

DH:DH:1255# 956

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

31st January 2018

Dear Sir/Madam

SUBMISSION ON THE EXPLANATION OF INTENDED EFFECTS FOR THE NEW ENVIRONMENT SEPP

Thank you for the opportunity to provide comment on the Explanation of Intended Effects (EIE) for the State Environmental Planning Policy (Environment) (Environment SEPP).

The existing documents proposed to be incorporated into the Environment SEPP of relevance to the Wollondilly LGA are:

- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2001
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River
- Sydney Regional Environmental Planning Policy No 20 Hawkesbury Nepean River No 2

State Environmental Planning Policy No 44 Koala Habitat Protection (SEPP 44) which is understood intended to be incorporated into the Environment SEPP at a later stage is also of relevance to the Wollondilly LGA.

The incorporation of a number of current environmentally related Regional and State Planning Policies into one document is supported in principle. Feedback received from Council's Development and Strategic Sections has also identified broad support to the preparation and of the SEPP as a means of simplifying the assessment and approval processes for developments and other land use activities.

The Department is requested to note however that the approach of exhibiting an EIE without the public exhibition of the subsequent document is strongly opposed. The public exhibition of the completed draft Environment SEPP is therefore strongly requested for transparency purposes as well as to allow for review of its adequacy in achieving positive planning, environmental and social outcomes by Council Staff.

Within this context, the attached submission outlines a range of identified concerns that includes the potential weakening of provisions from existing documents as a consequence of considered shortcomings in recent reforms to the legislative framework which are noted intend to underpin the Environment SEPP. The submission also provides a range of recommended amendments to the EIE as well as requested t additional detail which are consistent with Council resolutions and issues raised in its previous relevant submissions A key additional sought information is detail of the intended approach to define and monitor pollution reduction targets outside the Drinking

Catchment Area that is broadly consistent with the overall principles of tools within the current SEPP applying to this Area.

A meeting with appropriate DPE officers is sought to discuss issues and concerns raised in the attached submission is sought prior to the commencement of the draft Environment SEPP document.

The contacting of Council's Acting Team Leader Environmental Services, David Henry on (02) 4677 9687 or via e-mail david.henry@wollondilly.nsw.gov.au to arrange such a meeting would be appreciated. Please also contact this Officer for any enquiries regarding issues raised in the attached submission.

Yours faithfully



Alexandra Stengl
Manager Environmental Outcomes

Submission on the Explanation of Intended Effects for the Environment SEPP

Introduction

Approximately 97% of the Wollondilly Local Government Area (LGA) is located in the Hawkesbury Nepean Catchment with the remainder located in the headwaters of the Georges River Catchment. Wollondilly is a peri-urban type LGA with a high diversity of landscapes and environmental values that are under pressure from a range of competing land use activities including agriculture, development and mining. Proposed development includes Priority Growth Areas within the Greater Macarthur Investigation Area in the vicinity of Appin and Wilton. These features are illustrated on Map 1 (presented in Attachment 1).

This submission provides comments on aspects of the Explanation of Intended Effects (EIE) for the information and response by Officers responsible for the preparation of the Environment SEPP (the Project Team). It specifically provides comments on proposed changes to the following documents that are of direct relevance to the Wollondilly Local Government Area (LGA) and its features and values summarised above.

- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2001
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River
- Sydney Regional Environmental Planning Policy No 20 Hawkesbury Nepean River No 2

The comments provided on the above document in the submission include feedback received from Council's Development, Engineers and Strategic Staff on their consideration of the controls of the above documents during the review of proposals. Comments are also provided on the adequacy of proposed changes and identified recommended amendments to these changes to achieve greater environmental, social and beneficial outcomes on a catchment scale.

The submission also provides comments on *State Environmental Planning Policy- Koala Habitat Protection (SEPP 44)* given that the protection of koala habitat is of high community concern and is noted to have become a significant issue politically at the local and State government level. It also refers to *State Environmental Planning Policy No 19 – Bushland in Urban Areas* in suggesting that the application of this SEPP to the Wollondilly LGA under the new Environment SEPP is warranted.

This submission supports in principle the incorporation of a number of current SEPP's into one document as a means of simplifying the assessment and approval processes for developments assessed under Part 4 of the *Environmental Planning and Assessment Act 1979*. However, it provides opposition to the EIE as publicly exhibited on a number of grounds that includes the absence of a range of detail to be included in the subsequent Environment SEPP.

