

25 January 2018

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

Dear Sir/Madam,

**Re: Submission – Draft Environment SEPP Explanation of Intended Effect**

I am writing regarding your call for submissions on the Explanation of Intended Effect (EIE) for the proposed Environment SEPP. While this submission provides feedback on the exhibited documentation, it is difficult to provide detailed commentary on the proposed changes given only an EIE is provided for exhibition and not the draft policy.

Council recognises and supports the intent of the new SEPP to consolidate, centralise and update multiple planning policies, to remove policy duplication and to streamline the planning framework.

Sydney Harbour is widely recognised as one of the most beautiful urban harbours in the world and the gateway to Sydney. As a place of significant national and heritage values, the harbour shapes Sydney's identity and image like no other natural feature, making it an important natural asset to the people of Sydney, NSW and beyond. Mosman, being prominently located within Sydney Harbour across from The Heads, is an integral part of this landscape and highly visible from both surrounding waterways and land areas across the water. Mosman is also fortunate to enjoy a substantial amount of bushland within its boundaries, enjoyed by its residents and the wider Sydney community for public open space purposes. This bushland is a vital component of the urban landscape and ecosystem, providing habitat for native fauna and flora, and value to the community for its natural heritage and aesthetic quality. Council maintains strong bushland management practices to preserve and protect its bushland.

As a result of Mosman's setting, Council is well experienced in the application of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP) and State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP Bushland), allowing for informed commentary on this aspect of the proposed Environment SEPP. From the list of EPIs that are the subject of the EIE, it is only these two that apply to Mosman, therefore, only these two will be addressed in this submission.

**1. Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

• **Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005**

The removal and replacement of the SREP DCP with guidelines will reduce the consideration given to the provisions of the DCP and will threaten the character and environmental value of the harbour.

Under the hierarchy of plans established by NSW planning legislation, transferring the DCP provisions to guidelines will demote the planning controls and objectives established in the DCP and potentially devalue Sydney Harbour as an outstanding natural asset through unsuitable development. The proposed changes are contradictory to the EIE that recognises and promotes the value of Sydney Harbour and the need to protect the harbour from inappropriate development.

Council frequently considers the SREP DCP in the assessment of infill development applications to which it applies, and often cites relevant content from the DCP in the reasons for refusal of DAs, LEC cases, etc. The proposed transfer of the SREP DCP provisions to guidelines is strongly opposed and it is requested the Department transfers existing SREP DCP provisions to a new DCP to ensure the preservation of Sydney Harbour through sound planning controls.

- **Ministerial Directions**

Council is supportive of the more substantial wording used in the draft planning principles - i.e. "must be consistent with the following principles" as opposed to the current "are to be considered and where possible, achieved". The use of such wording ensures greater consideration is given to the planning principles. Giving them greater effect as a Ministerial Direction is a positive step, however, as Ministerial Directions relate exclusively to EPIs and do not apply to the preparation of DCPs the scope of their application would be reduced. The current planning principles in the SREP relate to the preparation of EPIs as well as DCPs. This change could result in DCPs for Sydney Harbour that are not aligned with the goals and objectives of the proposed Environment SEPP.

- **Permit subdivision on foreshore land**

Council welcomes the recognition of the importance of public foreshore access and future public foreshore access. The intention to permit RMS to subdivide foreshore land and subsequently lease and divest foreshore land is an important issue for which little discussion is included in the EIE. There are potential conflicts between the roles of the RMS as owner, consent authority and policy maker that may ultimately result in the inappropriate allocation of land for private use and the overdevelopment of the harbour foreshore. The limited nature of the EIE does not provide certainty that the final policy will ensure RMS acts in the best interest of protecting the harbour's rich natural value and character.

The proposed amendments are opposed, and further details and consultation is requested prior to enacting the change. Concerns are raised with how well the final policy will capture the need to maintain access, particularly future access as it is difficult to anticipate, and how private ownership and private uses of foreshore land will be managed to ensure development is suitable and does not detract from foreshore amenity.

- **Clause 22 Public access to, and use of, foreshores and waterways**

Details of proposed changes to clause 22 are not provided in the EIE and it is therefore difficult to provide an informed comment. An aspirational goal for public access to the harbour should be for free public access along all foreshores, similar to the way land along the coast is accessible. Such a goal would provide direction to ensure the harbour foreshore is managed for the greater good of the public.

- **Additional use in the Zone W7 Scenic Waters: Casual Use subject to strict controls**

Council raises concern with expanding the permitted uses in Zone W7 to include mooring pens. Under the SREP mooring pens are currently only allowed in zone W6 indicating that the use has

limited application and suitability along the foreshore generally. Permitting mooring pens in W7 may result in development that is inappropriate and unsympathetic to the natural form of the harbour foreshore. Mooring pens require the installation of multiple piles that protrude from the water and will result in an inappropriate increase of visual clutter on the harbour if permitted in W7 zones.

- **Foreshores and Waterways Planning and Development Advisory Committee**

The role of the Foreshores and Waterways Planning and Development Advisory Committee (FWPDAC) has been diluted over time. Currently, referral comments from the FWPDAC are received via email without any stakeholder meetings and often contain only reference to the need for Council to ensure it is satisfied that proposed development complies with the SREP. In the past, Council staff met face-to-face with State Government staff (from the former Waterways Authority and PlanningNSW) to discuss proposed development, and advice received from the FWPDAC was specific and useful to Council in undertaking its assessment. Council would support a return to engaging with the FWPDAC face-to-face and receiving more valuable proposal specific advice.

## **2. State Environmental Planning Policy No. 19 – Bushland in Urban Areas**

SEPP Bushland provides effective controls for the management of highly valued remnant bushland in urban areas. The importance of such bushland cannot be overlooked as it provides habitats and wildlife corridors, has extensive environmental benefits and is important in maintaining the character of an area.

Council welcomes the acknowledgement of the importance of urban bushland and is supportive of proposed changes by the Department that seek to clarify the scope and applicability of the provisions. Updating and aligning urban bushland provisions with the standard instrument will allow for greater amounts of bushland to be managed appropriately.

A degree of ambiguity arises from the definition of bushland and its interpretation. To further clarify the application of the provisions it is recommended the Department, in consultation with local councils, produces a land application map that identifies urban bushland areas by government area.

Sydney Harbour and urban bushland are important facets of Mosman's rich character and amenity. The importance of both the harbour and urban bushland cannot be overlooked, and changes to the policies that manage both need to be carefully considered. The EIE for the Environment SEPP is limited in the depth and explanation it provides for proposed changes. Council request that the Draft SEPP is released for consultation prior to being commenced.

Thank you for the opportunity to comment on this proposal. Please do not hesitate to contact Evan Matthews on 9978 4154 or [e.matthews@mosman.nsw.gov.au](mailto:e.matthews@mosman.nsw.gov.au) if you would like to further discuss the above issues.

Yours sincerely



Linda Kelly  
MANAGER URBAN PLANNING