



SYDNEY COASTAL COUNCILS GROUP INC.
councils caring for the coastal environment

SUBMISSION

State Environmental Planning Policy Review 2015

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Introduction

The Sydney Coastal Councils Group (SCCG) (www.sydneycoastalcouncils.com.au) is a voluntary Regional Organisation of Councils (ROC) representing fifteen Sydney coastal councils, with over 1.4 million coastal residents in NSW. The SCCG is the peak NSW ROC for sustainable coastal management, and provides unique insights and advice based on 25 years' experience in leading sustainable coastal management, and by drawing upon the technical, experiential and local knowledge of member councils.

Scope and Structure of this Submission

The opportunity to comment on this Review is welcomed. This submission focuses on the specific area of knowledge and expertise of the SCCG, namely Sydney's urban coastal and estuarine environment. Of the sixteen SEPPs identified for integration or repeal, the following two SEPPs have been identified for comment within this submission:

- State Environmental Planning Policy No 39 – Spit Island Bird Habitat
- State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)

General comments are provided in relation to the Review overall and then specific comments are provided relating to the two SEPPs within the scope of interest of the SCCG.

General Comments

The need to streamline the planning system and retire redundant or duplicated planning instruments is recognised. However in doing so, it is critically important that protections for environmental values are maintained or strengthened and that the planning system continues to facilitate transparent and participatory decision-making.

This Review presents an opportunity to reassess existing planning instruments ensuring that they facilitate adaptive, integrated and participatory decision-making. Specifically, it is recommended that any changes arising from this Review are consistent with, and support the following objectives:

- a) Ensure that planning decisions adhere to the precautionary principle and appropriately balance environmental, social and economic outcomes, recognising the irreversibility of some environmental impacts.
- b) Establish the necessary mechanisms to allow for integration of planning processes across the following dimensions:
 - 1) between levels of government (Local, State and Federal)
 - 2) across spatial and temporal scales
 - 3) between disciplines (e.g. science, engineering, law, economics)
 - 4) between sectors (e.g. tourism, fisheries, mining)
 - 5) between government, non-government, scientific research, community and industry groups.

- c) Facilitate public participation in planning decisions, ensuring that individuals are provided with the information they need to engage in a meaningful way and that local and tacit knowledge, including traditional Aboriginal culture and knowledge, contributes to the decision-making process.
- d) Integrate land use planning with conservation and hazard management, providing consistency, authority and long term stability in decision-making.
- e) Ensure decision-making is underpinned by the best available science and information, including community-based local and tacit knowledge.
- f) Promote a culture of integrity, transparency, trust and accountability in public decision-making.

These objectives are consistent with the Guiding Principles articulated in the SCCG Strategic Plan 2015-2019.

Specific Comments

1 State Environmental Planning Policy No 39 – Spit Island Bird Habitat

SEPP 39 – Spit Island Bird Habitat permits development for the purposes of creating and protecting a habitat for the Little Tern and for migratory wading birds without the necessity for obtaining development consent on Spit Island at Towra Point and its immediate surrounds.

The rationale for repealing SEPP 39, in light of the proposed rezoning of the area to 'E1 National Parks and Nature Reserves' under the Sutherland and Rockdale Council Local Environment Plans (LEPs), is understood. However, it is recommended that the Department delay repealing the SEPP until this rezoning has been confirmed. It is noted that in referring their revised LEP, Sutherland Council requested that the Department of Planning resolve the contradictory requests of various state government agencies for the surrounding area, namely:

- The Office of Environment and Heritage (OEH) did not support rezoning the area to E1 as this zone can only be applied to the OEH Estate.¹
- The Department of Primary Industries recommended a zoning of either E2 Environmental Conservation or W1 Natural Waterways as they have complementary objectives to those of the Aquatic Reserve and W1 would ensure aquaculture was permissible in parts of the Bay.²

It is questionable whether the proposed E1 rezoning will go ahead as planned given the contradictory positions of the state government agencies listed above. As such, it is reiterated that the SEPP should not be repealed until the area is rezoned appropriately to ensure ongoing protection of Little Tern and migratory bird habitats.

