



15 January 2018

Director, Planning Frameworks
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir

Submission – Draft Environment SEPP - Subdivision in Sydney Harbour

The proposed changes to Clause 18A of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 should be implemented without delay. These changes address an anomaly in planning controls that (subject to interpretation) prohibit subdivision within Sydney Harbour and adjacent foreshore areas under respective LEP's that was never intended and precludes the implementation of the RMS's established reclamation disposal policy. Prior to this anomaly being identified, land was being subdivided for leasing and transfer purposes under the RMS policy which has its own considerations for public amenity, access and impact, in addition to considerations against S79C of the EPAA 1979 to approve the subdivision. Accordingly, we do not understand why these changes are being integrated into a much more complex planning change (new SEPP) when the anomaly could have been easily rectified in recent changes to the Infrastructure SEPP published on 20 October 2017.

Furthermore, despite the proposed amendments to Clause 18A in the new SEPP which give the Government authority to subdivide within Sydney Harbour land, the changes fail to rectify the residual issue of the unintended prohibition to subdivide private foreshore land in respective LEP's. Our discussions with relevant councils confirm this is an unintended interpretation of the foreshore area clauses which prohibits subdivision of foreshore land despite minimum lot sizes being achieved. This could also be easily resolved by the Department issuing a notice that Clause 2.6 of the Standard LEP Instrument overrides the suggested prohibition under the respective foreshore area clauses in affected LEP's. Otherwise the Department should resolve the issue under Section 73A of the EPAA without delay.

Accordingly, we request that the Department expedite the changes to Clause 18A and concurrently resolve the issues within respective LEP's.

Please contact the undersigned should any further information be required.

