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Submission – draft LEP template
Department of Planning
GPO Box 39
Sydney 2000

CMO21-05

31 October 2005

Re: Standard Local Environment Plan

The Sydney Coastal Councils Group (SCCG) would like to take this opportunity to comment on the Standard Local Environment Plan (LEP). In making this submission SCCG is seeking to:

- Clarify the level of ongoing assistance Councils will receive in the application of the Standard LEP and any future amendments;
- Establish that provisions such as Clause 34 Development within the coastal zone and all clauses and definitions that make reference to native vegetation will be applied to the Sydney Greater Metropolitan Region (GMR); and
- Provide feedback on the zones, zone objectives and clauses that ensures the Standard LEP contains adequate detail to deliver the environmental outcomes that Councils desire at a local level.

This submission will address the following aspects of the Standard LEP.

1. General Comments
2. Format
3. Zones
4. Land Use Controls
5. Mapping
6. Provisions
7. Definitions

1. Introduction

General Comments

SCCG supports the application of a Standard LEP that reduces the amount of time and Council resources required to prepare new LEPs to ensure Councils retain control of locally significant economic, social and environmental decisions. There is also merit in standardising format and the drafting of provisions and definitions. However SCCG is concerned that a deadline for the completion of all new LEPs of five years may be too onerous on many councils and further assistance from the Department may be required.

1.1 Ongoing Council Support

SCCG considers application of the Standard LEP should maintain Local Government control of planning and development issues that are of local significance. As the integration of regional and local strategies into LEPs is the mechanism for achieving this, SCCG is seeking clarification from the Department that assistance will be provided to individual Councils in producing local environmental studies and strategies that support and provide local detail to regional strategies. Support from the Department will ensure that Local Government maintains a role in determining

that local development maintains the local amenity and character and is consistent with all relevant regional strategies and State policies.

1.2 Future Amendments to the Standard LEP

A Standard LEP has not been applied across NSW before. The initial period of its application and use may identify potential issues that have not been foreseen. It is recommended that in the short term the Standard LEP may have to be dynamic and in the long term will definitely require further amendment to deal with emerging issues such as climate change. SCCG requests that the Department provide certainty about the processes for this and that any amendments be undertaken with open consultation with Local Government.

1.3 Application of specific provisions of the Standard LEP to the Sydney GMR

In applying a Standard LEP across the state the complexities of the planning system in the Sydney GMR need to be considered. Planning in the Sydney GMR is complex due to the large number of agencies and decision making bodies, complex ownership patterns and historic planning decisions. As a result State acts and policies relating to coastal protection and native vegetation have not been applied to the Sydney GMR. SCCG is seeking clarification for the Department that provisions within the Standard LEP such as provision 34 Development within the coastal zone and all those provisions that make reference to native vegetation will be applied to the Sydney GMR.

Recommendations

- 1) The Department clarify what type of ongoing assistance available to councils for the development of local strategies.
- 2) The Department clarify the level of ongoing assistance available to councils for updating and revision of LEPs.
- 3) The Department provide certainty that future amendments to the Standard LEP will not be made without full and proper consultation with Local Government.
- 4) Provisions within the Standard LEP such as 34 Development within the coastal zone and all those provisions that make reference to native vegetation will be applied to the Sydney GMR.

2. Format

SCCG supports the proposed format of four parts, schedules and a dictionary is logical. Consistent use of this format across the state will make using and understanding individual LEPs easier for all stakeholders.

3. Zones

Establishing 25 standard zones across the state with some additional zone objectives and provisions will provide Councils with a framework that enables delivery of the development, social and environmental outcomes they desire. The 25 zones outlined in the draft Standard LEP are more practical and provide greater flexibility than the original 8 recommended in the first draft of the LEP template.

SCCG has the following comments on zones and objectives.

- **Residential Zones**

SCCG is pleased that preserving environmentally sensitive locations and the scenic quality of an area is an objective of the Rural Residential zone and recommends this objective be included in all Residential zonings. Environmentally sensitive locations including waterways, riparian zones and habitat corridors occur within all residential densities and should be considered when undertaking residential development in both infill and greenfield areas. Including this objective for all Residential zones will enable Councils the ability to ensure all residential development is consistent with local character, amenity and values.

