
Department of Planning and Environment

planning.nsw.gov.au



Submissions report – Explanation of intended effect to modernise, update and consolidate biodiversity and conservation State Environmental Planning Policy

State Environmental Planning Policy (Biodiversity and Conservation) 2021

October 2022



Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elder's past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally, and economically.

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Explanation of Intended Effect – Environment SEPP Submissions Report

First published: October 2022

Department reference number: OBJ14/02634

Copyright and disclaimer

© State of New South Wales through Department of Planning and Environment 2022. Information contained in this publication is based on knowledge and understanding at the time of writing, August 2022, and is subject to change. For more information, please visit dpie.nsw.gov.au/copyright

Contents

Executive summary	4
Exhibition and consultation.....	4
Planning reforms.....	4
Introduction	6
Purpose of this report	6
Background.....	8
Consultation	9
Community and stakeholder consultation	9
Targeted consultation	10
Submissions overview	11
Public exhibition of Environment SEPP EIE	11
Submission views.....	12
Key issues raised in submissions.....	13
Response to key issues raised	14
1. Mining in the Sydney drinking water catchment	14
2a. Additional permitted uses and objectives of Zone 7 and Zone 8 in Sydney Harbour.	15
2b. Subdivision in Sydney Harbour	17
2c. Replacement or repair of approved pilings in Sydney Harbour	18
2d. Alignment of certain Sydney Harbour waterway zone objectives	19
Other issues raised in submissions	20
Canal estate development.....	20
Willandra Lakes Region World Heritage Property	20
Public bushland.....	21
Georges River catchment.....	24
Hawkesbury–Nepean River catchment.....	25
Sydney drinking water catchment.....	26
Sydney Harbour catchment	27
Water catchments (general)	28
Proposed amendments to SEPP (Housing for seniors or people with disability).....	30
Ministerial Directions	30
Definitions	31
Conclusion	32

Executive summary

Exhibition and consultation

This submissions report summarises the key issues raised during the 2017–2018 exhibition of the explanation of intended effects (EIE) for a new State Environmental Planning Policy (Environment) and other consultation activities.

As well as exhibiting the EIE and consulting the community and stakeholders, the NSW Department of Planning and Environment consulted other NSW Government agencies (for example, WaterNSW, Sydney Water, NSW Department of Primary Industries, NSW Environment Protection Authority, Transport for NSW), local councils, catchments groups, industry groups and peak groups.

The department received 352 submissions in response to the exhibition of the EIE. Of these:

- 258 (73%) objected
- 49 (14%) supported the reforms
- 45 (13%) were neutral
- 255 (98%) of those objecting wanted mining to be prohibited in the Sydney drinking water catchment, which is outside the scope of this SEPP review.

In addition to mining in the Sydney drinking water catchment, other key issues raised were about Sydney Harbour catchment. These issues related to:

- requests for additional permitted uses and updates to the objectives of Zone 7 ‘Scenic Waters: Casual Use’ and Zone 8 ‘Scenic Waters: Passive Use’ in Sydney Harbour
- allowing subdivision in Sydney Harbour
- replacing or repairing approved pilings as complying development in Sydney Harbour
- aligning certain Sydney Harbour waterways zones with those in the Standard Instrument – Principal Local Environmental Plan.

Planning reforms – SEPP consolidation

In March 2022, we transferred the 7 state environmental planning policies (SEPPs) grouped under the planned Environment SEPP unchanged into chapters 6 to 12 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (BC SEPP). This means that we have updated the BC SEPP to deliver on the proposals outlined in the EIE for the Environment SEPP.

Policy actions to deliver on the intent of the EIE

Over a series of stages, the Department has delivered the policy outcomes in the EIE and responded to the submissions received during exhibition. The various stages are outlined below.

In December 2018 and June 2022, the Department made the following changes:

- mooring pens are now permitted in the Zone 7 ‘Scenic Waters: Casual Use’ in Sydney Harbour
- maintenance of certain lawful and non-commercial structures is now allowed as complying development in Sydney Harbour
- the need for development consent for oyster aquaculture in the Georges River catchment, where no other planning instrument requires development consent has been removed.

The most recent amendments to the BC SEPP were made to simplify, update, transfer, and consolidate provisions, without changing the aims of the policy along with ensuring that planning matters are dealt with in the correct location in the NSW planning system. In summary, the recent amendments include:

- replacing chapters 8 to 11 of the BC SEPP with a new Chapter 6, which consolidates and updates 4 chapters about water catchments (Georges River catchment, Hawkesbury–Nepean River catchment, Sydney Harbour catchment and Sydney drinking water catchment)
- repealing 3 chapters (6, 7 and 12) of the BC SEPP for bushland in urban areas, canal estate development and Willandra Lakes Region World Heritage Property and transferring these provisions and other local matters such as flood planning to the relevant LEPs
- transferring local plan-making provisions from the BC SEPP to Ministerial Directions for water catchment protection, Sydney Harbour foreshores and waterways area, public bushland, and the Willandra Lakes Region, in line with section 9.1 of the *Environmental Planning and Assessment Act 1979*, which is consistent with the current NSW planning framework
- updating the Sydney Drinking Water Catchment Ministerial Direction
- making a consequential amendment to the *Environmental Planning and Assessment Regulation 2021* to make sure that when determining authorities (such as councils) conduct activities in regulated catchments, the environmental impacts are considered.

We also listened to the feedback received during exhibition and made some changes to the provisions in Sydney Harbour to allow for the orderly development of land, these include:

- updating the objectives of Sydney Harbour Zone 8 to make clear that this zone:
 - aims to support development of public and community facilities
 - prohibits private over-water development, which is consistent with the provisions in the land-use table.
- permitting subdivision on the Sydney Harbour foreshore land, if it:
 - considers the need for public access to the foreshores and waterways
 - meets the development standards such as minimum lot size in the relevant local environmental plan – in the case of private land.

More information about the reforms is on the department’s website.

Introduction

Purpose of this report

The NSW Department of Planning and Environment (the department) exhibited an EIE for a proposed new State Environmental Planning Policy (Environment) from 31 October 2017 until 31 January 2018.

This report summarises key issues raised in submissions we received during the exhibition, outlines other consultation activities, and explains how the NSW Government has responded to the feedback received.

The EIE set out various proposals for the following 7 state environmental planning policies (SEPPs), which we subsequently transferred into chapters 6 to 12 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (BC SEPP), as shown in Table 1:

Table 1. SEPPs and regional environmental plans transferred into the BC SEPP

SEPP or plan	BC SEPP
SEPP No. 19 – Bushland in Urban Areas	Chapter 6
SEPP No. 50 – Canal Estate Development	Chapter 7
SEPP (Sydney Drinking Water Catchment) 2011	Chapter 8
Sydney Regional Environmental Plan No. 20 – Hawkesbury–Nepean River (No.2-1997)	Chapter 9
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Chapter 10
Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment	Chapter 11
Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property	Chapter 12

We delivered the changes exhibited in the EIE by:

- replacing chapters 6 to 12 of the BC SEPP (amended BC SEPP) with a new Chapter 6, which consolidates chapters for water catchments (Georges River catchment, Hawkesbury–Nepean River catchment, Sydney Harbour catchment and Sydney drinking water catchment)
- transferring local matters relating to bushland in urban areas (known as public bushland), canal estate development, flood planning and Willandra Lakes Region World Heritage Property from the BC SEPP into the relevant local environmental plans (LEPs)
- transferring local plan-making provisions from the BC SEPP to Ministerial Directions for water catchment protection, Sydney Harbour foreshores and waterways area, public bushland, and the Willandra Lakes Region, in line with section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act)
- updating the Sydney Drinking Water Catchment Ministerial Direction
- making a consequential amendment to the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) (amended Regulation).

