



Our reference: 7954050  
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Ms Danijela Karac  
Director, Planning Frameworks  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Ms Karac

### **Proposed State Environmental Planning Policy (Environment)**

Thank you for the opportunity to comment on the proposed new State Environmental Planning Policy (SEPP) (Environment) and related amendments.

Overall, we support the Department's initiative to review the State's planning provisions relating to catchments, waterways, urban bushland and protected areas to help modernise and simplify the planning system. However, although the Explanation of Intended Effect (EIE) outlines the Department's intentions, in many cases, it does not contain specific details which we consider are necessary to provide appropriate feedback. We therefore request that there be an opportunity to comment on the draft SEPP before it is finalised.

Recognising that one of the aims of the proposed reforms is to maintain and improve the environmental protections in existing SEPPs, we have a number of concerns with the proposed SEPP and related amendments, and offer the following comments for your consideration:

#### *Managing catchments: Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River (No.2-1997)*

##### *Provisions to be repealed:*

- Clause 6(2) - The EIE indicates that the term 'Environmentally Sensitive Areas' will be repealed and this section of the REP revised "*to integrate it with other riverine corridor controls to better address the specific environmental quality of these areas*" (page 24). Attachment C, however, indicates that this term will be transferred to the proposed SEPP (page 74) or transferred to the proposed SEPP and made consistent with the Georges River REP (page 75). Clarification is requested on what is intended for environmentally sensitive areas and clause 6(2).

Further, the definition of environmentally sensitive areas in Sydney Regional Environmental Plan No.20 (SREP 20) covers more than just riverine corridors. It is unclear how other aspects of the definition, such as escarpments and other scenic areas, and other significant floral and faunal habitats and corridors, will be addressed by the proposed SEPP. It is also unclear how this term will relate

to any definition of environmentally sensitive area in Schedule 3 of the new Environmental Planning and Assessment Regulation, which the Department sought feedback on late last year.

Clarification is requested on whether specific land exemptions under SEPP (Exempt and Complying Development Codes) 2008 will be affected. We believe that land identified as an environmentally sensitive area should continue to be exempt.

While it is understood that the strategies proposed to be repealed in clause 6(2) will be addressed by other legislation, it would be helpful to detail the relevant legislation in the EIE.

- Clauses 6(8), 6(9), 6(10) and 6(11) – It is unclear why clauses 6(10) Urban development and 6(11) Recreation and tourism are to be moved to a new Ministerial Direction on Catchment Protection, when clauses 6(8) Agriculture/aquaculture and fishing and 6(9) Rural residential development will be repealed. A consistent approach should be applied. It is recommended that all provisions should be updated and moved to the new Ministerial Direction.

*Provisions to be moved to other SEPPs and LEPs:*

- Clause 11(5) – While we support the prohibition of extractive industries in parts of the Hawkesbury-Nepean catchment being moved to the SEPP (Mining, Petroleum and Extractive Industries), it would be helpful to include a note in the proposed SEPP (Environment) for cross-referencing purposes to ensure extractive industries are directed and appropriately dealt with under the provisions of the SEPP (Mining, Petroleum and Extractive Industries).
- Clause 11(6) – The EIE does not list this clause as one to be repealed or moved to the SEPP (Mining, Petroleum and Extractive Industries). Therefore, it is assumed that the clause will be moved to the proposed SEPP (Environment). The EIE does indicate, however, that the definition of 'extractive industries – maintenance dredging and extractive operations' is to be deleted. Clarification is requested on what the intention is for this clause.
- Clause 11(19) - The EIE indicates that provisions relating to coastal wetlands will be moved to the draft SEPP (Coastal Management) and will get additional protections as a result. Provisions for freshwater wetlands within the Hawkesbury Nepean catchment, however, will be retained within the proposed SEPP (Environment) and will not be afforded the same level of protections as coastal wetlands, such as 100m buffers, automatic designated development status, etc. These provisions should be extended to mapped freshwater wetlands in the proposed SEPP to also protect these important areas.
- We support the intention to move the heritage listing of Wallacia Weir, Wallacia to Penrith Local Environmental Plan (LEP) 2010.
- The EIE states on page 54 that *"certain provisions related to acid sulfate soils and bank disturbance in the existing ... Hawkesbury Nepean Regional Environmental Plan will be repealed, as they are adequately addressed under the Standard Instrument local environmental plan acid sulfate soils and flood planning provisions"*. However, it should be noted that Council's Standard

Instrument LEP, Penrith LEP 2010, does not contain any provisions relating to acid sulfate soils.