PART A: BACKGROUND INFORMATION

1) Statutory and strategic policy framework for the SEPP and its components

Part 1 of the EIE is noted to state that the "*proposed new SEPP will form part of the broader land use and planning framework*". This consistency is fully recognised as being appropriate. However, there is a general absence of detail within the EIE over how this integration will occur under the completed Environment SEPP. **The provision of this information preferably prior to the commencement of the SEPP or part of its public exhibition is requested.**

Council has provided submissions on recent State Government Strategies/Legislation changes associated with the current framework based on its adopted position and expressed concerns of the local community in regard to:

- Documents in regard to the *Biodiversity Conservation Act 2016* including the Biobanking Assessment Methodology and associated Regulation.
- Draft Biodiversity Investment Strategy.
- Explanation of Intended Effects for SEPP 44- Koala Habitat Protection.
- Draft Greater Sydney Region Plan and the Draft Western City District Plan
- Explanation of Intended Effects for the draft SEPP (Primary Production and Rural Development).

The submissions on the above documents have in broad terms raised significant shortcomings in the assessment of biodiversity impacts on a localised scale as well as linkage with local strategies and associated mapping. Copies of these submissions can be provided to the Project Team upon request. There are consequently concerns that mechanisms in the Environment SEPP may be less stringent in comparison to existing SEPP's as a consequence of the identified shortcomings in the legislative and policy framework the document is intended to be linked with. **A meeting with Council Staff prior or during the preparation of the Environment SEPP is strongly requested to assist in the addressing of these concerns.**

In relation to this matter, the introduction of the offsetting scheme under the *Biodiversity Conservation Act 2016* has been deferred until August 2018 to enable the DP&E to prepare a Sustainable Strategic Plan for Wollondilly and six other western Sydney LGA's. Council Staff have concerns over the adequacy of this Plan in managing biodiversity and environmental impacts both within a local and broader context based on available information. **The Project Team is requested to note that Council's submission regarding the Biodiversity Conservation Act expressed strong opposition to a number of measures and would not support any weakening of the current biodiversity framework within the Sustainable Strategic Plan or the Environment SEPP.**

2) Overview of land use issues associated with current relevant SEPP's and Council experience

The following provides an overview of land use issues and associated pressures of relevance to the applicable current SEPP's to the Wollondilly LGA based on the broad Catchment and Bushland components contained in the EIE.

CATCHMENT COMPONENT

The following provides an overview of land use pressures within the Drinking Catchment and Georges and Nepean River Catchments and the associated experience of Council Staff in the consideration of controls within the current documents proposed to be incorporated into the Environment SEPP. The location of these catchments within the Wollondilly LGA and status of planning proposals within the land covered by each of these SEPP's is provided in Map 2 (presented in Attachment 2).

(i) Sydney Drinking Water Catchment SEPP

Approximately 40 percent of the section of the Wollondilly LGA located outside the Greater Blue Mountains World Heritage Area is covered by this SEPP. Map 2 shows that the Catchment includes a number of planning proposals at a variety of stages in the vicinity of Warragamba and Oakdale.

The south eastern section of the Drinking Catchment within the vicinity of Wilton also includes areas covered by mining leases. The Project Team is requested to note that Council has previously resolved to oppose coal seam gas operations within Drinking Catchment Areas and has strong concerns over the undertaking of any underground mining operations within these areas.

Experience/position of Council Staff

Council provided a submission the review of this SEPP in July 2016 (which expressed broad support to its provisions and operation of associated mechanisms including the Neutral or Beneficial Effect in filtering those applications which required concurrence from Water NSW. The Drinking Catchment SEPP continues to be viewed by Council's Development and Engineer Staff as effective in filtering received applications for approval by Water NSW. It is also considered by Council Environmental Staff to be effective. The on-going assistance provided by Water NSW through its concurrence, compliance as well as awareness programs has been welcomed. **However, the provision of updated training in the application of the various components of the SEPP is sought.**

(ii) Georges and Nepean River Catchments

(a) Greater Metropolitan Regional Environmental Plan No 2 Georges River

The section of the Wollondilly LGA within the Georges River Catchment is comprised largely of National Park with land use pressure land use pressure restricted to current and future development. This section of the LGA also contains an extractive industry that has been the subject of concerns expressed to Council over water related impacts from this facility however inspections by Council Staff have not identified any breaches of approval conditions or licence conditions

The land use within this area is largely comprised of reserved land or land covered by mining leases that includes current underground mining activities associated with the Bulli Seam Project. Council has adopted a basic position of supporting such operations provided there are no adverse impacts to the natural, cultural and built environment.