These amendments, presented in Figure 1, support the NSW Government’s program of consolidating SEPPs by removing unnecessary and outdated policy, addressing issues raised during and following exhibition of the EIE and locating provisions in the most appropriate level of the planning system.

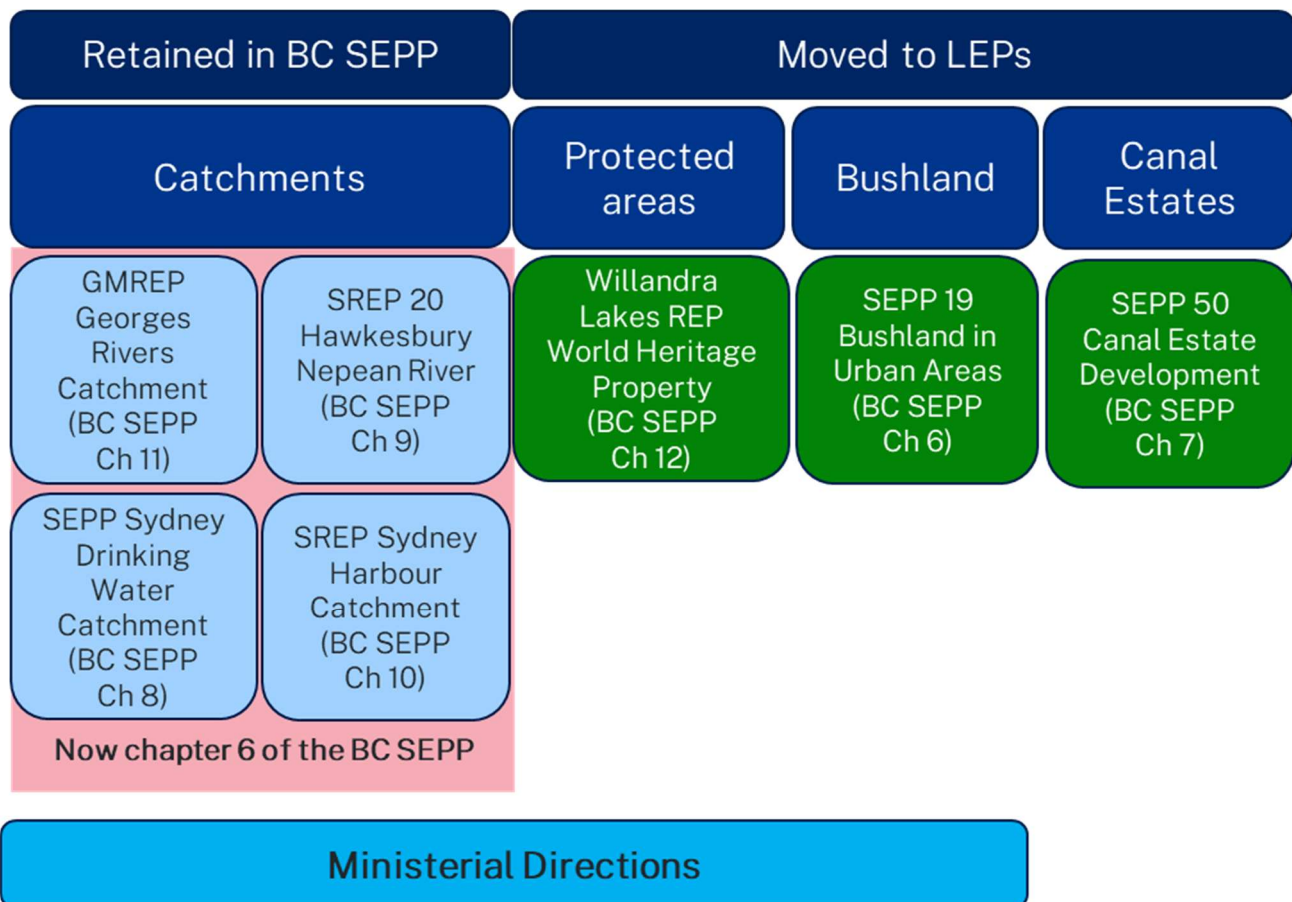


Figure 1. Key changes to the BC SEPP to support the changes exhibited in the EIE

Background

The department has established a program to review SEPPs. The review seeks to deliver modern environmental planning instruments. This is supported by the government's commitment to simplify the NSW planning system.

The SEPP review program examines existing policies to consider if:

- they are still relevant
- they require updating and integrating into a new SEPP or elsewhere in the planning framework.

The program intends to:

- remove policy and controls that have been duplicated in strategies, regional plans and LEPs.
- deliver policy objectives through the Standard Instrument – Principal LEPs as a priority, where possible and appropriate.
- ensure SEPPs deal with matters of state or regional environmental planning significance.

Consultation

Community and stakeholder consultation

The department consulted the community and stakeholders on the proposed changes. This engagement included:

- collaboration and workshops with WaterNSW, Sydney Water, select local councils and catchments groups, NSW Department of Primary Industries (DPI), NSW Environment Protection Authority (EPA) and Transport for NSW (TfNSW) to develop the reforms
- an **exhibition of an EIE between 31 October 2017 and 31 January 2018**
- briefing the NSW Environmental Defenders Office, Nature Conservation Council and Total Environment Centre in September 2017
- targeted consultation with councils affected by proposed changes to SEPP 19 – Bushland in Urban Areas (Chapter 6 of the BC SEPP) in July 2017
- legal consultation with the former Office of Environment and Heritage (now known as the department’s Environment and Heritage Group or EHG) and DPI to meet requirements for threatened species in section 3.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act)
- a workshop with targeted councils and NSW Government agencies on catchments in mid-2016
- a workshop with targeted councils, NSW Government agencies, industry bodies and peak groups on Sydney Harbour and its catchment in February 2016
- broad requests for advice on the operation of the existing 7 SEPPs to all councils in NSW
- consulting key agencies, councils and stakeholder groups on a draft SEPP following the initial exhibition through late 2021 and continuing to resolve outstanding matters raised
- consultation across the department, including EHG.

Targeted consultation

The department has consulted more with key stakeholders while preparing the amended legal instruments and section 9.1 Ministerial Directions.

