absence of any strategic or environmental assessment. The community was not involved in the decision-making.

While the facility may provide an important resource for people with a disability it has had a significant environmental and amenity cost because of the poor choice of its location. It has caused pollution of a small watercourse, negatively impacts on the amenity of the expanding suburb and has degraded the natural bushland. It is unclear how Council officers will be able to

rectify the environmental degradation which has occurred from this poorly located and planned project.

OBJECTION 2:

We object to the facility being transferred to the Ryde Local Environmental Plan 2014. There is need for the full consultation and assessment process that should have been undertaken in the initial decision-making to locate and approve the facility.

COMMENT 3:

There is intention to broaden the lands where fast tracked development can be approved under the Infrastructure SEPP either as “permitted without consent” or as “exempt development”. This includes lands that are within the National Parks Estate and Crown lands. These types of activities and infrastructure include bushfire hazard reduction, telecommunication facilities and building demolition.

We are concerned that sensitive natural areas within National Parks and on Crown reserves will be severely impacted by this intention of government. In the examples we have outlined above relaxing the environmental assessment and approvals process does not deliver good environmental outcomes. To extend this relaxed process to protected areas risks further biodiversity loss and degradation of the ecosystem services provided by these natural areas.

OBJECTION 3: The natural values of National Parks and Crown reserves must be protected. The planning controls which apply for any development applications on these sensitive lands must be robust and able to protect these values for the benefit of future generations.

CONCLUSION:

The RHHFFPS is extremely disappointed in the limited and inadequate review that is occurring of the important Infrastructure SEPP. As we have indicated we feel this SEPP can be mis-used by Councils causing significant environmental damage. There is no mechanism within the SEPP itself to monitor such mis-use. While this review should provide such a mechanism it is inadequate in its scope and supporting documents. Its predetermined intent to further fast track infrastructure skews any sensible and adequate legislative review process.

Current generations still pay a heavy cost in environmental repair of past largely unregulated and uncontrolled activities such as garbage tips along foreshores and inappropriately located industrial areas. Infrastructure planning must be strategic in its intent and rigorous in its approvals process.

The current Infrastructure SEPP is a weak environmental planning instrument which fails dismally to ensure ecologically sustainable development is fully implemented across NSW.

Yours sincerely,

, Committee Member.