(b) Sydney Regional Environmental Planning Policy No 20 Hawkesbury Nepean River No2

The major sub-catchments within the LGA of the Hawkesbury Nepean Catchment within the Wollondilly LGA are Bargo River, Allens Creek, and possibly Scotchies Creek (in the north of the LGA) are shown on Map 2 (presented in Attachment X) . This Map also shows a significant number of planning proposals as well as the Wilton and Appin Priority Growth Areas are situated within this Catchment. This Map further shows the location of the National Trust listed Bargo-Nepean River Gorge, which has significant landscape values. This submission expresses the view that the preparation of the Environment SEPP is an opportunity to provide a statutory framework for the establishment and enforcement of sufficient buffers that would protect such significant landscapes from impacts associated with development

Council Staff adopt a general position of seeking an efficient, effective achievable stormwater treatment approach to address the above pressures that is consistent with broad water sensitive urban design (WSUD) principles and satisfies these Targets. In this regard, Council has received funding received the Sustainability Advantage Program offered by the NSW Office of Environment and Heritage to incorporate sustainability measures into its Sub-Division DCP, The preparation of the Environment SEPP is viewed as an opportunity to

provide an overarching statutory framework to facilitate the incorporation of WSUD measures into suitable planning proposals as well as achieve beneficial environmental outcomes on a catchment scale

In addition, Council has been in on-going discussions with the DPE over obtaining an integrated Total Water Cycle Management Plan applying to the Wilton New Town Priority Growth Centre. However, Staff have noted with concern the apparent intent of this Department to adopt a priority/risk approach in managing stormwater and water efficiency issues in a site specific Development Control Plan. The Project Team is requested to note that in relation to this matter that Council has previously resolved to develop a Water Sensitive Urban Design Policy applying across the Wollondilly LGA that will (amongst other matters), *“address water quality in catchment areas or other bodies of water and help to reduce ecological impacts”*.

Experience/position of Staff

There has been limited experience by Council Staff in the consideration of controls of the current REP applying to the Georges River Catchment. The Hawkesbury Nepean Regional Environmental Plan No 20 is viewed as being more wide ranging in terms of coverage of environmental issues than the Georges River REP. Feedback received from Council Development and Strategic Staff has identified largely positive experiences in achieving positive strategic and environmental outcomes when considering the controls in regard to development and planning proposals.

Difficulties experienced in the consideration of the Hawkesbury River REP include the useability of the maps and requirements for the consent to be obtained for all types of development including those that are minor or are unlikely to have an impact to water quality. The EIE would indicate that these matters will be addressed by the Environment SEPP however this is difficult to determine in the absence of this document.

OVERVIEW OF COUNCIL POSITION REGARDING PROTECTION OF WATERWAYS

As a broad position, Council Staff would expect that the Water Catchment component of the Environment SEPP would provide a sufficient statutory framework that would enable measures to be applied at the local government level that would to ensure protection of waterways and achievement of defined pollution reduction targets as well as general environmental, and social outcomes in a catchment context.

BUSHLAND COMPONENT

State Environmental Planning Policy No 44 – Koala habitat protection

Council is currently implementing a Koala Project based on funding received from OEH under the Save our Species Program. Mapping and use of tracking collars carried out to date has identified a significant number of koalas within the Wollondilly LGA within or in close proximity to a number of development proposals located outside the SEPP.

These activities have also identified koalas and important corridors for this movement in Priority Growth Areas in the vicinity of both Appin and Wilton. In this regard, koalas have been identified as moving between these two Areas which are approximately 10 Kilometres apart.