Organisations we consulted directly in the ongoing development of the revised planning framework included:

- Georges Combined Councils' Committee
- Stormwater NSW
- Port Authority of NSW
- Sydney Water
- Parramatta River Catchment Group
- WaterNSW
- TfNSW
- Roads and Maritime Services
- NSW Department of Planning and Environment – Environment, Energy, Science (now EHG)
- Infrastructure NSW
- Local Lands Service
- EPA
- DPI
- WHA Community Management Committee
- Marine Estate Management Authority
- Sydney Harbour Federation Trust
- Taronga Conservation Society Australia
- Greater Sydney Commission (now known as the Greater Cities Commission or GCC)
- Place Management NSW (Property NSW)
- Australian Department of Defence (Navy)
- NSW Ministry of Health
- NSW Treasury
- Heritage Council NSW
- NSW Coastal Council

NSW Government agencies generally supported the proposed amendments if the same level of rigour of the planning controls remained in place. Some changes proposed by agencies were outside the scope of the project, so we did not consider them at this stage.

Submissions overview

Public exhibition of Environment SEPP EIE

The department received 352 submissions in response to the exhibition of the EIE. The respondents were classified as:

- 308 individuals
- 17 local councils
- 17 industry groups and government agencies
- 10 environment groups or non-government organisations.

This is shown below in Figure 2.

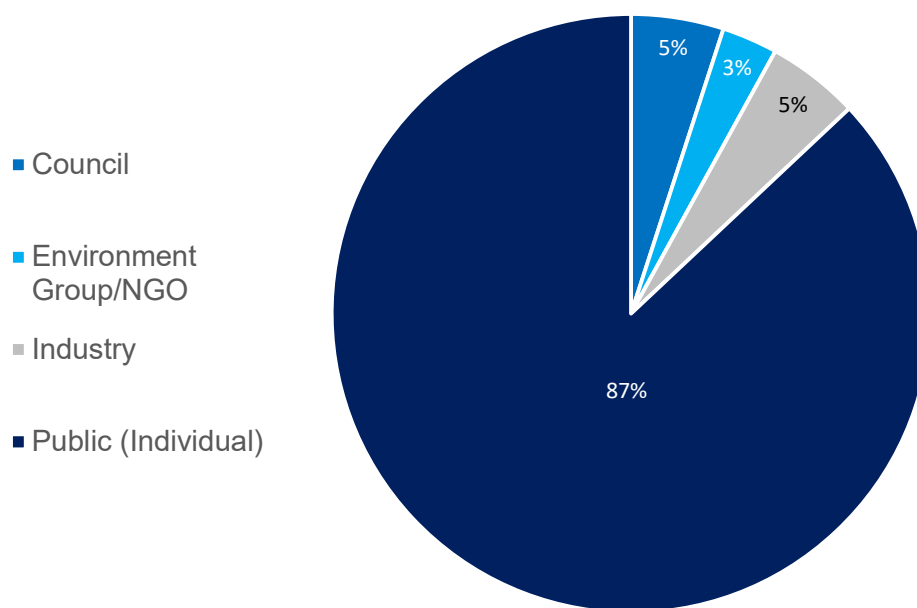


Figure 2. The type of stakeholders who made submissions on the EIE

The submissions received comprised:



We published the submissions on the department’s website.

Nature of submissions

In total, the submissions raised 1,032 issues of which 894 (87%) issues were positive, 122 (12%) were neutral and 16 (1%) were negative.

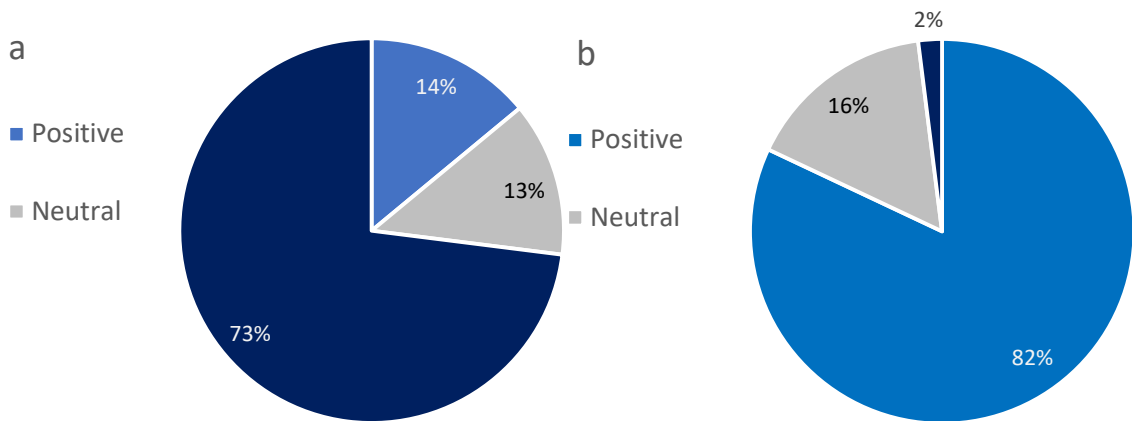


Figure 3. View of submissions (a) overall and (b) excluding submissions expressing concern to protect the Sydney drinking water catchment from mining

There were 258 (73%) submissions which objected to the proposed SEPP reforms and 255 (98%) of these raised concern about mining continuing in the Sydney drinking water catchment. This was because of the potential impacts on water supply and water quality, as well as broader climate change concerns.

Another 49 (14%) supported the reforms proposed in the EIE and 45 (13%) were neutral (Figure 3).

Key issues raised in submissions

The most common concerns raised in the submissions related to issues in the Sydney drinking water catchment and the Sydney Harbour catchment (Figure 4):

1. Sydney drinking water catchment
 - a. **Mining in the Sydney drinking water catchment:** Protecting the Sydney drinking water catchment from continued mining and its potential impacts on water supply and water quality.
2. Sydney Harbour catchment
 - a. **Additional permitted uses and objectives of Zone 7 ‘Scenic Waters: Casual Use’ and Zone 8 ‘Scenic Waters: Passive Use’ in Sydney Harbour:**

Permitting mooring pens with consent in Zone 7 (proposed in the EIE) and Zone 8 (requested in submissions) in Sydney Harbour and amending the objectives of these zones (requested in submissions) to reflect the wider range of permitted uses.

Submissions also commented on changes to the objectives for Zone 8 proposed in the EIE to clarify the intent of the zone to support development of public and community facilities and clearly prohibit private over-water development.
 - b. **Subdivision in Sydney Harbour:** Changing the rules for subdivision within Sydney Harbour for land owned by TfNSW (proposed in the EIE) and private land (requested in submissions).
 - c. **Replacement or repair of approved pilings:** Making the replacement or repair of approved pilings exempt or complying development (requested in submissions).
 - d. **Aligning certain Sydney Harbour waterway zones with the Standard Instrument – Principal LEP waterway zones:** The implications of proposals for aligning certain Sydney Harbour zones with zones in the Standard Instrument – Principal LEP (proposed in the EIE) and requests for alternative rezoning.