- **Rural Zone**

Investigation

The objectives of this zone are to protect land that has the potential for conservation and biodiversity or to protect, and prevent the fragmentation and inappropriate development of, land that may have potential for future development. Both of these objectives can be achieved through local and regional strategic planning.

The introduction of an undefined process of investigation will encourage speculation on possible future uses and values of land. As the objectives of this zoning can be achieved through other more strategic processes and its introduction will create more uncertainty over the possible future uses of lands zoned for rural uses this zoning should be removed from the Standard LEP.

- **Recreation Zones**

For many Councils balancing the competing needs of recreation, tourism and conservation is a process that results in community opposition and frustration. For example, the clearing of native bushland from open space areas to allow for sports fields and golf courses is a contentious issue for many metropolitan coastal Councils.

SCCG supports the inclusion of the objective to enhance, restore and protect the natural environment for recreational purposes. If this objective were reworded to:

Restore and protect the natural environment for appropriate recreational purposes that do not negatively impact on the natural environment.

Councils would be in a stronger position to provide the necessary open space recreational facilities without unnecessary environmental impacts.

- **Environment Protection Zones**

Natural Areas

The objective of this zone is to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife (NPW) Act 1974*. As any development occurring in these areas will require the consent or concurrence of the Department of Environment Conservation this zoning should contain an additional objective that states:

To ensure all activities or developments occurring within this zone occur with the consent or concurrence of the Department of Environment Conservation.

Waterways/ Watercourses

The application Waterways/ Watercourses zone does not cover coastal lakes or lagoons. The addition of waterbodies into the title of this zone would correct this issue.

Conservation Zoning

SCCG strongly support the application of a conservation zoning. This zoning will be applied to protect a wide range of sites including bushland, riparian zones, escarpment lands and sites containing threatened species. All of these sites have differing characteristics and management needs. To allow councils the flexibility to manage the range of needs in this zone objective (a) could be amended to:

to conserve areas of environmental significance including [Insert Areas – i.e. wetlands, riparian zones etc.]

To strengthen all the objectives for this zone the Group recommends the insertion of an objective (d)

To ensure that all actions and developments undertaken within this zone are consistent with the appropriate regional and local strategies and management plans

These changes would provide Councils and stakeholders using the LEP certainty about the desired actions and outcomes required under this zoning.

Recommendations

Residential Zones

- 1) An objective that requires consideration of environmentally sensitive locations and the scenic quality of an area be included in all residential zones.

Rural Zones

- 1) The Investigation zone be removed from the Standard LEP.

Recreational Zones

- 1) The last objective in each of the Recreational Zones be re-worded to: *enhance, restore and protect the natural environment for appropriate recreational purposes that do not negatively impact on the natural environment.*

Environment Protection Zones

Natural Areas

- 1) An additional objective worded to: *ensure all activities or developments occurring within this zone occur with the consent or concurrence of the Department of Environment Conservation be added to the Natural Areas zoning.*

Waterway/ Watercourses

- 1) Waterbodies be added to the title of this zoning.

Conservation

- 1) Zone objective (a) be amended to:
to conserve areas of environmental significance including [Insert Areas – i.e. wetlands, riparian zones etc.]
- 2) Objective (d), below, be added
To ensure that all actions and developments undertaken within this zone are consistent with the appropriate regional and local strategies and management plans

4. Land Use Controls

SCCG support the application of a Land Use Matrix over a Table listing all prohibited developments and developments that do or do not require consent. Use of the matrix provides a clear comparison of prohibited and permissible uses between zones and Councils.

Prohibited land uses listed in the matrix for Local Open Space – Public and Regional Open Space should also be listed as prohibited under the Conservation zoning. The primary objective of the conservation zoning is to conserve areas of environmental significance and therefore in highest need of protection. It would be assumed that this zoning would prohibit as many uses as the Local Open Space – Public and Regional Open Space zonings. Childcare centres should also be listed as prohibited uses in the Land Use Matrix for the Conservation Zone.

