31 January 2018

Tim Archer
Director, Planning Frameworks
Department of Planning and Environment
PO Box 39
SYDNEY NSW 2001

Dear Tim,

**PIA Submission: Environment SEPP**

The Planning Institute of Australia (PIA) appreciates the opportunity to comment on the Explanation of Intended Effects (EIE) for the consolidated Environment State Environmental Planning Policy (SEPP).

While PIA supports the rationalisation of State planning instruments in general, in this case the Environment SEPP includes an incoherent grouping of mostly catchment planning policies and spatial strategies. The grouping neither represents holistic reform under shared environmental enhancement objectives – nor do some elements (ie Sydney Harbour and foreshore) retain their intended effect under the existing Regional Environmental Plan (which is currently a deemed SEPP).

PIA and the community regard Sydney Harbour and its foreshores as an iconic element of the identity of Sydney - as well as a significant landscape and economic and environmental resource. PIA stress that the harbour, its foreshore and catchment are places – they must have separate strategic planning attention– and not be grouped with generic policy issues under an ‘Environment SEPP’.

PIA recommends the following immediate actions:

- Remove all Sydney Harbour REP components from the proposed SEPP and keep the REP as a spatial strategy for Sydney Harbour and its catchment.
- Delete the proposed reform / interpretation relating to additional uses in several Sydney Harbour REP Waterway Zones as it is not clear that these reflect the broader public interest and views of wider community stakeholders, nor reflect the aims of the REP and proposed SEPP - specifically: do not allow mooring pens in W7 Scenic Waters.
- Do not enable subdivision of public foreshore land for ‘administrative reasons’ which would enable subsequent divestment of public assets.
- Do not convert the Sydney Harbour Foreshores and Waterways Area DCP to guidelines as this would dilute the potential for the aims of the former REP to be given effect in planning decisions.
• Do not allow the substitution of a State DCP (based on the former REP aims) with individual Council DCPs – this would reduce the strength of instruments in maintaining and enhancing the character and design of the built environment around the foreshore. This is critical in relation to supporting cases in the Land and Environment Court.

PIA recommends the following ongoing actions:

• Re-energise a planning strategy for Sydney Harbour / Parramatta River Strategy based on the REP. It should have status alongside District Plans and be researched, consulted and reviewed as a distinct spatial strategy for an iconic waterway.
• Consult more widely on public interest goals for the Harbour and its catchment rather than roll this up in SEPP reform.
• A spatial strategy for the Harbour and key catchments should have dedicated governance arrangements – potentially via the Greater Sydney Commission.
• Retain and reinvigorate the independent role of the Foreshores and Waterways Planning and Development Committee – to ensure scrutiny of Harbour decisions in the absence of an accountable Council.
• Ensure that shared objectives for the former catchment REPs do not erode opportunities to address issues specific to a particular catchment.
• Make a draft of the legal instrument (full Environment SEPP) available for review and comment in addition to the EIE.

It is not an Environment SEPP

The proposed Environment SEPP is not a holistic environmental policy with coherent objectives. It is not the product of wide consultation regarding environmental planning policy reform in the public interest.

The proposed SEPP should not be labelled an Environment SEPP. It is essentially a grouping of waterway and catchment related strategies and policies.

The Urban Bushland SEPP can be addressed in a s117 Direction. This leaves the various harbour and catchment material – this is a small subset of what community and planners would regard as appropriate content for an environmental policy.

The document title will create confusion as the public looks for policy on a wide range of other environmental issues (eg biodiversity, climate change, coastal management etc). The logic of exclusion of coastal management and vegetation issues in other SEPPs will not be clear to most users of the planning system.

Significance of Sydney Harbour, Parramatta River and its catchment

Sydney Harbour is not zoned under any SILEP and is not governed by any council planning scheme. The Sydney Harbour REP was developed to uphold the iconic landscape, port, recreation and environmental values of the harbour and its foreshores in the widest public interest.

The Sydney Harbour REP is distinct as spatial strategy for this catchment and waterway and should remain thus – or be reviewed alongside other regional spatial planning processes (eg District Plans).
Removal and integration of catchment REPs (Drinking Water / Georges River / Hawkesbury River)

Integration of the catchment REPs into the Environment SEPP assumes that spatial planning considerations across the different catchments can be treated generically under the updated common objectives. This assumption should be tested rigorously by prior to finalisation of the SEPP. Although these REPs do not include that same degree of spatially specific planning as Sydney Harbour REP (ie waterway zones), the integrated instrument should be drafted to allow a response to the distinct needs of each catchment.

The maintenance of the ‘neutral or beneficial effect’ test included in the Drinking Water REP remains important and it is understood that it will be preserved in the integrated Environment SEPP. PIA would appreciate the opportunity to review the instrument’s proposed drafting to confirm this is the case.

Urban Bushland

The Urban Bushland SEPP can be addressed in a s117 Direction as proposed. As the concept of ‘public open space’ is no longer able to be defined under the SILEP, a new definition of ‘public bushland’ is consistent with the original intent to protect urban bushland on publicly owned land.

The extension to include the former Wyong LGA and the avoidance of duplication of management plan requirements (refer LG Act) is appropriate.

Full version of instrument needed for review

PIA is concerned that stakeholder input is being sought without a full version of the draft planning instrument available for comment. The publication of an explanation of intended effects (EIE) should accompany not replace the need for exposure of the legal drafts.

PIA remains concerned over the potential for the integrated Environment SEPP to diminish the effect of the former Sydney Harbour REP in protecting the landscape and environmental values of the harbour waterways and foreshores.

PIA would be pleased to meet with the Department to outline any aspect of our submission. Please contact myself or John Brockhoff on 0400 953 025 if you require further input from PIA.

Yours sincerely,

Jenny Rudolph
NSW President, Planning Institute of Australia

cc. Alison Frame