

31 March 2017

Director, Industry and Infrastructure Policy
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam,

Infrastructure SEPP Review

Thank you for the opportunity to comment on *State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016*.

Council, at its meeting on 12 April 2017, will consider Group Manager's Report No. PL18/17 concerning the Draft Infrastructure SEPP amendments. The report (copy attached) recommends that a submission be forwarded to the Department of Planning and Environment raising concern with the *Draft SEPP (Infrastructure) Amendment (Review) 2016*, addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL18/17, including:

1. Continuing to prohibit health services facilities in low density residential and neighbourhood business zones;
2. Restricting the commercial premises that are permitted with consent and as complying development in the grounds of a health services facility;
3. Ensuring that car parks in the grounds of a health services facility may only be approved as complying development where they meet height and setback standards;
4. Avoiding and mitigating the clearing of native vegetation associated with health services facilities;
5. Restricting the physical size and intensity of use of a police station based on a set increase of its existing size before consent is required; and
6. Including reference to all relevant land use terms in the Standard Instrument that form traffic generating development.

Given the date for the receipt of submissions closes on 7 April 2017, this draft submission is provided in advance of Council's consideration of the matter. Council will forward a copy of the meeting minutes to confirm the submission after its meeting.

Should you require further information or clarification on any matters raised in this submission, please contact me on 9847 6744.

Yours faithfully



Fletcher Rayner
Manager
Strategic Planning Branch

TRIM Reference: F2004/07599

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INFRASTRUCTURE SEPP REVIEW - SUBMISSION REPORT

EXECUTIVE SUMMARY

- In June 2015, the Department of Planning and Environment (DP&E) announced a review of the 66 existing State Environmental Planning Policies (SEPPs). In February 2017, the DP&E placed *Draft SEPP (Infrastructure) Amendment (Review) 2016* on exhibition.
- The Draft Infrastructure SEPP proposes new or expanded provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, Council services on operational lands, commuter hubs and lead-in water and sewerage infrastructure.
- Key issues relate to permitting health service facilities in additional residential and business zones and the broad range of commercial uses that may be permitted ancillary to health services facilities. Other key issues relate to facilitating an annual increase in the size of police services facilities without consent and revising the development types to be referred to Roads and Maritime Services (RMS) for comment as part of development assessment.
- It is recommended that a submission be forwarded to the DP&E raising concern with the Draft Infrastructure SEPP having regard to the key issues.

RECOMMENDATION

THAT a submission be forwarded to the Department of Planning and Environment raising concern with the *Draft SEPP (Infrastructure) Amendment (Review) 2016*, addressing the major issues for Hornsby Shire identified in Group Manager's Report No.PL18/17, including:

1. Continuing to prohibit health services facilities in low density residential and neighbourhood business zones;
2. Restricting the commercial premises that are permitted with consent and as complying development in the grounds of a health services facility;
3. Ensuring that car parks in the grounds of a health services facility may only be approved as complying development where they meet height and setback standards;
4. Avoiding and mitigating the clearing of native vegetation associated with health services facilities;
5. Restricting the physical size and intensity of use of a police station based on a set increase of its existing size before consent is required; and
6. Including reference to all relevant land use terms in the *Standard Instrument* that form traffic generating development.

PURPOSE

The purpose of this report is to outline the Draft Infrastructure SEPP, identify implications for Hornsby Shire and provide recommendations for a submission to the DP&E.

BACKGROUND

The *Infrastructure SEPP* provides a regulatory regime to facilitate the delivery of infrastructure across the State. The *SEPP* includes 26 infrastructure classes ranging from transport, utilities, to social infrastructure, public administration and environmental works.

Given the significant provision of housing and the need for supporting infrastructure projects in recent years, the *Infrastructure SEPP* review has a strong focus on the delivery of social infrastructure. To this end, a number of amendments have been made to the social infrastructure based provisions in the Draft *SEPP*. The Draft *SEPP* also includes a number of operational and housekeeping amendments throughout the balance of the *SEPP*, including the schedules and mapping.

In February 2017, the DP&E released the Draft Infrastructure *SEPP* for exhibition until 7 April 2017. This includes the concurrent exhibition of the *Draft SEPP (Educational Establishments and Child Care Facilities) 2017* and amendments to *SEPP (Exempt and Complying Development Codes) 2008* to facilitate the implementation of the new policy.

DISCUSSION

The Draft Infrastructure *SEPP* proposes an updated regulatory regime to better facilitate the delivery of infrastructure across the State, particularly social infrastructure. The Draft *SEPP* includes new provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, council services on operational lands, and commuter hubs and lead-in water and sewerage infrastructure. The Draft *SEPP* also includes a number of operational and housekeeping amendments, including amendments to the roads and traffic provisions.