The Project Team is requested to note Council’s strong concern over considered significant shortcomings in the policy framework applying to the growth centres in enabling adequate surveys of koala habitat and the assessment of potential associated impacts to this habitat

on a landscape context based on the limited available information to Staff. The Project Team is further requested note the strong concern reports received by Staff over the apparent intention to proceed with the rezoning of a larger precinct within the Wilton Priority Growth is imminent despite having viewed significant shortcomings in protecting an important koala habitat corridor. **Urgent discussions over this matter are sought with the Project Team.**

PART B: GENERAL COMMENTS

1) Preparation process of the Environment SEPP

The preparation of an Explanation of Intended Effects for the Environment SEPP is supported in principle as a means of obtaining feedback from a range of stakeholders to inform the subsequent preparation of the draft document. It is also understood in this regard that the preparation of an EIE without the public exhibition of the subsequent document is in accordance with the statutory framework.

However, this approach is strongly opposed in terms of consultation and achieving a suitably rigorous and comprehensive document that achieves its stated aims, (which is requested to be noted), are broadly supported. **The Project Team is therefore requested to ensure that the completed SEPP is publicly exhibited prior to its finalisation. In the event of this not occurring, discussions between Council Staff and the Project Team both prior to the finalisation of the EIE and SEPP is strongly requested.**

2) Incorporation of existing SEPPS into the Environment SEPP

The incorporation of a number of existing SEPP's into one document is recognised by Council's Strategic, Development Assessment, and Engineers has having a range of positive benefits in stream-lining the identification of their consistency with development and planning proposals. This incorporation is also recognised by Council Environmental Staff as having potential benefit in enhancing the management of environmental impacts associated with development and other land use activity in a catchment context.

However, such in-principle support is dependent on the strength of measures within existing documents being retained or strengthened in the Environment SEPP (including issues raised and requested amendments of this submission). Demonstration of this retention and strengthening is requested, (preferably), **to be contained in a draft completed Environment SEPP that is publicly available and subject to an associated public exhibition process.**

3) Overall support for the review process and Environmental SEPP

This submission supports in principle the incorporation of a number of current SEPP's into one document as a means of simplifying the assessment and approval processes for developments assessed under Part 4 of the *Environmental Planning and Assessment Act 1979*. **However, the EIE as publicly exhibited is opposed on the following grounds:**

- The process of exhibiting an Explanation of Intended Effects with no stated intent to exhibit the Environment SEPP is opposed due to the strong lack of transparency and uncertainty of the final controls and provisions within the completed document.
- The EIE does not provide detail on a number of issues of major implications to Council are not addressed by proposed amendments to existing documents. For example, Page 6 of the EIE states "*aspects of Clause 6 of the Hawkesbury Nepean SEPP such as water quality, total catchment management, biodiversity and*

environmentally sensitive areas will be transferred to the proposed SEPP” without any detail.

- There is an absence of information on the status and role of a number of current related SEPP's currently utilised by Council Development Staff such as *REP 9 – Extractive Industries No 2.*
- There is considered a strong potential for a reduced level of strength in the Environment SEPP as a consequence of a number of measures being replaced by recent amendments to the statutory and policy framework to which Staff have identified a number of considered shortcomings.
- The EIE does not provide demonstration that the Environment SEPP will contain adequate statutory strength to ensure the incorporation of suitable WSUD measures into medium and large scale development and planning proposals.
- The EIE does not recognise the (considered by Council Staff), potential adverse implications of the policy framework applying to the Priority Growth Centres being prepared by the DPE such as the Sustainable Strategic Plan to achieving positive outcomes within a catchment context.

The statement in the EIE *“that the proposed SEPP will provide consistent level of environmental protection to that which is currently delivered under the existing SEPP's”* is consequently strongly questioned based on the above concerns.

PART C PROPOSED AMENDMENTS TO EXISTING SEPP'S

CATCHMENT COMPONENT

1) Comments applicable to all SEPPS of relevance to this submission

The following provides comments based on feedback provided by Development and Engineer Staff that are of relevance to all three documents within the Catchment Component of the EIE that are the subject of this submission.