Further, the EIE states that *"To maintain the current protections provided by the ... Hawkesbury Nepean Regional Environmental Plan it is proposed that the model Standard Instrument acid sulfate soils and flood planning provisions be inserted into non-Standard local environmental plans that continue to apply ..."* This includes Penrith LEP 1998 (Urban Land), Penrith LEP No.201 (Rural Lands) and Interim Development Orders No.13, No.47 and No.93 (not No.43 and No.97 as listed on page 55). While we support the intention, we request early discussions with the Department on this matter as Council's Standard Instrument LEP, Penrith LEP 2010, does not contain any provisions relating to acid sulfate soils, and the flood planning provisions differ from the model provisions. The flood planning provisions in Penrith LEP 2010 were developed through extensive consultation and negotiation with the Department at a time when the model provisions did not exist. We believe that the flood planning provisions across the City of Penrith should be consistent and the same as those in Penrith LEP 2010.

*Provisions to be updated and moved to a new Ministerial Direction on Catchment Protection:*

- Clause 6(3) Water quality is proposed to be updated and moved to a new Ministerial Direction on Catchment Protection. While water quality considerations need to be examined in the preparation of LEPs, it is important that appropriate and tangible controls are imposed at the development application stage to ensure water quality in the Hawkesbury Nepean catchment is improved and aquatic ecosystems protected. Accordingly, these provisions should also be transferred to the proposed SEPP.
- The above comments relating to clauses 6(8), 6(9), 6(10) and 6(11) are also relevant to this section.
- The EIE indicates that a planning proposal will be required to *"consider the cumulative impact of development on water quality and river flows"* (page 51). While the cumulative environmental impact of development proposals on the catchment is currently a consideration under SREP 20, further assistance on the assessment of cumulative impacts would be helpful.

*Provisions to be updated and moved to the proposed SEPP (Environment)*

- The EIE indicates that provisions relating to mapped scenic corridors will be retained and transferred to the proposed SEPP. This is supported. However, it is unclear what is meant by, and the implications of, the statement that *"Options to map the 'scenic corridors' will be explored to assist the contribution of riverine scenic corridors to regional planning and the delivery of the 'blue grid' (waterways network)"*.
- The EIE states that terms specific to SREP 20, which cannot be aligned to definitions in the Standard Instrument, will be updated and refined to remove ambiguity. While this intention is supported, the lack of detail makes it difficult to provide feedback; e.g. what is meant by *"add further detail"* in the definition of riverine scenic quality. We do suggest that the term 'Total Water Cycle

Management Study or Plan' be updated to the more contemporary 'Integrated Water Management Study or Plan'.

Protecting urban bushland: State Environmental Planning Policy No.19 – Bushland in Urban Areas

- The EIE indicates that the proposed SEPP will introduce a new term 'public bushland' to replace the reference to 'land zoned or reserved for public open space' in State Environmental Planning Policy No.19 – Bushland in Urban Areas (SEPP 19). The new term, however, will exclude land that is zoned RU1, RU2, RU3, RU4 and RU5 in the listed local government areas limiting the application of the proposed SEPP. It is suggested that 'public bushland' should not be defined by its zoning, but by the other two criteria proposed in the EIE; i.e. land:
  2. *owned or managed by council or a public authority, or reserved for acquisition for open space or environmental conservation by council or a public authority, and*
  3. *has vegetation which meets the definition of bushland*".

Protecting waterways: State Environmental Planning Policy No.50 – Canal Estate Development

- The EIE proposes an amended definition for canal estate development. Clarification is requested on whether the definition may now capture a residential development that involves the realignment of a waterway and the filling of flood prone land on which the dwellings are proposed to be located.

The Department's initiative to review the State's planning provisions in relation to catchments, waterways and urban bushland is generally supported. However, the EIE does not contain some specific details which are necessary to provide appropriate feedback. We therefore request the opportunity to comment on the draft SEPP before it is finalised. We also request that early discussions between the Department and Council be undertaken on the inclusion of acid sulfate soils and flood planning provisions in all of Penrith's planning instruments.

To discuss any of the above comments, including the possibility of a meeting with Council officers, please contact Elizabeth Hanlon on 4732 7827 or by email at [elizabeth.hanlon@penrith.city](mailto:elizabeth.hanlon@penrith.city).

Yours sincerely



Natasha Baker  
**City Planning Manager**