

23 January 2018

Director, Planning Frameworks  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

### **Proposed SEPP (Environment) and related reforms**

I refer to the Explanation of Intended Effect for the proposed SEPP (Environment) that was recently placed on public exhibition.

The review of existing planning instruments and their consolidation into a new SEPP (Environment) provides an opportunity for important provisions to be retained from existing legislation and to make improvements in the new legislation.

The City of Canada Bay has an extensive frontage to Sydney Harbour and the Parramatta River. It is requested that the following matters be considered by the Department of Planning and Environment in the drafting of the new SEPP (Environment) insofar as it relates to the provisions of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

### **Principles relating to the public good**

Clause 2(2) of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* specifies important principles in relation to the protection of the public good when planning for Sydney Harbour and its Foreshores.

The SREP currently states:

- (2) *For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:*
  - a) *Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,*
  - b) *the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores*

- c) *protection of the natural assets of Sydney Harbour has precedence over all other interests.*

The Explanation of Intended Effects states that the “Aims” will be updated and transferred to the proposed SEPP. It is important for the above principles to be reflected in the new SEPP so as to ensure that the intended outcomes of the current SEPP are not lost.

Confirmation is sought from the Department of Planning and Environment that the above principles relating to the “public good” will be carried forward to the draft SEPP.

### **Permissibility of public swimming pools in Brays Bay**

The NSW Department of Planning and Environment has been working in collaboration with the City of Canada Bay on the planning of Rhodes East priority precinct. The draft plans for Rhodes East propose a *Public Swimming Pool* in Brays Bay, immediately adjacent to Rhodes East Planned Precinct.

However Brays Bay has been mapped in *Sydney Regional Plan – Sydney Harbour Catchment 2005* (SREP) as a W1 and W2 zone. These two zones currently only permit a *Public Water Recreational Facility*, which is defined by the SREP as ‘a pier, wharf, boat shed or other waterfront structure that is primarily used for public recreation’. This definition does not fit the needs of a *Public Swimming Pool*.

*Swimming Pool* is has been defined in the SREP Dictionary as:

*swimming pool* has the same meaning as it has in the *Swimming Pools Act 1992*.

In the *Swimming Pools Act 1992*, *swimming pool* means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth greater than 300 millimetres, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

It is requested that a new subclause be added to the SREP and a new definition be added in the dictionary for *Swimming Pools (public)*:

#### New Subclause

18 (3) Despite subclauses (1) and (2), swimming pools (public) are permitted in W1 and W2 zones as mapped for Brays Bay.

#### New Dictionary Definition

**Swimming pools (public)** means a swimming pool provided by a public authority, operated for the purpose of community recreational use.

### **Zoning of Kendall Bay**

In 2011, Council, in conjunction with the local residents of Breakfast Point, Mortlake and Cabarita mounted opposition to a proposed marina development (177 berth commercial marina with associated infrastructure). Following review of the proposal by the Planning Assessment Commission, the proposal was refused by the Director General of the NSW Department of Planning and Infrastructure in June 2011.

Immediately following the Director General's determination, the City of Canada Bay resolved to consult with the local community. The intention was to seek support for the rezoning of Kendall Bay to prevent any future marina proposal. Substantial support was shown by the local community for the rezoning of Kendall bay to W2 Environmental Protection under *Sydney Regional Plan – Sydney Harbour Catchment 2005*.

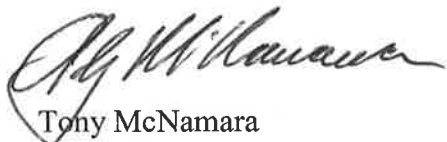
Council subsequently resolved to submit a formal request to the Minister and State Member to rezone Kendall Bay to W2 Environmental Protection. On 29 March 2012, a response was received advising that a review was being undertaken of all REPs (deemed SEPPs) and "it is premature to rezone land around the REP or transfer controls to an LEP until the deemed SEPP has been comprehensively reviewed."

As a review of SREP (Sydney Harbour Catchment) has now been undertaken, it is requested that Kendall Bay be rezoned to W2 Environmental Protection as illustrated in the attached diagrams.

The rezoning of Kendall Bay to W2 Environmental Protection will give the Breakfast Point, Mortlake and Cabarita community certainty about the future of Kendall Bay and ensure that this part of Sydney Harbour is protected from inappropriate development. In making this request, Council is of the view that the change does not raise any significant issues in relation to land tenure or navigation and will promote the orderly use of the waterway.

Thank you for the opportunity to comment on the Explanation of Intended Effects. I look forward to council's concerns being addressed in the finalised instrument.

Regards

A handwritten signature in black ink, appearing to read 'Tony McNamara', written in a cursive style.

Tony McNamara  
Acting General Manager



**Figure 1:** Aerial photograph of the subject location



**Figure 2:** Block plan of subject location, showing the intended zone W2 Environmental Protection zone.



**Figure 3:** The portion of Map 2 of the *SREP (Sydney Harbour Catchment) 2005* shown above illustrates how the W2 zone has been applied to areas adjacent to Kendall Bay in the Canada Bay locality. The proposed zoning reflects a similar form and scale of the W2 Environmental Protection zone shown above and for the protection of the natural and cultural values of Kendall Bay.