(i) Consistency of mapping

A key issue raised by Development Staff was shortcomings in the current mapping within the SEPP and its relationship with the Hawkesbury Nepean SREP 20 as illustrated in examples presented in Attachments 3 and described below:

- *The example in Map xxxxx indicates the mapping does not cover a major development in the vicinity of Silverdale that is nearing the completion of the merit assessment review process: **This discrepancy is considered to create confusion of the application of the provisions of the SEPP and potential adverse environmental impacts.***
- *The example in Map xxxxxx indicates an overlap between the mapping within the Drinking Catchment SEPP and the Hawkesbury River REP: **This overlapping is considered to create confusions in the consideration of the related controls during the assessment process.***

The mapping exhibited with the EIE is not considered of sufficient scale to interpret the adequacy in addressing the above discrepancies. **Consequently, the Project Team is requested to either provide more update specific mapping to the Wollondilly LGA or ensure that such mapping is contained in the completed document.**

(ii) Pollution reduction targets (or equivalent)

Council has adopted a Standard Template Local Environmental Management Plan which contains Clauses relating to Natural Resource Biodiversity and Natural Resource Water Layers. These provisions are reflected in measures contained in its General Development Control Plan as well as more specific Volumes including Sub Divisions. These DCP's have adopted the Pollution Reduction Targets in relation to the Hawkesbury Catchment which are replicated in conditions for applicable Determinations.

The inclusion of measures with increased stringency is recognised as being needed in Drinking Catchment Area. The application of the Neutral or Beneficial Effects Tool outside the Drinking Catchment boundaries is recognised as not being viable. **However, the Project Team is requested to provide details of its intended approach to define and monitor pollution reduction targets outside the Drinking Catchment Area that is broadly consistent with the overall principles of this tool.** The holding of a workshop is suggested as a means of enabling effective but viable means to be incorporated into the updated Georges River and Nepean REP's within the completed Environment SEPP.

2) Comments in regard to specific REP's

The following provides an overview of supported amendments to relevant SEPP's as well as requested amendments and additional information requested based on the experience of Staff and relevant Council resolutions.

WATER CATCHMENTS

(i) *State Environmental Planning Policy (Drinking Water Catchment SEPP)*

The intended retention of provisions of the current SEPP in the Environment SEPP with minor amendments is welcomed given the overall satisfaction at the operation of its current provisions by Council Staff. Council's submission on the review of this SEPP in July 2016 outlined a range of reasons for opposing the integration of SEPP provisions into relevant Standard Instrument LEP's including that SEPP's have more statutory force than an LEP. The apparent intention based on a review of the EIE not to pursue such integration is consequently welcomed. **The Project Team is requested to note in this regard that the integration within the completed Environment SEPP would be opposed.**

The EIE is noted to propose the amendment of " *Clause 10(2) to make it clear that the NorBe tool is intended only for developments that are being considered by a council or another planning authority carrying out any of a council's functions as a consent authority*". As part of reforms to the NSW planning system, increasing types of developments are being classed as Complying Development. Development Staff in this regard have expressed the view that the provisions of the SEPP are not being adequately implemented by private certifiers for such development. **It is therefore requested that the revised SEPP within the Environment SEPP include provisions that ensure its adequate consideration by private certifiers.**

(ii) *The Georges River Catchment and the Hawkesbury Nepean Catchments*

The EIE contains a number of comments regarding provisions to be retained or amended that are of relevance to both the Georges River and Nepean River SEPP'S given the similarity in both documents. This section of this submission consequently provides comments concurrently on these aspects of both documents. It also provides comments on issues of more specific relevance to the Georges River Catchment, (the protection of upland swamps), and the Nepean Catchment

(a) Amendments/comments applicable to both SEPP's

(b) Amendments to 'Simplify the proposed SEPP by removing duplication with other legislation

A number of justifications for repeal of measures are noted to state "where a non-standard Instrument LEP applies". These proposed amendments are not relevant to Wollondilly LGA as Council currently has a Standard Instrument LEP. The Clauses intended to be repealed and associated justification are broadly supported by Council Staff within this context. However, the following provides comments and requested clarification in regard to the stated justification for the repeal of certain measures.

Urban Development

Justification for repeal: *The retention of the applicable measures is not necessary as this matter is most "appropriately identified by the NSW Government strategic planning documents including draft District Plans and environmental instruments such as the SEPP (Greater Sydney Region Growth Centres)".*

The previous section of this submission provided an overview of the high level of growth and the existence of the Appin and Wilton Priority Growth Areas within the Wollondilly LGA. This section also referred to Council's detailed submissions on the draft District Plan as well as legislative reforms under the Biodiversity Conservation Act 2016 which in essence identify significant shortcomings in their adequacy in protecting biodiversity on a localised scale.