- The key changes for “health services facilities” are:
 - Permit health services facilities in additional residential and business zones;
 - Allow a public authority to carry out an expanded number of developments with and without consent to service patients, staff or visitors, such as child care centres; and
 - Introduce a new exempt and complying development regime within health services facility grounds.
- The key changes for “police service facilities” and “correctional centres” are:
 - Allow the NSW Police Force to access the same provisions as the Ambulance Services of NSW and Fire and Rescue NSW which includes allowing the demolition, restoration and alterations and additions to existing facilities without consent on any land;
 - Allow police services facilities in certain rural, industrial, special purpose and business zones without consent and require development consent for police services facilities in residential zones, and certain rural, recreation and environmental protection zones; and
 - Extend the provisions already applying to existing correctional centres in “prescribed zones” to existing correctional centres on “any land”.
- The key changes for “public administration buildings” are:
 - Provide for broader alterations and additions to public administration buildings as development permitted without consent, other than just “minor” works; and
 - Permit occupation of existing buildings by Government agencies and associated internal fitouts without the need for consent, by including a new exempt development regime.

- The key changes for the provision of “services on council owned lands” are:
 - Extend the exempt development and development permitted without consent provisions which councils can currently undertake on their public reserves to council operational lands;
 - Provide exempt development provisions that range from walking tracks to shelters and development without consent provisions that range from roads to landscaping; and
 - Expand the existing development permitted without consent provisions carried out by a council on a public reserve.
- The key changes for “commuter hubs” are:
 - Provide new provisions for railway stations, transport interchanges, commuter carparks, bus stops and bus depots, to assist transport operators with constructing and optimising infrastructure, and to benefit transport users by providing more services and conveniences at commuter hubs;
 - Expand the development with consent provisions to include tourist and visitor accommodation above railway stations and retail or business premises in a railway complex, interchange or commuter carpark; and
 - Provide a new complying development regime for works at existing bus depots for public authorities and certain accredited bus service operators.
- The key change for “lead-in sewer and water infrastructure” is:
 - Allow lead-in sewer and water infrastructure that connects developments into the existing water supply and sewerage network to be undertaken as complying development.

The DP&E is seeking feedback on the Draft Infrastructure SEPP, including proposed amendments to *SEPP (Exempt and Complying Development Codes) 2008*. Accordingly, it is recommended that Council’s submission be based on the following issues.

1.1 Health services facilities

Division 10 of the *Infrastructure SEPP* currently sets out the development approval pathways for health services facilities, including day surgeries, medical centres, community health service facilities, health consulting rooms, hospitals and facilities for the transport of patients. The DP&E has advised that the various amendments proposed are to lower the costs and reduce timeframes for the delivery of health services facilities.

- a) Health services facilities are proposed to be permitted in the R2 Low Density Residential and B1 Neighbourhood Centre zones by referencing them in the definition of “prescribed zone” under Clause 56 of the *Infrastructure SEPP*. The proposal is inconsistent with the land use strategy for the R2 zone under the *Hornsby Local Environmental Plan 2013*. All forms of “health services facilities” are prohibited in the zone. The proposal is also inconsistent with the land use strategy for the B1 Neighbourhood Centre. “Health consulting rooms” and “medical centres” are permitted with consent. However, “hospitals” are prohibited.

The land use strategy for the R2 zone reflects the primary function of the zone to provide for the housing needs of the community within a low density residential environment. Council’s previous experience with permitting “health consulting rooms” within the low density residential area is the amount of traffic generated and on street car parking required conflicts with residential amenity. Accordingly, to permit all forms of “health services facilities” will have a significant undesirable impact on the amenity of low density residential areas in Hornsby Shire.

The land use strategy for the B1 zone reflects the primary function of the zone to provide a range of small scale retail, business and community uses that serve the needs of people who work and live in the surrounding neighbourhood. Accordingly, to permit "hospitals" is inconsistent with the local service role of neighbourhood centres in Hornsby Shire.

Recommend: Continue to prohibit health services facilities in low density residential and neighbourhood business zones by not including reference to them in the definition of "prescribed zone" under Clause 56 of the *Infrastructure SEPP*.

- b) "Commercial premises" is a group term under the *Standard Instrument* that permits a broad range of business, office and retail uses. Many of these uses, including "bulky goods premises", "hardware and building supplies" and "vehicle sales or hire premises", would not form development which is ancillary to the function of a "health services facility" or other development which is proposed to support its function (eg. child care centres). Clauses 57(2)(b) and 58C(1)(c) of the Draft *Infrastructure SEPP* include the words "(or other premises within the boundaries of the facility)" to limit commercial development to that which supports legitimate ancillary uses like child care centres. However, it doesn't achieve this intent as such reference could also be used to justify "commercial premises" uses with no relationship to the primary land uses. The reference should be removed so that only uses that are ancillary to the function of a "health service facility" are permitted.

Recommend: Restrict "commercial premises" that are permitted with consent and as complying development in the grounds of a health services facility by deleting the words "(or other premises within the boundaries of the facility)" from proposed Clauses 57(2)(b) and 58C(1)(c) under the Draft *Infrastructure SEPP*.

