

11 November 2021

NSW Department of Planning, Industry and Environment
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Re: Draft State Environmental Planning Policy (Water Catchments) 2021 - feedback

To whom it may concern,

Thank you for the opportunity to provide comment on the Draft State Environmental Planning Policy (Water Catchments) (Catchment SEPP).

This is a joint submission by the Cooks River Alliance (CRA), Georges Riverkeeper (GRK), the Parramatta River Catchment Group (PRCG), and the Sydney Coastal Councils Group (SCCG). Together we represent 23 of 30 local Councils in Sydney.

As development authorities, councils will play a critical role in the implementation of the Catchment SEPP to ensure Sydney's catchments and waterways are protected. The Catchment SEPP, once enacted, will consolidate, replace and repeal multiple state environmental planning instruments. Consequently, these changes and subsequent enactment of the Catchment SEPP will have significant implications for the community and our member councils that could be felt for generations.

The Catchment SEPP presents a significant opportunity to improve on the existing legislation. This includes providing greater consistency and clarity to development authorities and developers whilst offering far better protection to our city's natural assets and the benefits that they bring to the region's social and economic fabric. However, we feel that the draft Catchment SEPP in its current form falls well short of this unique opportunity.

Lack of engagement with Councils and Catchment Groups during the development of the Catchment SEPP

We would like to applaud the consultation process for the SEPP (Environment) Explanation of Intended Effect (EIE) during October 2017 – January 2018. This consultation was thorough and included a reasonable time frame for a considered submission to be prepared. All four catchment groups provided a detailed submission at that stage of the process.

Unfortunately, this level of consultation has not carried on throughout the process. Following the closing of submissions in January 2018, as far as we are aware, nothing has occurred until 28 October 2021, where we were given 15 days to submit feedback on the Catchment SEPP. Due to staff turnover and changing email addresses, in the end we had effectively only one week to read the documentation provided, familiarise ourselves with our submissions from four years ago, digest the details of the EIE, and determine if the draft Catchment SEPP was a true representation of the EIE and our feedback. Because this time frame is far too short to provide detailed and considered feedback, it greatly diminishes the authority and authenticity of the consultative process undertaken by at the NSW Department of Planning, Industry and Environment (DPIE).

Further, local councils are now in caretaker mode ahead of local government elections. Consequently, the ability to acquire considered feedback from locally elected representatives is not practically possible, further diminishing the democratic authority of the draft Catchment SEPP consultation process.

Recommendation: Develop a consistent consultation process for consulting with councils and their catchment groups for all environmental and planning instruments produced by DPIE and mandate that this process is followed. This process needs to allow for a reasonable amount of time to develop considered feedback, including opportunities for dialogue with relevant DPIE representatives.

We understand that the development of the Catchment SEPP was purely to consolidate several similar SEPPs into one SEPP. This has highlighted several opportunities that we believe can be taken to improve on the SEPP to further clarify development constraints for councils and developers, and to better protect the Sydney natural areas to the benefit of our community and for generations to come. However, since nothing new has been added to the draft Catchment SEPP, and a considerable amount of time has been lost, we feel it is imperative that a detailed review occur subsequent to its enactment.

Our recommendations for improving the Catchment SEPP are detailed below. Given the fast pace of development within Greater Sydney, we consider the following recommendations to be urgent. This is because, with each passing year, developments that occur without these recommendations will represent opportunities lost to protect Sydney's natural assets and, accordingly, reduce the liveability of our city and our region for generations to come.

The Cooks River Catchment is not included in the Catchment SEPP

We understand that the Catchment SEPP is a consolidation of existing SEPPs and Regional Environmental Plans. However, there are no existing SEPPs or Regional Environmental Plans for the Cooks River Catchment; a well-recognised and problematic gap in existing planning instruments. Consequently, and concerningly, this gap continues to be carried over into the Draft SEPP, leaving the Cooks River catchment at high risk of development not conducive to the needs of the river and, therefore, the community.

Taking into account the implications of this omission, and the intent of the EIE to address such gaps, we consider this situation to be untenable. Currently the Catchment SEPP includes: the Sydney Drinking Water Catchment (from Lithgow south to Braidwood and from Wollondilly west past Goulburn to Taralga, Crookwell, and Oberon), the Sydney Harbour catchment, the Georges River catchment and the Hawkesbury-Nepean catchment. To exclude the Cooks River catchment, which lies between the Sydney Harbour and Georges River catchment, is clearly inconsistent with the intention of the EIE and should be corrected in the Catchment SEPP before it is enacted.