In relation to this matter, a presentation on the Strategic Sustainability Plan applying to the Growth Centres to Wollondilly Councillors by the Department of Planning and Environment arranged for Monday 26th March 2018 is appreciated. The controls within the draft DCP prepared for the Wilton Priority Growth Area by the DPE associated with this Plan are however viewed as having shortcomings in addressing the position and concerns of both Council and the local community raised in a wide variety of other submissions listed at the commencement of this submission. A key shortcoming is considered an inadequate linkage between this framework at the State level and local strategies applying to other areas of the Wollondilly LGA such as Council's biodiversity mapping forming part of Council's Local Environmental Plan.

It is therefore considered imperative in relation to this matter that the Environment SEPP contains sufficient measures to ensure the achievement of positive environmental, social and planning outcomes within the Growth Centres. **Discussions and the provision of intended detail to be included in the Environment SEPP as well as the possible inclusion of the Growth SEPP into this document re requested.**

In light of the above considerations, the stated justification for the removal of clauses within the current documents applying to the Georges and Nepean Catchments is not supported on the following grounds:

- *Council's submission on the Draft Western Sydney District Plan raised significant shortcomings in achieving satisfactory strategic, environmental, social and open space outcomes in a catchment context. **This submission is presented in Attachment 4 for the information of the Project Team.***
- *There is an absence in the EIE to Local Environmental Plans and their intended role in managing urban development/growth under the Environment SEPP. **Clarification over this matter is requested as a priority given their statutory importance at a localised scale.***

- *The limited information available at the time of lodgement of this submission raises strong concerns over the adequacy of the policy framework within the Priority Growth Centres in achieving positive outcomes within a catchment context. **The inclusion of adequate measures applying to the Growth Centres in the completed draft Environment SEPP which complement Council's planning documents and instruments is requested.***

Extractive industries

The current Clauses relating to this industry have relevance to a number of extractive industry operations within both the Georges and Hawkesbury-Nepean which have both Council and the NSW Environment Protection Authority as the Appropriate Regulatory Authority.

Justification for repeal: *The NSW Government's position on this type of development is set out in SEPP (Mining, Petroleum Production and Extractive Industries).*

The removal of the provisions and associated justification in the completed Environment SEPP has been supported by Council's Development Staff. However, clarification has been requested over the status and function of **REP 9 – Extractive Industries No 2** under the new SEPP. **The Project Team is requested to provide a response to this matter prior to the finalisation of the EIE.**

Contamination land issues

The Georges River REP is noted to not contain specific measures/controls regarding contamination land issues. The justification in regard to removal of this Clause from the Hawkesbury REP "*Clause 9 of SEPP 55 sets a consistent pathway for the State on when development consent is required for remediation work and is considered adequate for assessing this type of development*" is agreed with in principle.

However, an identified potential implication of removal of this Clause is the occurrence of instances when certain remediation work will no longer require Council consent. **A response outlining if this is the intent of the Environmental SEPP in regard to the Georges and Nepean Catchments as well as viewpoint on the above concerns prior to the finalisation of the SEPP is requested.**

Hazardous development

This Clause has relevance to both the Georges and Nepean Catchment despite the current Hawkesbury REP not containing any specific measures. The justification for the repeal of the current Clause from this document is supported in principle. **However, clarification is requested over the status and function of SEPP 33 – Hazard and Offensive Development under the new Environmental SEPP.**

Agricultural activities

The Wollondilly LGA contains significant areas which are zoned rural where a range of agricultural activities are carried out. While these activities are restricted to the Nepean Catchment, this Provision is viewed as also having relevance to the Georges River REP given the presence of agricultural activity in parts of this catchment.

Justification for repeal of clauses: *This land use is covered by the Standard Instrument definition of intensive livestock agriculture and the regulation of the use of land for intensive livestock purposes is addressed under the new draft SEPP (Primary Production and Rural Development)*

Council has recently provided a submission on the Explanation of Intended Effects for the draft SEPP referred to in the above justification (the Primary Production SEPP). This submission, (presented in Attachment 5), is requested to be viewed as Council's position in relation to the proposed changes to the clauses in the current REP's for both the Georges and Nepean River regarding this matter in the review of its submission on the EIE for the Environment SEPP.