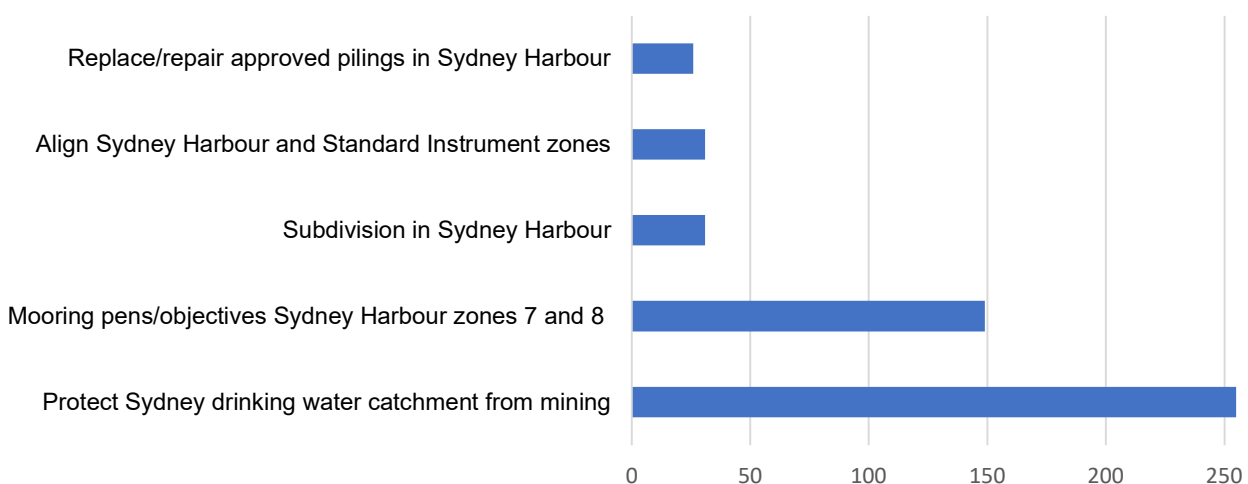


Figure 4. The most common issues raised in submissions for the EIE

Response to key issues raised

The following section summarises the key issues raised in submissions and the department's response.

1. Mining in the Sydney drinking water catchment

Issues raised

During the exhibition of the EIE, 255 (72%) submissions wanted the Sydney drinking water catchment to be protected from mining activity. Most submissions requested that mining not be allowed in the Special Areas of the Sydney drinking water catchment and the catchments for the Central Coast and Newcastle. Submitters also expressed concerns about the potential impacts of mining on water quality, water security, subsidence, and climate change.

Department's response

The Sydney drinking water catchment is protected by a comprehensive suite of legislation that covers various matters such as water quality, quantity, and ecological health. The provisions for the Sydney drinking water catchment ensure consent authorities can only approve development if it was demonstrated to have a neutral or beneficial effect on water quality, consistent with section 3.26 of the EP&A Act. We have kept this level of protection in the amended BC SEPP and will continue to allow the careful, case-by-case assessment of the impacts of development applications on water quality.

The scope of the BC SEPP review was to modernise, update and consolidate existing policy without changing the policy intent by locating the planning rules in the most appropriate location of the NSW planning system. As such, no changes have been made to the permissibility of mining in the Sydney drinking water catchment. Matters related to mining are specifically addressed through other planning instruments such as the State Environmental Planning Policy (Resources and Energy) 2021 (Resources and Energy SEPP). The Resources and Energy SEPP prohibits mining in certain areas where the potential impacts of mining or extractive activities are unacceptable, regardless of any measures to reduce harm. Extractive industries are prohibited on the bank or bed and on land:

- within 40 m of certain parts of each of the MacDonald River and Colo River
- within 10 m of certain parts of the Hawkesbury–Nepean River will still be prohibited.

We have transferred these provisions from Chapter 9 and schedule 7 of the BC SEPP and they are now in Schedule 1 of the Resources and Energy SEPP. This gives a consistent location for these types of provisions.

In addition, mining in the Sydney drinking water catchment was reviewed by the Independent Expert Panel for Mining in the Catchment in 2018. The review included effects of subsidence and impacts

on groundwater, surface water swamps, and impacts on water quality and quantity. The panel found that water loss through mining is very small compared with other losses from the catchment.

There has been mining in the catchment for more than 160 years without any major impacts on Sydney's drinking water supply. However, the panel made around 50 detailed recommendations to improve the management of mining impacts in the Greater Sydney Water Catchment Special Areas. The NSW Government adopted these recommendations and has been progressively carrying out actions to improve the assessment, monitoring, and management of environmental impacts.

The department has established a new expert advisory panel, known as the Independent Advisory Panel for Underground Mining. This panel gives the department and the Independent Planning Commission of NSW access to world-best scientific advice when assessing underground coal mining proposals and performance measures for operating mines.

All new mining applications in the Special Areas of the drinking water catchment must also offset any surface water take to ensure that there is no net loss for Sydney's drinking water supply.

2a. Additional permitted uses and objectives of Zone 7 and Zone 8 in Sydney Harbour.

Issues raised

Permit mooring pens in Zone 7 'Scenic Waters: Casual Use' as exhibited in the EIE

Fifty-three submissions commented on the change to allow mooring pens in Zone 7 in Sydney Harbour, of which 82% were supportive, 14% objected and 4% were neutral. Some submissions raised concern that allowing moorings in Zone 7 would:

- be inappropriate and unsympathetic to the visual, cultural, and environmental character of Sydney Harbour
- increase the density of vessels stored in Sydney Harbour, which could make Sydney Harbour less attractive
- have a negative impact on seagrasses and fish nurseries through overshadowing
- disturb sediment more in shallow waters
- make it harder for vessels on Sydney Harbour to have safe passage
- reduce public access to the foreshore and negatively affect recreation on Sydney Harbour.

Some concern was also expressed about the potential for there to be multi-vessel mooring pens on Sydney Harbour, however, this is outside the scope of this review.

Department's response

The amended BC SEPP permits mooring pens in Zone 7 in Sydney Harbour with consent. We made this change in December 2018.

As for the concerns about permitting moorings in Zone 7, under the amended BC SEPP, the following matters must be considered when assessing applications for mooring pens:

- impacts on safe navigation
- public access to and along the foreshore, or to and from the zoned waterway which cannot be reduced or adversely affected
- compatibility with the character of the locality
- visual intrusion caused by mooring pens which must be minimised
- if a mooring pen is for the permanent berthing of a vessel – the development must be carried out in a location suitable for the berthing, having regard to water depth (without the need for dredging) and wave action
- the mooring pen must not, when being constructed, installed, or used, have an adverse impact on seagrass.

The department considers these development controls suitable for managing mooring pens in Zone 7.

Requests to permit mooring pens and private landing facilities in Zone 8 ‘Scenic Waters: Passive Use’

Although not proposed in the EIE, 46 form submissions requested mooring pens and private landing facilities be permissible uses in Zone 8 in Sydney Harbour. The submissions suggested this change would alleviate demand for swing mooring space in the waterways, leading to benefits such as:

- more efficient use of public water space
- fewer obstacles to public waterway use
- fewer navigational hazards
- improved scenic value
- greater consistency with surrounding land and waterway use
- decreased environmental impacts.