Recommendations

- 1) The Prohibited land uses listed in the matrix for Local Open Space – Public and Regional Open Space be listed as prohibited under the Conservation zoning; and
- 2) Childcare centres and rural workers dwellings are listed as prohibited uses in the Land Use Matrix for the Conservation Zone.

5. Mapping

The Department will require that all maps supporting new and subsequent LEPs be submitted to the Department in digital format. SCCG recognises that the Department will also be issuing guidelines to Councils relating to the format and technical standards for all maps.

In recent years SCCG has undertaken extensive surveying of Member Councils in regards to their mapping needs and capacity. The Group is happy to assist the Department on the preparation of

mapping guidelines either through participation in a working group or informal communications with the Department.

SCCG recommends the Department consider issues including, but not limited to, those outlined below when developing the guidelines:

Standardised Meta data and methodologies for data collection

The collection of standardised Meta data and methodologies for data collection essential to ensure all digital maps are consistent in information provided and accuracy of information.

Scale

The majority of the vegetation mapping for the Sydney Basin done by State Government agencies has been undertaken at a scale of 1:16,000. For such maps to be useful to Councils they need to be at a finer scale of 1:4,000.

Accuracy and ongoing maintenance of data

Due to the dynamic nature of all natural processes maps containing environmental layers will need to be regularly assessed for accuracy and regularly updated if necessary.

Capacity of individual councils

The capacity of individual councils to prepare maps in digital format is highly variable. Some Councils will require assistance in the form of training or the provision of staff. Particularly for new information such as hazards and new risk management approaches. The application of additional layers including hazard layers for risks such as storm surges, landslips, fault zones and coastal erosion combined with ownership boundaries (Commonwealth, State, Local Government and Private) will make the areas affected and the responsibilities of all stakeholders clearer.

Recommendations

- 1) The Department consult with Local Government in the preparation of the guidelines for digital format maps. SCCG is happy to assist with this; and
- 2) When developing the guidelines for digital format maps the Department consider the following issues scale, accuracy and ongoing maintenance of data the capacity of individual councils

6. Provisions

As stated earlier in the submission SCCG would like the Department to clarify if Clause 34 Development within the coastal zone and all those provisions that make reference to native vegetation will be applied to the Sydney Greater Metropolitan Region (GMR). If these provisions are not applicable to the Sydney GMR the Group recommends that provisions to this effect be included for the Sydney GMR.

The group provides the following comments on the clauses present in the Standard LEP.

Clauses 14 and 15 Exempt and Complying development

SCCG support the intention of the Standard LEP to prevent exempt or complying development occurring on environmentally sensitive areas and sensitive coastal locations.

Clause 34 Development within the coastal zoning

The group support this provision but would like to see the following amendments made.

Sub clause 2 (c) make reference to local character and be amended to:

The impact of the proposed development on the character and amenity of the coastal foreshore.

Sub clause 2 (f) be amended to include storm surges and catastrophic flooding and amended to:

The effects of coastal processes and coastal hazards and potential impacts including sea level rise, storm surges and catastrophic flooding.

Sub clause 3 (c) provide information as to what level of treatment is required. This can be achieved by making reference to the NSW *Water Act 1912*.

An additional Sub clause 3 (d) be added that requires all decisions made under Clause 34 to be consistent with the recommendations of an adopted Coastline Management Manual of Estuary Management Manual. This provision may read:

All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.

Clause 35 Foreshore Building Line

This clause needs to be amended to maintain its relevance in coastal locations. This can be achieved through amending Sub clause 3 to:

The erection of a building is prohibited on land situated between a foreshore building line or a coastal foreshore building line and the level reached by the mean high water mark.

An additional provision within this Clause needs to be inserted in Sub clause 3 (g) to ensure that all proposed development decisions related to coastal foreshore building lines are consistent with the recommendations of an adopted Coastline Management Manual of Estuary Management Manual. This provision could be:

All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.

Clause 36 Development for the purposes of sandmining

Development for the purposes of sandmining often results in severe and irreversible environmental impacts. Therefore SCCG strongly supports this provision.

Clause 39 Development for the purpose of a caravan park

All developments for the purposes of caravan parks in coastal locations must be consistent with the recommendations of an adopted Coastline Management Manual of Estuary Management Manual. Therefore an additional provision should be inserted as Sub clause 3 (f) to:

All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.

