



20 January 2017

Director Environment and Building Policy

Online submission at: <http://www.planning.nsw.gov.au/CoastalReform>

Dear Sir or Madam,

Re: Draft Coastal Management State Environmental Planning Policy (SEPP)

The Southern Sydney Regional Organisation of Councils (SSROC) is an association of eleven Councils in the area south of Sydney harbour. SSROC provides a forum for the exchange of ideas between our member Councils, and an interface between governments, other Councils and key bodies on issues of common interest. We facilitate collaboration between councils on joint ventures, procurement, and projects including advocacy. Together, our member Councils cover a population of over 1.6 million, or one third of the population of Sydney.

Thank you for the opportunity to comment on the draft Coastal Management SEPP. Due to the timing of this consultation it has not been possible for this submission to be reviewed and endorsed by SSROC Delegates. I will contact you should any issue arise as a result.

General Comments

SSROC supports the general intent of the SEPP. The acknowledgement and definition of different types of coast zone is helpful, and represents an improvement in planning and development outcomes for the coastal area. The requirement for the consent authority to be "satisfied" is welcome. SSROC also supports the provisions that will permit improved public access to the foreshore.

SSROC has some concern that the SEPP, being welcome for the coastal zone, does not extend into the catchments that are connected to it. Member councils are participants in the Georges River Combined Councils Committee, the Cooks River Alliance, and the Botany Bay Water Quality Improvement Program. All reflect the importance of the catchments that flow to the coastal zone of our region, and they acknowledge the importance of the catchments to the quality of the coastal zone and marine estate. SSROC is therefore concerned that, with the best application of the Coastal Management SEPP, the objects of the Coastal Management Act may not be met as a result of the downstream effects of development in the connected catchments.

SSROC is concerned that the property owners who will be affected by the Coastal Management SEPP have not been directly consulted. We therefore urge the State Government to directly involve residents in the coastal zone in the consultation process.

The process of consultation could be greatly facilitated by the addition of a glossary for those who may not be familiar with some of the language used in the draft SEPP (e.g. SEPP, surf zone, marine estate, biophysical, hydrological and littoral).

Changes to the Draft SEPP

SSROC recommends:

- enhancing the draft SEPP by re-stating the requirement for development in the coastal zone to consistent with the principles of ecologically sustainable development that is set out in the objects of the Act;
- making provision in Part 2 development controls for the cumulative effectives of developments;
- provisions requiring water-sensitive urban design to be applied in the coastal zone;
- clause 12, particularly (b), be altered to allow for improvements to "... surface and groundwater flows to the adjacent coastal wetland or littoral rainforest ...". The current wording requires that "the proposed development will not significantly impact ...": SSROC would prefer to encourage water sensitive urban design that might have a significant, but positive, impact.
- clause 13 does not currently cover impacts on the local ecology. This is very important, and SSROC strongly urges that an additional control be included in this clause. SSROC's recent mapping for Connected Corridors for Biodiversity, hosted by Greater Sydney LLS (see: <https://trade.maps.arcgis.com/apps/webappviewer/index.html?id=3afa804b96ac4d69a74e9b1ed9780328>), shows the areas that are currently habitat and/or that have the potential to connect habitats. It is essential for the local ecology that development is controlled in this context: the commitment of council and residents to maintaining and improving biodiversity would be undermined by the lack of control to protect the ecology.

Changes to the Standard Instrument LEP

SSROC has some concerns with the draft change to the Standard Instrument LEP clause 3.3 (2). The Standard Instrument LEP needs to be altered to ensure that it is consistent with, and does not undermine the aims of, the Coastal Management Act. There is currently potential for exempt and complying development to be done without consent on lots where the local council has identified a risk (such as inundation). The State Environmental Planning Policy (Exempt and Complying Development Code) 2008 could be amended to exclude development on land in the coastal zone, or the draft change to the Standard Instrument LEP clause 3.3 (2) could be altered to include Coastal Vulnerability Areas and Local Government Hazard Areas, so that coastal risks are considered in these circumstances. The clause could also specifically identify the different areas.

Clause 5.5 of the Standard Instrument LEP

The objectives included in clause 5.5 of the Standard Instrument LEP are valuable, and SSROC would prefer to see them included in the Coastal Management SEPP rather than omitted.

The clause also contains more detail on appropriate treatment and controls for stormwater management than are contained in the draft SEPP: these controls are beneficial, as SSROC strongly recommends that more detailed clauses be similarly included in the SEPP.

Interaction with Other Legislation

Many legislative and regulatory provision a relevant to development including within the coastal zone. SSROC recommends that extensive review of the context within which the SEPP will operate is required, to ensure that there is consistency between it and other mechanisms, including but not limited to: the Standard Instrument SEPP, Sydney Regional Environmental Plan (Sydney Harbour Catchment), State Significant development and Exempt and Complying development.

For example, there appears to be an overlap with the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP). This has the potential to create difficulties if there are inconsistencies between the Coastal Management SEPP the SREP, and so SSROC would urge the government to eliminate any duplication or at least inconsistency between them, or at a minimum provide guidance on the application of the two policies in the harbour and on which prevails in the event of a conflict.

The Three Ports SEPP 2013 is excluded from the draft SEPP. SSROC would prefer that the SEPP should apply, as the ports are as susceptible to inundation and storm damage as other coastal areas.

SSROC recommends that careful review of the controls at Part 2 of the Draft SEPP be undertaken, with the specific aim of ensuring that they are consistent with and comprehensively cover the objects of the Coastal Management Bill 2016 (Part 1, 3).

There will also be potential interactions with other legislation. The Biodiversity Conservation Act (2016) aims to establish market-based conservation mechanisms to offset the effects of land use change, but the draft SEPP prohibits development that is likely to have adverse impact on native vegetation, fauna and habitat, without regard to any market-based conservation offset.

SSROC recommends that further consideration be given to these types of potential conflicts, and resolving them.

Role of the Coastal Management Manual

While SSROC welcomes the requirement for the consent authority to be “satisfied”, it would be very helpful for the Department to provide clear guidance on what measures, information and/or standards would be sufficient to signal this. This would help councils to ensure that the appropriate level of investigation is conducted, to bring in the right expertise, and to achieve consistency with other jurisdictions.

Some issues that have been identified by our member councils may be resolved by the Coastal Management Manual which SSROC understands will be provided to support the implementation of the Coastal Management SEPP. In particular, the manual will need to address the assessment of “adverse” or “significant” impacts, when those terms are open to interpretation.

Without this information it is not possible to appreciate the level of expertise required to judge “adverse” or “significant” impacts. However, while these elements of the assessment are welcome and essential, they may prove difficult to implement to the extent that would be appropriate: there is a risk that the expertise required to assess developments may not exist within all councils. For example, it may be beyond the capacity of a council to determine whether a development is likely to cause:

- “adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment”,
- significant impact on “geological and geomorphological coastal processes and features”,
- adverse impact on “the water quality of marine estate ... having regard to the cumulative impacts of the proposed development ... including sensitive coastal lakes”
- adverse impacts on “Aboriginal cultural heritage and places”,

Councils will need to be funded for the cost of bringing in the relevant levels of expertise for development in the coast zone.

Conclusion

For any enquiries regarding this submission, please contact Helen Sloan, Program Manager SSROC on 02 8396 3800

Yours sincerely,



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General Manager

Southern Sydney Regional Organisation of Councils