Department’s response

The amended BC SEPP does not permit mooring pens or private landing facilities in Zone 8 ‘Scenic Waters: Passive Use’ in Sydney Harbour. The purpose of Zone 8 is to protect important environmental, social, and scenic attributes. It is appropriate that development be restricted in this zone.

The amended BC SEPP maintains the intent of Zone 8 to support development of public and community facilities, and to clearly prohibit private over-water development. Allowing mooring pens and private landing facilities in Zone 8 is inconsistent with the NSW Government’s broad long-term vision and objectives for Zone 8, which seek to:

- preserve public access along the intertidal zone, the visual continuity and significance of the landform and the ecological value of waters and foreshores
- restrict development for permanent boat storage and private landing facilities in unsuitable locations
- allow water-dependent development if it meets a demonstrated demand and is compatible with the planned character of the locality

- protect and improve the natural assets and natural and cultural beauty of the surrounding area, particularly when viewed from waters in this zone or areas of public access.

Permitting mooring pens and private landing facilities is inconsistent with the zone objectives and was not supported.

Requests to rezone certain Zone 8 ‘Scenic Waters: Passive Use’ to Zone 7 ‘Scenic Waters: Casual Use’

Some submissions also suggested rezoning certain Zone 8 locations to Zone 7 so that mooring pens and private landing facilities would be permitted.

Department’s response

The rezoning of waterways in Sydney Harbour is beyond the scope of this review of the SEPP.

A review undertaken for the department in 2016 found that most waterway zones in Sydney Harbour were consistent with the zone objectives and appropriate for the location. However, given the concerns raised in submissions on the suitability of certain waterway zones, the Department will undertake a targeted review of Sydney Harbour sites identified for consideration in the 2016 study.

Change the objectives of Zone 8 ‘Scenic Waters: Passive Use’ as exhibited in the EIE

Twenty-seven submissions, including 17 form submissions, commented on changing the objectives of Zone 8 in Sydney Harbour. There were no specific objections to this amendment.

Department’s response

The amended BC SEPP updates the objectives of Zone 8 to make clearer that this zone aims to support development of public and community facilities. Zone 8 ‘Scenic Waters: Passive Use’ no longer includes an objective that allowed low-lying, private water-dependent development close to shore, in line with the permissible uses in the land-use table.

2b. Subdivision in Sydney Harbour

Issues raised

Of the 352 submissions we received in response to the EIE, 31 submissions commented on the proposed change, of which 79% were in favour of the amendment, 6% were neutral and 15% did not support it.

Some submissions from council, industry and the community strongly opposed the change and expressed concern that subdivision of public foreshore land would lead to privatisation of public assets and a potential conflict of interest for TfNSW as owner, consent authority and policy maker.

Some submissions also requested the subdivision of private foreshore land be permitted.

Department's response

The administrative conflict between the Standard Instrument – Principal LEP and the *Conveyancing Act 1919* has prevented TfNSW from renewing long-term leases, issuing new leases, and selling land as part of its surplus land program. It has also prevented subdivision of private land to allow changes to boundaries, or for lease or sale.

We made a change to the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) in late 2017 to allow TfNSW to subdivide Sydney Harbour foreshore land, but only for the purpose of renewing existing leases.

The amended BC SEPP permits subdivision of land owned by TfNSW, subject to consideration of the need for public access to the foreshore, which the department considers appropriate.

In response to feedback from submissions, the amended BC SEPP now also permits subdivision of privately owned foreshore land if:

- it meets the development standards of the relevant LEP
- the consent authority has considered how much the proposed subdivision may reduce access to the foreshores and waterways.

Extending the provision to privately owned land will allow for development of foreshore land as envisaged by LEPs thereby supporting the orderly development of foreshore land.

2c. Replacement or repair of approved pilings in Sydney Harbour

Issues raised

The EIE proposed no changes to provisions for the replacement or repair of approved pilings in Sydney Harbour. However, 26 submissions suggested that the replacement or repair of approved pilings should be exempt or complying development.

Department's response

In December 2018, we added a provision to allow maintenance of existing lawful and non-commercial boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways as complying development. Such maintenance cannot be carried out on a heritage item or draft heritage item and must meet certain development standards. This change is important because it allows boat owners and certain users of Sydney Harbour to maintain existing structures where new structures are not permitted.

2d. Alignment of certain Sydney Harbour waterway zone objectives

Issues raised

It was proposed to align certain Sydney Harbour waterway zones with the Standard Instrument – Principal LEP waterway zones objectives. Thirty-one submissions commented on this change. A small number of submissions supported the proposed alignment of certain Sydney Harbour Zone objectives with the Standard Instrument – Principal LEP. However, most submissions did not support the amendment and they appeared to believe that the EIE proposed aligning all aspects of the zones, including permissible uses, but we only proposed to align the objectives.

These submissions did not support re-aligning the zones where they believed the permitted uses in the zone would also change.

Department's response

The EIE proposed to align more closely 3 of the 9 waterway zones in the former Sydney Regional Environmental Plan (SREP) Sydney Harbour Catchment with the 3 waterway zones in the Standard Instrument – Principal LEP. We proposed changing the zone names and numbering as shown in Table 2:

Table 2. Proposed changes to zone names and numbering

SREP	Align with
Sydney Harbour Catchment W1 Maritime Waters	Standard Instrument W3 Working Waterways
Sydney Harbour Catchment W2 Environmental Protection	Standard Instrument W1 Natural Waterways
SREP Sydney Harbour Catchment W5 Water Recreation	Standard Instrument W2 Recreational Waterways

We proposed the alignment of zones in response to previous consultation with stakeholders, which identified that better aligning the objectives of the former SREP Sydney Harbour Catchment and the related Standard Instrument – Principal LEP zones could make the planning system more accessible and clearer for the community and applicants.

The EIE also proposed that we make land zoned 8(a) National Parks in the former SREP Sydney Harbour Catchment consistent with the standard instrument by applying an E1 Environmental Protection Zone instead (now C1 Conservation Zone). This zone is generally applied to National Parks and Wildlife land under Standard Instrument – Principal LEPs.

The intent of the EIE was only to align the zone names and numbering with the Standard Instrument – Principal LEP not the land uses. Some submitters appeared to believe the EIE proposed aligning all aspects of the zones. As such, it was decided not to proceed with the amendment. This will not change the effectiveness of the amended BC SEPP, as the current system for zoning the Sydney Harbour and associated waterways is effective

Other issues raised in submissions

Other comments we received are summarised below, grouped by the former planning instrument or theme.

Since the EIE was exhibited, we reviewed the provisions for canal estates, public bushland, and Willandra Lakes. We decided that these provisions are best placed in council LEPs. We have updated provisions from chapters 6, 7 and 12 from the BC SEPP in response to feedback on the EIE and transferred them into the relevant council LEPs.

Canal estate development

The EIE proposed to update the definition of ‘canal estate development’ to make clear that this applies to development in all waterways, including non-tidal and man-made waterways, not only natural waterways.

Seven submissions commented on these changes. Five of these submissions supported maintaining the prohibition of canal estate development.