The above justification is not opposed in principle provided issues raised in Council's submission on the Primary Production SEPP are adequately addressed. **It is requested in relation to this matter however that the completed draft Primary Production SEPP be forwarded to Council for review upon its completion and prior to the commencement of the Environment SEPP.**

(c) Provisions to be updated and moved to Ministerial Direction

The list of current provisions within both REP's intended to be updated and moved to a new "Catchments Protection Ministerial Direction" are acknowledged as being beneficial in their application and agreed with in principle. **It is however requested that the updated documents provide specific guidelines for defining water quality targets associated with development proposals and monitoring downstream impacts.**

The statement in the EIE "*that a new Ministerial Direction will require planning proposals to consider impacts on water quality and water quantity*" is welcomed in principle. This submission has previously requested in relation to this matter details of the intended approach to manage such impacts outside the Drinking Catchment Area. **The Project Team is requested to consider this matter during the formulation of the Ministerial Direction.**

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

The intended retention of principles and policies of the current REP'S into the Environment SEPP is supported in principle. The list of key issues in the EIE to be retained "*to ensure consideration at the development assessment stage*" is considered to cover major environmental issues associated with the Georges and Nepean Catchments. **However, the Project Team is strongly requested to provide detail over the intended measures and controls for each of the listed key issues (preferably) within a publicly exhibited draft Environment SEPP or prior to its commencement in the event such public exhibition does not occur.**

(e) Definitions

The statement that "*only existing definitions that cannot be aligned with the Standard Instrument will be transferred to the proposed Environment SEPP*" is agreed with in principle. The listed terms within the EIE of identified key relevance to the Wollondilly LGA are:

- Cumulative environmental impacts
- Environmentally sensitive natural areas
- Erosion and sediment control Plan
- Flood Prone Land
- Water quality objectives

The above terms are considered highly generic and inefficient in providing any statutory strength to achieve positive outcomes within a catchment context. It is recommended in this

regard that the above terms be in the form of sub-headings for specific definitions that can be easily accessed and determined within the completed Environment SEPP.

(i) *Other Issues and concerns to Council and the local community*

(a) Protection of upland swamps (Georges River REP)

The upper Georges River Catchment includes a number of recognised significant upland swamps which a number of research studies are noted to state play an important function in the overall hydrology of the Catchment. The current REP is considered to have measures that have indirect reference to this issue which need enhancement to ensure their adequate protection from impacts associated with development.

The EIE is noted to state *“that the Environment SEPP will “retain specific heads of consideration that relate to the protection of wetlands not covered by the Coastal Management SEPP such as non-coastal wetlands or hydrological wetland features”*. **While this intent is welcomed, the provision of specific detail over intended controls and measures within the Environment SEPP specifically in regard to upland swamps is requested.**

The EIE is further noted to state in relation to this matter that the *“Environment SEPP will form part of the broader land use planning framework in NSW”*. In this regard, the **Policy Framework for Biodiversity Offsets for Upland Swamps and Associated Threatened Species** is noted to have been incorporated into the new biodiversity management framework under the *Biodiversity Conservation Act 2016*. Council has previously raised strong concern over the adequateness of this Policy Framework particularly in regard to the offsetting of the hydrological functions of upland swamps and has requested that it be peer reviewed by a suitably qualified independent scientific body. The deferral of controls for consideration of development and planning proposals under the Environment SEPP to this Policy Framework would therefore be opposed. **The Project Team is therefore requested to provide details of the intended controls in the completed draft Environment SEPP.**

(b) Protection of scenic landscapes (Hawkesbury Nepean REP)

The preparation of the Environment SEPP is viewed as an opportunity to establish suitable measures for the establishment and enforcement of sufficient buffers for scenic landscapes such as the Nepean- Bargo River Gorge within the Wollondilly LGA. Representatives of key local community environmental groups as well as members of its related Community Advisory Committee have supported such an approach.

The EIE is noted to state in relation to this matter that the term ‘environmentally sensitive areas’ is intended to be included in the Environment SEPP with updating and refinement. The previous section of this submission has requested the completed document contain specific definitions that can be easily accessed and determined. Section 1.5(f) of the Exempt and Complying Codes 2008 in this regard defines (in part), environmentally sensitive areas as *“land within 100 metres of land”* to which three paragraphs of the Code apply. Accordingly, any land satisfying definition as environmental sensitive areas would be subject to a merit assessment process that would be required (where applicable), to consider the controls of the Environment SEPP.