Clause 40 Developments for the purpose of manufactured home estate

All manufactured home estates in coastal catchments must be consistent with the recommendations of an adopted Coastline Management Manual of Estuary Management Manual. Therefore an additional provision should be inserted as Sub clause 3 (e) to:

All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.

Clause 43 Development near zone boundaries

To prevent inappropriate development in Local Open Space, Regional Open Space, Natural Areas, Waterways / Watercourses and Conservation zonings all of these should be compulsory inclusions in the zone names to be inserted in Sub clause 3 (a).

Clause 44 Excavation and filling of land

Sub clause 3 should include potential impacts on groundwater as a matter that the consent authority must consider. This could be drafted:

The likely disruption of, or any detrimental effect on, existing groundwater quality or dynamics in the locality.

Please note that SCCG will be launching a "Groundwater Management Handbook" to address this issue before the end of 2006.

Provision 46 Preservation of trees

The preservation of local amenity of areas through the preservation of trees should be achieved in all Zones. Therefore the group recommends this clause should apply to Recreational and Industrial zones and make reference to the protection of locally significant trees through a significant tree register.

Clause 52 Waterbodies and riparian land

SCCG support the objective to maintain and where possible, enhance the ecological and water quality functions of riparian vegetation. The Group recommends service stations be added to the list of developments that can not be carried on land to which this clause applies.

Provision 53 Development of flood prone land

To ensure that application of this clause in coastal environments is consistent with the recommendations of an adopted Coastline Management Manual of Estuary Management Manual an additional provision should be inserted as Sub clause 4 (h) to read:

All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.

Provision 55 Bushfire hazard reduction

The clause provided in the Standard is inconsistent with the intentions and objectives with the Rural Fires Act and Implies that all hazard reduction activities can be undertaken without consent. As this clause contradicts the Rural Fires Act it should be amended to:

All bushfire hazard reduction must be undertaken in accordance with the Rural Fire Act 1997.

Additional matters the Group would like to see addressed in the provisions are

Groundwater

The Standard LEP makes limited reference to groundwater. The maintenance of groundwater quality and quantity is essential to environmental and human health. Therefore the Standard LEP should have a provision that is compulsory for all councils to consider groundwater for;

- the maintenance of ecological values when considering development applications that have the potential to be impacted by or impact groundwater; and
- Monitor and maintain contamination risks

Water recycling

Councils are receiving increasing numbers of applications for the installation of water recycling systems on residential properties. The development of standard provisions in the Standard LEP would assist Councils in addressing this issue.

Climate Change

Climate Change is an emerging issue of international significance. The only reference to Climate Change in the Standard LEP occurs in provision 34 "recognise and accommodate coastal processes and climate change". The potential impacts of climate change are a significant issue for all councils not just those in the coastal zone. This issue must be addressed in greater detail within the Standard LEP or in future amendments.

SCCG is working very closely with our Member Councils, the Australian and NSW Greenhouse Offices as well as academic institutions such as Macquarie University to assist Local Government deal with the potential impacts of Climate Change. The Group would like to assist the Department in the development of such a provision.

Water sensitive Urban Design (WSUD)

Application of WSUD principles to new and existing developments is a core component of reducing the built and environmental impacts on stormwater quality and river health. SCCG recommends that Standard Provisions for the application of WSUD be developed for the Standard LEP and made compulsory for all Councils. See www.wsud.org for details.

Recommendations

General

- 1) The department to clarify whether provision 34 Development within the coastal zone and all those provisions that make reference to native vegetation will be applied to the Sydney Greater Metropolitan Region (GMR);
- 2) The Department provide alternative provisions if these provisions are not applicable to the Sydney GMR;

Clause 34 Development within the coastal zoning

- 3) Sub clause 2 (c) be amended to: *The impact of the proposed development on the character and amenity of the coastal foreshore.*
- 4) Sub clause 2 (f) be amended to: *The effects of coastal processes and coastal hazards and potential impacts including sea level rise, storm surges and catastrophic flooding.*
- 5) Sub clause 3 (c) provide information as to what level of treatment is required by making reference to the NSW *Water Act 1912*.
- 6) Sub Clause 3 (d) be amended to: *All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.*