We transferred the updated definition and the provisions to make it mandatory to prohibit canal estate development, to the amended Standard Instrument – Principal LEP, which maintains the policy aim of SEPP 50 – Canal Estate Development. We have also inserted these provisions into non-standard LEPs and the Precincts – Central River City SEPP, the Precincts – Eastern Harbour City SEPP and the Transport and Infrastructure SEPP. Currently there is no prohibition of canal estate development applying to land at Beach Road, Batemans Bay in the Eurobodalla Local Environmental Plan 2012, we have kept this exception.

Willandra Lakes Region World Heritage Property

We have moved the provisions for consultation and development from the BC SEPP to the Balranald and Wentworth LEPs. We have updated the provisions to reflect the new management arrangements, and the structure and function of the World Heritage Advisory Committee for the region.

Four submissions commented on the changes to the Willandra Lakes Region World Heritage Property. Table 3 below outlines the issues raised and the department’s response.

Table 3. Comments on changes to the Willandra Lakes Region World Heritage Property and the department’s responses

Issues raised	Department’s response
The World Heritage Advisory Committee’s role in concurrent is not clear.	Consent authorities must consult with the Willandra Lakes Region World Heritage Advisory Committee in determining any development application.

Issues raised	Department's response
It was suggested that rather than developing a new clause for Part 5 of the Standard Instrument – Principal LEP, the current provisions could be included in the existing Clause 5.10 Heritage conservation.	The amendments to the Balranald and Wentworth LEPs were prepared to reflect current legal drafting standards.
There was support for creating a framework to protect areas with important environmental and cultural values, including world heritage areas.	Support is noted.
The Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property should be kept as a standalone environmental planning instrument, incorporating revised and updated provisions.	The SEPP review program aims to reduce the number of environmental planning instruments and to place provisions in the most appropriate level of the planning system. The updated provisions offer the same protection for the world heritage site at the most appropriate level in the planning system.

Public bushland

Nineteen submissions commented on the changes for public bushland and were generally supportive.

Feedback from submissions and the department's response are included in Table 4.

Table 4. Comments on changes for public bushland provisions and the department's responses

Issue	Department's response
<ul style="list-style-type: none"> There was support for the changes, including a definition of public bushland. There was a suggestion to insert 'local bushland' into the Standard Instrument – Principal LEP land-use table if local bushland does not fit in the current dictionary. The definition of public bushland should include remnant bushland in poor condition that has potential to be restored. The renaming of public bushland makes it less specific. The 'bushland' definition could be improved by replacing 'natural vegetation' within the current definition with the words 'native vegetation'. 	We have transferred a definition for 'public bushland' into relevant LEPs so that the meaning is clear. This definition captures remnant bushland. After carefully considering and refining the definition, we think it is now appropriate.
There was support for the continued or improved environmental protection of urban bushland.	Support noted. We have transferred the provisions protecting public bushland into relevant LEPs.

Issue	Department's response
<ul style="list-style-type: none"> • It should be mandatory, not optional, for councils to prepare a plan of management for public bushland. • Guidance for preparing plans of management for bushland areas would be more efficient if set out in either the amended Standard Instrument – Principal LEP or <i>Local Government Act 1993</i>, but not both. 	<ul style="list-style-type: none"> • The SEPP review program aims to maintain the current provisions. Councils are already required under the <i>Local Government Act 1993</i> to prepare a plan of management for public land that is classified as community land. • We have published a fact sheet on the department's website, which outlines that new or updated plans of management should be prepared in line with section 36 of the <i>Local Government Act 1993</i>.
<p>There was concern that including plan-making provisions in a Ministerial Direction 'waters down' protection for bushland on public land.</p>	<p>The transfer of plan-making directions to a Ministerial Direction is appropriate and accurately reflects the current NSW planning framework. The level of protection will not change.</p>
<p>There was a suggestion that urban bushland could be mapped to improve certainty and clarity.</p>	<p>This request is beyond the scope of the current SEPP review program.</p>
<ul style="list-style-type: none"> • Protections could be strengthened by expanding the application of urban bushland protections and incorporating a risk-based approach in impact assessment. • There was support for aligning the protection of urban bushland with other legislation, terminology, and mapping. 	<p>Other protections are already in place under Chapter 2 (Vegetation in non-rural areas) of the BC SEPP and the <i>Biodiversity Conservation Act 2016</i>. Any more changes are beyond the scope of the current review program.</p>
<p>The amendments cannot proceed until after the draft Coastal Management SEPP, the <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> (Vegetation SEPP)/Chapter 2 of the BC SEPP and the draft 'Green Grid' Strategy have been finalised.</p>	<ul style="list-style-type: none"> • We have finalised the draft SEPP (Coastal Management) and it is now Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards 2021) or Resilience and Hazards SEPP. • We have finalised the former Vegetation SEPP and it is now Chapter 2 (Vegetation in non-rural areas) of the BC SEPP. • We have finalised the draft 'Green Grid' Strategy.

Issue	Department's response
<ul style="list-style-type: none"> The policy aims should be retained and strengthened to reduce the piecemeal loss of urban biodiversity and increase the number of green corridors, which is significantly lacking in Sydney. There should be an emphasis on protecting remnant bushland and biodiversity. In addition to applying the Biodiversity Assessment Method to areas where development is proposed, the integration/incorporation of the bushland in urban area provisions should seek to identify and protect areas that the community values for its amenity, biodiversity, climate regulation and heritage value. 	<p>We have transferred the policy aims of the former Bushland SEPP/Chapter 6 of the BC SEPP, which addresses these matters, into the amended Standard Instrument – Principal LEP and inserted these into relevant LEPs, along with provisions to prevent the loss or disturbance to public bushland.</p>
<ul style="list-style-type: none"> The future consent requirements for the disturbance of public bushland or vegetation adjoining public bushland are unknown. Protections could be strengthened by requiring the effects of major projects on urban bushland to be considered. There was support for considering the likely 'edge effects' of development adjoining bushland. 	<p>We have transferred consent requirements from former Bushland SEPP/Chapter 6 of the BC SEPP to relevant LEPs. The aim of the provisions has not changed.</p>
<ul style="list-style-type: none"> Urban bushland protection could be extended to: <ul style="list-style-type: none"> Wollondilly, Lake Macquarie, Newcastle, Port Stephens, Wollongong, Maitland, and Port Macquarie RE1, E2, E3 and potentially SP1 zones community and operational land. Protections could be strengthened by expanding coverage of the provisions to other areas facing increased urban expansion. Bushland on private property should also be protected. There was support for extending the provisions for public bushland to the former Wyong Shire Council area, so the protection of public bushland is consistent across the entire Central Coast region. 	<ul style="list-style-type: none"> We have included the public bushland provisions in the Wyong LEP 2013. We may consider opportunities to extend the application of public bushland protections in the future. The provisions will apply to community and operational land. The request to protect bushland on private land is beyond the scope of the SEPP review program, which aims to remove duplication, consolidate, and modernise the planning framework.