Recommendation: The Cooks River catchment be included as a regulated catchment.

Draft Maps provided do not provide a consistent approach

Providing the Catchment SEPP Maps online offers transparency and efficiencies which the catchment groups and councils appreciate. Their publication via the Planning Portal would have multiple benefits.

The Catchment SEPP only reflects the mapping previously completed for the proposed repealed SEPPs, resulting in inconsistencies in the mapping component of the Catchment SEPP. Consequently, multiple seagrass and critical habitats across the region will not be protected if the draft Catchment SEPP is enacted in its current form. For example,

- The rocky foreshores and seagrasses areas that are mapped in the Draft Catchment SEPP apply only to Sydney Harbour. None of the other catchments are mapped and, therefore, are not afforded any protection under the current draft Catchment SEPP.

- Extensive seagrasses that have been mapped in the Upper, Mid and Lower Georges River are not included in the current draft Catchment SEPP. This is also the case for the Towra Point Aquatic and Nature Reserve, which is a Ramsar Site incorporating endangered seagrasses. Consequently, these seagrass areas will not be protected under the current draft Catchment SEPP.
- With the exception of the critical habitat for Sydney's Little Penguin population, recognised critical habitats and their associated endangered and threatened species are also not captured by the current draft Catchment SEPP.

Recommendation: Additional work be done to create consistency in the mapping to allow for greater protection of rocky foreshores, seagrasses, critical habitat, endangered and threatened species throughout all of the regulated catchments.

Including water quality or stormwater targets, excluding weak language

Water quality or stormwater targets were not discussed or set in the Catchment SEPP. This is a serious and significant omission in the Draft Catchment SEPP. As other jurisdictions demonstrate (e.g., Victorian Planning Provisions), setting targets provides a practical and essential basis for planning and designing appropriate development that minimises catchment impacts and protects our waterways.

In place of targets, language currently used in the Catchment SEPP is ambiguous and doesn't provide the level of clarity or the rigour required to protect Sydney's natural assets. Words like 'as close as possible' and 'must be minimised' and 'must be considered' cannot be adequately interpreted without supporting guidelines or standards that incorporate water quality targets.

For example, Part 2, Division 2, 13 Total Catchment Management of the draft Catchment SEPP states: "In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact." The details of what this consultation must entail are not articulated and, consequently, 'consultation' could mean as little as a letter informing downstream councils that development and subsequent pollution will occur. Accordingly, for this passage to have any concrete meaning, an authentic engagement process and framework must be developed.

Recommendation: Include water quality and stormwater targets. Make the language more robust and less vague. Develop a consultation framework / process.

Detailed and appropriate Guidelines are needed for the implementation of the Catchment SEPP

We strongly assert that guidelines and / or standards for the implementation of the Catchment SEPP are created in consultation with the catchment groups and councils. Given the lack of detail and process provided in the Catchment SEPP, the absence of such guidelines and standards renders much of the draft SEPP effectively inoperable. We believe guidelines and standards for implementation would be beneficial for the following reasons:

- The wording of many of the clauses in the Catchment SEPP is far too ambiguous, leaving too much open to interpretation. This will likely cause significant confusion for development authorities and developers. In order to optimise protection of the environment and provide clarity for councils and developers, more explanation of how to implement the Catchment SEPP and its requirements is sorely needed.

- It would be prudent and beneficial to allow for guidelines and documentation to be included as they are developed. This will ensure that as science and knowledge improves, so too will the implementation of the Catchment SEPP.

Recommendation: In consultation with catchment groups and councils develop a set of guidelines for the implementation of the Catchment SEPP.

Finally, and importantly, we acknowledge and sincerely appreciate the time taken by Daniel Cutler and Danijela Karac from DPIE, to speak with us about the draft Catchment SEPP and our submission.

Thank you for the opportunity to provide feedback and we would be happy to discuss any of the above points to progress the adoption and implementation of the Catchment SEPP.

Yours sincerely,



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Sydney Coastal Council's Group



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