Clause 35 Foreshore Building Line

- 7) Sub Clause 3 be amended to: *The erection of a building is prohibited on land situated between a foreshore building line or a coastal foreshore building line and the level reached by the mean high water mark.*
- 8) An additional provision within this Clause to be inserted as Sub Clause 3 (g): *All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.*

Clause 39 Development for the purpose of a caravan park

- 9) An additional provision be inserted as Sub Clause 3 (f) to read: *All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.*

Clause 40 Developments for the purpose of manufactured home estate

- 10) An additional provision be inserted as Sub Clause 3 (e) to read: *All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.*

Clause 43 Development near zone boundaries

- 11) Local Open Space, Regional Open Space, Natural Areas, Waterways / Watercourses and Conservation all be compulsory inclusions in the zone names to be inserted in Sub Clause 3 (a).

Clause 44 Excavation and filling of land

12) Sub Clause 3 include potential impacts on groundwater as a matter that the consent authority must consider.

Provision 46 Preservation of trees

13) this clause should apply to Recreational and Industrial zones.

Clause 52 Waterbodies and riparian land

14) Service stations are added to the list of developments that can not be carried on land to which this clause applies.

Provision 53 Development of flood prone land

15) An additional provision should be inserted as Sub Clause 4 (h) to: *All proposed developments are consistent with an adopted Coastline Management Manual of Estuary Management Manual gazetted in accordance with Part 4A of the Coastal Protection Act 1979.*

Provision 55 Bushfire hazard reduction

16) This clause be amended to: *All bushfire hazard reduction must be undertaken in accordance with the Rural Fire Act 1997.*

Additional issues to be considered

17) Clauses for the Standard LEP be developed for groundwater, water recycling, climate change and WSUD

7. Definitions**Coastal zone**

The definition used in the Standard LEP applies to areas identified on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the state identified through the Coastal Protection Act 1979. The maps covering the coastal zone in the Sydney GMR have been with the minister for planning for almost two years. SCCG requests the Department clarify if, for the purposes of the Standard LEP, the coastal zone in the Sydney GMR is covered by this definition or if not how the coastal zone in the Sydney GMR is to be defined.

Sensitive coastal location

The phrase "affected by coastal processes" should be inserted into this definition. Therefore the definition should be changed to:

Means land in the coastal zone or affected by coastal process that is any of the following:

Part (g) of this definition should also contain rocky platforms, intertidal zones and rocky cliff lines.

Additional definitions SCCG would like to see included in the dictionary are **climate change**, **critical habitat**, **groundwater** and **threatened species**. The addition of these definitions would assist councils in addressing environmental issues related to these definitions.

Recommendations

- 1) The Department clarify if, for the purposes of the Standard LEP, the coastal zone in the Sydney GMR is covered by this definition or if not how the coastal zone in the Sydney GMR is to be defined;
- 2) The phrase affected by coastal processes be inserted into the Sensitive coastal location definition;
- 3) Part (g) of the Sensitive coastal location definition contain rocky platforms and intertidal zones; and
- 4) Definitions for Climate Change, Critical Habitat, Groundwater and Threatened Species are added to the dictionary.

CONCLUSION

I trust that the information provided in this submission will receive appropriate attention when finalising the Standard LEP. If you wish to clarify any matter in the submission or require further information, please contact Craig Morrison (Coastal Projects Officer) on 9246 7702 or craig@sydneycoastalcouncils.com.au

Yours sincerely,

Geoff Withycombe
Executive Officer

Sydney Coastal Councils Group Inc. The SCCG consists of 15 member councils with sea and harbour frontages in Sydney, including, Botany, Hornsby, Leichhardt, Manly, Mosman, North Sydney, Pittwater, Randwick, Rockdale, Sutherland, Sydney, Warringah, Waverley, Willoughby and Woollahra. Collectively we represent over 1.3 million Sydneysiders. The Group is concerned with the promotion of cooperation and coordination to achieve the sustainable management of the urban coastal environment.