Issue	Department's response
Exempt and complying provisions need to be changed to exclude public bushland.	The amended bushland provisions generally do not apply to development that is exempt or complying development under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> .

Georges River catchment

Nine submissions commented on the changes for the Georges River catchment. Table 5 outlines the issues raised and the department's response.

Table 5. Comments on changes for the Georges River catchment and the department's responses

Issues raised	Department's response
<p>Some submissions requested that various components of the former Greater Metropolitan Regional Environmental Plan (GMREP) Georges River should not be repealed, including:</p> <ul style="list-style-type: none"> • clause 9(2) of the regional environmental plan, which sets out flood planning provisions • clause 9(10) to ensure development does not increase the levels of nutrients entering the waterway and creeks. 	<ul style="list-style-type: none"> • We have maintained the policy aims of these clauses in the amended BC SEPP and relevant LEPs. • Standard Instrument – Principal LEPs have 'Flood Planning' provisions, which adequately address the issue of bank disturbance. Where a non-Standard Instrument – Principal LEP applies in the catchment, we have inserted the Standard Instrument Flood Planning provision. • We have carried forward the policy aims of clause 9(10) into the amended BC SEPP by requiring development to have a neutral or beneficial effect on water quality in a regulated catchment. Provisions for stormwater management specifically ensure levels of nutrients entering the waterway and creeks are not increased by development.
<p>Some submissions did not agree with the EIE that the regulation of artificial lakes was adequately addressed in the <i>Fisheries Management Act 1994</i> or <i>Water Management Act 2000</i>. They suggested these pieces of legislation offered less strict protection for artificial lakes than the former GMREP Georges River (clause 11(1)).</p>	<ul style="list-style-type: none"> • The amended BC SEPP carries over matters for consideration for artificial waterbodies. • The Transport and Infrastructure SEPP regulates works by public authorities.

Issues raised	Department's response
<p>Some submissions did not agree with the EIE that the regulation of maintenance dredging was adequately addressed in the <i>Fisheries Management Act 1994</i>. They suggested this legislation offered less strict regulation for maintenance dredging than the former GMREP Georges River (clause 11(13)).</p>	<ul style="list-style-type: none"> • The amended BC SEPP includes matters for consideration for, among other things, water quality and quantity, aquatic ecology, flooding, and recreation and public access. It carries over matters for consideration for maintenance dredging in the former GMREP Georges River. • In addition to the <i>Fisheries Management Act 1994</i>, there are a range of development approval routes, including the <i>Crown Land Management Act 2016</i> and LEPs.

Hawkesbury–Nepean River catchment

Eight submissions commented on the proposals for the Hawkesbury–Nepean catchment. Table 6 below outlines the key issues raised and the department's response.

Table 6. Comments on changes for the Hawkesbury–Nepean River catchment and the department's response

Issues raise	Department's response
<p>Buffers that would protect significant landscapes from impacts associated with development should be included.</p>	<p>The aim of the planning reforms is to maintain existing protections and modernise the planning framework. Including buffers is outside the scope of this review.</p>
<p>Removal of Clause 11(4) of Hawkesbury–Nepean River SREP /Section 9.9(4) of the BC SEPP may mean that certain remediation work will no longer need development consent.</p>	<p>Section 4.8 of the Resilience and Hazards SEPP sets a consistent pathway for the NSW Government on when development consent is needed for remediation works and is considered enough for assessing this type of development.</p>
<p>Will 'environmentally sensitive areas' be repealed?</p>	<p>The definition of environmentally sensitive areas is included in the EP&A Regulation.</p>
<p>There was support for the continued prohibition on extractive industries in parts of the Hawkesbury–Nepean River catchment through the former Mining, Petroleum and Extractive Industries SEPP (now the Resources and Energy SEPP).</p>	<p>Support is noted. We have transferred the same level of regulation to the Resources and Energy SEPP.</p>

Issues raise	Department's response
<p>The transfer of planning principles from the former Hawkesbury–Nepean River SREP/Chapter 9 of the BC SEPP to a Ministerial Direction should make clear that the principles apply to both LEPs and development control plans.</p>	<p>The new Ministerial Direction can only apply to the preparation of planning proposals/LEP amendments. Development controls remain in the:</p> <ul style="list-style-type: none"> • amended BC SEPP (for water-based development) • LEPs (for land-based development) • other instruments, including the Transport and Infrastructure SEPP, Resilience and Hazards SEPP, and State Environmental Planning Policy (Primary Production) 2021.
<p>There was support for transferring the wetland provisions of the former SREP Hawkesbury–Nepean River to the Draft Coastal Management SEPP and the update of mapping accessed via the NSW Planning Portal and Data Portal.</p>	<p>Support noted. We have transferred the wetland provisions to Chapter 2 (Coastal Management) of the Resilience and Hazards SEPP.</p>

Sydney drinking water catchment

The key issue raised about mining in the Sydney drinking water catchment has been addressed in the Key issues raised in submissions section of this report. Table 7 below outlines the remaining issues raised about the Sydney drinking water catchment and the department's response.

Table 7. Comments on changes for the Sydney drinking water catchment provisions and the department's response

Issues raised	Department's response
<p>There should be a legal framework to ensure catchments meet defined targets for reducing pollution as well as general environmental and social outcomes in a catchment context.</p>	<p>This is the aim of the amended BC SEPP, though specific targets are not included. We can consider applying targets in the future if they can be defined in a way that is suitable for an environmental planning instrument and if they are supported by an appropriate evidence base, including the ability to measure and monitor progress.</p>
<p>We need an approach to defining and monitoring targets for reducing pollution outside the drinking catchment area that is broadly consistent with the overall principles of the NorBE (neutral or beneficial effect) tool.</p>	<p>This is beyond the scope of the current SEPP review program.</p>

Sydney Harbour catchment

The comments below (Table 8) refer to the proposed changes to planning provisions for the Sydney Harbour catchment. The table includes the department's response.

Table 8. Comments on changes for the Sydney Harbour catchment and the department's response

Issues raised	Department's response
<p>A map in the Harbour Development Control Plan that shows mudflats does not reflect the current location of certain mudflats and mangroves.</p>	<p>The department may investigate this as part of its review of the Sydney Harbour Development Control Plan (DCP).</p>
<p>The review of the Harbour Development Control Plan could consider:</p> <ul style="list-style-type: none"> • boating facilities for people with disability and limited ability • access to the Parramatta River in Zone W8 by people with a disability • permitting passive boat lifts with 1 m wider sides, either side of a vessel, on a case-by-case basis for runabouts • refining provisions for the visual assessment of marinas • if 'land only' developments and land-based design matters currently covered under the development control plan (DCP) are also addressed in council DCPs • if more scrutiny of and mandatory requirements for boat pump outs is appropriate • giving guidance on aspects of estuarine management, such as foreshore inundation/flooding, environmentally friendly seawalls, water-sensitive urban design, stormwater retention, harvesting and reuse, biodiversity corridors and habitat conservation. 	<p>These matters will be addressed, in consultation with TfNSW, if the review of the DCP is undertaken.</p>
<p>Sydney Harbour and its foreshores should have separate strategic planning attention and not be grouped with generic policy issues.</p>	<p>Some of the catchment provisions from the former SREP Sydney Harbour Catchment can be broadly applied to other catchments and we have consolidated these in the amended BC SEPP. Sydney Harbour needs specific provisions and we have kept separate spatial provisions in the amended BC SEPP, particularly for the foreshores and waterways area.</p>
<p>It would be beneficial to give more consideration to the definition and scope of 'significant seagrasses' and proposed mapping to avoid duplication.</p>	<p>Significant seagrasses are identified on the Rocky Foreshores and Significant Seagrasses Map in the amended BC SEPP.</p>