- c) The approval pathways of "development that is permitted without consent" and "complying development" for providing car parking in the grounds of a health services facility are essentially the same. This creates uncertainty concerning which approval pathway may be utilised to facilitate development. It is considered that the "complying development pathway" should only apply in this instance given the predetermined standards such as the 12m height limit and 5m setbacks for car parking from any property boundary. These complying development standards provide the community more certainty about development than would a review of environmental factors.

Recommend: Ensuring that car parks in the grounds of a health services facility may only be approved as complying development by deleting Clause 58(1)(e) of the Draft *Infrastructure SEPP* as it relates to car parks forming development that is permitted without consent.

- d) The new provisions which promote "health services facilities" and associated development as "development permitted without consent" include the opportunity to clear any vegetation to facilitate a future health services facility prior to the review of environmental factors or development assessment of a proposal. This is inappropriate as it would enable clear felling of vegetation over the entire site to facilitate the development rather than the development being designed to respond to natural constraints.

Recommend: Avoid and mitigate the clearing of native vegetation by deleting Clause 58(2)(a) of the Draft *Infrastructure SEPP* as it relates to providing the opportunity to clear any vegetation to facilitate a future health services facility.

1.2 Police service facilities

Division 6 of the *Infrastructure SEPP* currently sets out the development approval pathways for the Ambulance Services of NSW and Fire and Rescue NSW.

Clause 48(2AA)(b) of the Draft SEPP proposes to facilitate an annual increase in the physical size and intensity of use (i.e. staff numbers) of a police service facility up to 10% without the need for development consent. The ability to perpetually increase the physical size and intensity of use of a police service facility without a formal development assessment would not provide for the transparent evaluation of its impact on the amenity of the surrounding neighbourhood. Also, annual increases in physical size and intensity of use make it near impossible for regulatory authorities to monitor development for non-compliance. Accordingly, it would be more appropriate to restrict the physical size and intensity of use of a police service facility based on a set increase of its existing size when the Draft Infrastructure SEPP amendments are made.

Recommend: The physical size and intensity of a police station should be restricted based on a set increase of its existing size before consent is required by modifying Clause 48(2AA)(b) of the Draft Infrastructure SEPP.

1.3 Operational and housekeeping amendments

There are various operational improvements and housekeeping amendments that are proposed as part of the Infrastructure SEPP Review.

Significant revision is proposed to Schedule 3 of the *SEPP* relating to traffic generating development in an effort to provide more clarity and make the Schedule consistent with the *Standard Instrument*. However, the proposed Schedule 3 excludes a significant number of land uses defined in the *Standard Instrument* that would be traffic generating development.

This is problematic as the size or capacity requirements for development "of any other purpose" are proposed to be changed from a threshold of "200 or more motor vehicles" to "any size or capacity". This would require referral of all land uses not referenced in the Schedule (eg. secondary dwellings) where they directly access a classified road or associated intersection, irrespective of whether it forms traffic generating development. Accordingly, the Schedule should be reviewed to reference all relevant land use terms in the *Standard Instrument* that form traffic generating development.

Recommend: Schedule 3 of the *draft Infrastructure SEPP* be amended to include reference to all relevant land use terms in the *Standard Instrument* that form traffic generating development, namely:

- Amusement centres;
- Camping grounds;
- Caravan parks;
- Community facilities;
- Eco-tourist facilities;
- Commercial premises (other than listed elsewhere in the Schedule) – to replace "Commercial premises (other than restaurants and cafes)";
- Entertainment facilities;
- Function centres;
- Industries – to replace "Industry"
- Industrial retail outlets;
- Information and education facilities;
- Highway service centres;
- Places of public worship;
- Public administration building;
- Recreation facilities (indoor);
- Recreation facilities (major);
- Recreation facilities (outdoor);
- Registered clubs;

- Residential accommodation – to replace "Residential Flat Buildings"
- Tourist and visitor accommodation;
- Vehicle sales or hire premises; and
- Wholesale supplies.

BUDGET

There are no budgetary implications associated with this report.

POLICY

The *Draft SEPP (Infrastructure) Amendment (Review) 2016* forms a draft environmental planning instrument for the purpose of assessing development applications pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*. If the Draft SEPP is made, the Policy will come into effect and supersede Council's planning controls wherever there is any inconsistency.

CONCLUSION

In June 2015, the DP&E announced a review of the 66 existing SEPPs. In February 2017, the DP&E placed *Draft SEPP (Infrastructure) Amendment (Review) 2016* on exhibition.

The Draft Infrastructure SEPP proposes new or expanded provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, Council services on operational lands, commuter hubs and lead-in water and sewerage infrastructure.

Key issues relate to permitting health service facilities in additional residential and business zones and the broad range of commercial uses that may be permitted ancillary to health services facilities. Other key issues relate to facilitating an annual increase in the size of police services facilities without consent and revising the development types to be referred to RMS for comment.

It is recommended that a submission be forwarded to the DP&E raising concern with the Draft Infrastructure SEPP having regard to the key issues discussed in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Strategic Planning – Fletcher Rayner – who can be contacted on 9847 6744.

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Attachments:

There are no attachments for this report.

File Reference: F2004/07599

General Meeting

12 April 2017

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