The inclusion of a definition of environmental sensitive areas which either definitively applies or specifically lists the Bargo Nepean River Gorge within the Environment SEPP is therefore recommended. This approach is considered to have benefits in

facilitating the enforcement of a 100 metre buffer adjacent to defined areas, (such as this Gorge), during the development assessment process. **The prompt viewpoint of the Project Team to this suggestion prior to the finalisation of the EIE and prior to the commencement of the Environment SEPP is requested.**

BUSHLAND COMPONENT

(i) SEPP 44- Koala Habitat Protection

The absence of intended changes to this SEPP within the EIE is recognised as being appropriate given the intention for it to be incorporated into the Environment SEPP at a later date following the completion of the NSW Koala Strategy is recognised as being appropriate. However, comments regarding the position of potential changes to this SEPP are being provided due to concerns that this incorporation will occur without further opportunity for comment. **The Project Team is requested to note in relation to this matter that Council resolved at its meeting on 20th February 2017 to “request that the completed draft revised SEPP 44 be publicly exhibited as well as an associated comprehensive consultation program”.**

Council lodged a submission on the Explanation of Intended Effects for the review of the current SEPP 44 document which can be provided to the Project Team upon request. The submission in broad terms supported the review of the current SEPP as a means of addressing issues experienced by Staff in adequately protecting koala populations and associated habitat from development related impacts. **Council strongly requests a meeting with relevant DPE and OEHL Staff to discuss the incorporation of SEPP 44 prior to the commencement of this process given the high level of community concern over the management and protection of koala habitat within the Wollondilly LGA.**

(ii) SEPP 19 – Urban Bushland

This submission does not provide any comment on amendments to this document given it does not currently apply to the Wollondilly LGA. It is however suggested that the expansion of the SEPP to incorporate at least part of this LGA subject to current and proposed development is warranted to achieve greater protection of biodiversity on the following grounds:

- The EIE states the expansion of the SEPP to *the former Wyong Local Government Area “Will also help protect urban bushland, (in this LGA), which is experiencing urban development pressures given its location in the State’s fastest growing corridor between Sydney and Newcastle”.* **This statement has a high level of synergy with pressures to bushland from development in the Wollondilly LGA.**
- A significant portion of the Wollondilly LGA contains Cumberland Plain Vegetation based on a range of sources including mapping within the listing of Shale/Sandstone Transition Forest by the Commonwealth Department of Environment. *This LGA also contains koala habitat which has connectivity with the Campbelltown LGA that is currently covered by SEPP 19.*
- The expansion is viewed as having synergy with aspects of the planning framework in the process of being implemented including the Draft Western Sydney District Plan and the draft Greener Places Policy. *Council’s submission on the District Plan expressed broad in-principle support to these Strategies but requested a range of amendments to be more strategically based in a local and broader context and be more consistent with local strategies and planning instruments.*

The viewpoint of the project team to the expansion of SEPP 19 to include parts of Wollondilly and response to the above matters prior to the finalisation of the EIE is requested.

PART D: CONCLUDING STATEMENT

This submission supports in principle the incorporation of a number of current environmentally related Regional and State Planning Policies into one document as a means of simplifying the assessment and approval processes for developments and other land use activities. However, it provides opposition to the EIE on a number of grounds that includes the absence of a range of detail to be included in the subsequent Environment SEPP. The submission consequently strongly requests that the completed draft SEPP be subject to a comprehensive public exhibition process for transparency purposes as well as to enable a review of its adequacy in achieving positive environmental outcomes in a catchment context.

The submission provides comments on intended measures within current relevant documents to the Wollondilly LGA to be repealed or updated and refined into the Environment SEPP based on feedback provided by Council's Strategic, Development Assessment and Engineer Staff, and relevant Council resolutions and previous submissions. A key recommendation is that the Project Team provides details of its intended approach to define and monitor pollution reduction targets outside the Drinking Catchment Area that is broadly consistent with the overall principles of this tool. A further key recommendation is that the Environment SEPP contain a definition of environmental sensitive areas which either definitively applies or specifically lists the Bargo Nepean River Gorge to facilitate the enforcement of a 100 metre buffer adjacent to defined areas, (such as this Gorge), during the development assessment process.