¹ Sutherland Council 2014, *Public Authority Submissions*, accessed online 17 June 2015, <<http://www.sutherlandshire.nsw.gov.au/files/assets/website/documents/development/lep2013/responses-to-submissions-to-lep3/public-authority-submissions.pdf>>

² Sutherland Council 2014, *Public Authority Submissions*, accessed online 17 June 2015, <<http://www.sutherlandshire.nsw.gov.au/files/assets/website/documents/development/lep2013/responses-to-submissions-to-lep3/public-authority-submissions.pdf>>

Recommendation:

- 1.1 SEPP 39 should not be repealed until the area is appropriately rezoned in the Sutherland and Rockdale Local Environment Plans.

2 State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)

SEPP 32 – Urban Consolidation enables urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development. One of the Policy objectives is:

Reduction in the rate at which land is released for development on the fringe of existing urban areas (Section 2(1)(b)(iii))

This is an important objective that should be retained in planning decisions around urban consolidation. There are conflicting pressures on the NSW Government that may undermine this objective. Projections indicate that Sydney will need around 664,000 additional homes over the next 20 years.³ Accordingly, the NSW Government has a target to achieve an additional 664,000 new dwellings by 2031.⁴ In its 2014 publication, *A Plan for Growing Sydney*, the Government notes the need for new housing in greenfield locations. In recent years greenfield housing has made up almost a quarter of Sydney's housing growth.⁵ Recent reforms such as the Housing Diversity Package for greenfield areas are designed to speed-up development processes.⁶ The Package will initially apply to Growth Centres but over time will become applicable to all greenfield developments.⁷

In this context, there is a concern that the policy objective of reducing the rate at which land is released for development on the fringe of existing urban areas will be undermined in favour of accelerated housing supply. The rationale for repealing SEPP 32 is that it has been superseded by other strategies and plans and is duplicated in Ministerial Directions relating to Housing, Infrastructure and Urban Development. Whilst the need to reduce duplication and streamline planning instruments is recognised, the policy objective of reducing the rate at which land is released for development on the fringe of existing urban areas is not explicit in other planning instruments. As such, it is recommended that this policy objective be reinstated in relevant plans and strategies, including Ministerial Directions, relating to urban consolidation.

A necessary consequence of containing urban sprawl will be consolidation in existing urban areas through in-fill and higher density development. It is important that Local Government is appropriately engaged in planning for urban consolidation of this nature and that such consolidation is supported by relevant infrastructure and sensitive to local characteristics, cultural heritage, environmental services and ecological values, and other land limitations. It is also important that the general

³ Deloitte Access Economics 2012, *The NSW Economy in 2031-21*, Infrastructure NSW, Sydney.

⁴ NSW Government 2014, *A Plan for Growing Sydney*, p. 65.

⁵ NSW Government 2014, *A Plan for Growing Sydney*, p. 78.

⁶ NSW Government 2014, *A Plan for Growing Sydney*, p. 64.

⁷ NSW Government 2014, *A Plan for Growing Sydney*, p. 64.

public are appropriately consulted and engaged in planning decisions around urban consolidation in their local communities.

Another critical provision in SEPP 32 is the exemption of certain lands from urban consolidation. Schedule 1 to the SEPP identifies land to which the Policy does not apply. This includes:

1. Land which, under an environmental planning instrument, is within an area or zone identified in that instrument by any of the following descriptions:
 - (a) Coastal protection,
 - (b) Environmental protection,
 - (c) Escarpment,
 - (d) Floodway,
 - (e) Natural Hazard,
 - (f) Non-urban,
 - (g) Rural,
 - (h) Rural residential,
 - (i) Water Catchment,
 - (j) Wetland,or identified in that instrument by a word or words which is or are cognate with the words used in paragraphs (a)–(j).

It is essential that these lands remain exempt from urban consolidation, particularly lands for coastal protection, floodway, natural hazard, water catchment and wetlands. If SEPP 32 is repealed, it is recommended that the exemptions above be reinstated in other relevant plans and strategies relating to urban consolidation.

Recommendations:

- 2.1 The policy objective of reducing the rate at which land is released for development on the fringe of existing urban areas is reinstated in other relevant plans and strategies relating to urban consolidation, including Ministerial Directions.
- 2.2 Local Government is appropriately engaged in planning for urban consolidation in existing urban areas and such consolidation is supported by relevant infrastructure and sensitive to local characteristics, cultural heritage, environmental services and ecological values, and other land limitations.
- 2.3 The exemption from urban consolidation of lands specified in Schedule 1 of SEPP 32 be reinstated in other relevant plans and strategies relating to urban consolidation.