Issues raised	Department's response
<p>There was concern that removing wetland provisions that overlap with the Draft Coastal Management SEPP before the latter has been proclaimed may remove protection for wetlands.</p>	<p>The Coastal Management SEPP (now Chapter 2 of the Resilience and Hazards SEPP) has been made. Protections for wetlands have been continually applied.</p>
<p>The scenic corridors should be given more consideration, including how these can be applied consistently with the regional and district plans.</p>	<p>We have forwarded this suggestion to the Greater Cities Commission for consideration.</p>

Water catchments (general)

The issues outlined in Table 9 refer to the proposed changes to consolidate the planning provisions for all 4 regulated catchments (Georges River catchment, Hawkesbury–Nepean River catchment, Sydney drinking water catchment and Sydney Harbour catchment).

Table 9. Comments on changes to consolidate provisions for the Georges River catchment, Hawkesbury–Nepean River catchment, Sydney drinking water catchment, and the Sydney Harbour catchment, and the department's response

Issues raised	Department's response
<p>The framework should be expanded to cover other major waterway-based city centres in Greater Sydney such as Liverpool, Penrith, Canterbury, and Botany Bay. This improvement would align with the coastal use area provisions, which will apply to all state coastal areas. To aid this, we suggest naming the waterway provisions in a more generic way and using mapping to define the areas to which the provisions apply.</p>	<ul style="list-style-type: none"> • This suggestion is beyond the scope of the current SEPP review program, which aims to maintain current protections. • We have structured the amended BC SEPP to allow us to add other catchments in the future.
<p>There was a request to add water quality standards to the amended BC SEPP, particularly to protect downstream impacts. For example, integrate the Botany Bay Water Quality Improvement Plan targets for reducing stormwater pollution into the amended BC SEPP.</p>	<p>The department will continue to work with the relevant agencies to protect water catchments. If water quality targets are developed that we can incorporate into environmental planning instruments, we will consider providing an appropriate mechanism and at the right level in the planning system for delivering the targets.</p>
<p>WaterNSW applies a NorBE tool to development within the Sydney drinking water catchment. There was a request to consider applying a NorBE tool to other locations across NSW. This would encourage new development to have a neutral or beneficial effect on our waterways and improve the environmental assets of NSW.</p>	<ul style="list-style-type: none"> • WaterNSW designed the NorBE tool for the Sydney drinking water catchment and it is not applicable to other catchments. • Under the amended BC SEPP, authorities must consider if new development, in the other regulated catchments, will have a neutral or beneficial effect on water quality.

Issues raised	Department's response
<p>The amended BC SEPP should give legal force to water quality and flow objectives, where these are set. For example, applying NorBE principles to new developments or applying the use of the <i>Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions</i>, developed by the former Office of Environment and Heritage (now the department's Environment and Heritage group) and the Environment Protection Authority.</p>	<p>The amended BC SEPP applies NorBE principles to regulated catchments.</p>
<p>Establishing shared objectives for the catchments should not stop NSW from addressing issues specific to a particular catchment.</p>	<p>Noted. This is consistent with the aims of the amended BC SEPP.</p>
<p>Each waterway has unique characteristics, and the needs of individual waterways should be addressed in the amended BC SEPP, as well broader requirements.</p>	<p>The amended BC SEPP gives legal force to water quality and flow objectives by applying NorBE principles to new developments. It also includes provisions that address the individual needs of each catchment.</p>
<p>Mapping improvements within water catchments could include a review of mapping near Silverdale, resolving overlaps between the former Sydney Drinking Water Catchment SEPP and the former SREP Hawkesbury–Nepean River.</p>	<p>The digitised mapping that accompanies the amended BC SEPP addresses this.</p>
<p>The catchment boundaries should be better aligned to reduce overlap and gaps.</p>	<p>We have aligned the catchment boundaries in the digitised maps that accompany the amended BC SEPP.</p>
<p>The general objectives and planning controls in the amended BC SEPP for catchments should consider the impacts of climate change. This includes the increasing the vulnerability of the city to urban flooding in already established areas and the need to build and maintain a flexible water supply to withstand shocks from droughts or interruptions to centralised infrastructure.</p>	<p>This suggestion is outside the scope of the current SEPP review program.</p>
<p>There was a request to ensure the amended BC SEPP better addresses urban heat and improves the resilience of our communities.</p>	<p>This suggestion is beyond the scope of the current SEPP review program, although we have implicitly considered urban heat during the review.</p>

Proposed amendments to SEPP (Housing for seniors or people with disability)

The comments below (Table 10) refer to the proposed changes to planning provisions for the Housing SEPP (former SEPP Housing for Seniors or People with a Disability 2004).

Table 10. Comments on changes for the Housing SEPP and the department's response

Issue raised	Department's response
<p>There was support for the proposal, including not allowing use of Site Compatibility Certificates, as it will encourage increased supply of seniors housing.</p>	<p>Support noted.</p>
<p>There was concern that removing the term 'water catchment' from the definition of 'environmentally sensitive land' from the former SEPP (Housing for Seniors and People with a Disability) may:</p> <ul style="list-style-type: none"> • release land that is currently protected, for development, with potential for negative effects on the water catchment • allow inappropriate seniors housing in areas of environmentally sensitive land, including bushfire risk areas. 	<ul style="list-style-type: none"> • There is generally no policy reason for preventing seniors housing development on land mapped as within a water catchment. • Development in bushfire-prone land has specific requirements, regardless of the housing type.
<p>A Site Compatibility Certificate should be available where the applicant has:</p> <ul style="list-style-type: none"> • successfully completed the referral, concurrence, and assessment requirements, including the application of the NorBE tool in the Sydney drinking water catchment • satisfied the Planning Secretary that the proposed development would have a 'neutral or beneficial effect on water quality'. 	<p>The Housing SEPP has removed the term 'water catchment' from the definition of 'environmentally sensitive land'. It does not allow the Site Compatibility Certificate process to be used for land adjoining urban land and identified as a 'water catchment' in an environmental planning instrument.</p>

Ministerial Directions

The comments below (Table 11) refer to the proposed changes to plan-making provisions, as described in the EIE.

Table 11. Comments on changes to Ministerial Directions and the department's responses

Issue raised	Department's response
<p>Some submissions expressed support for:</p> <ul style="list-style-type: none"> the proposed requirement to consider cumulative effects of development on water quality and river flows transferring planning principles to a new and updated Ministerial Directions. 	<p>Support noted.</p>
<p>The SEPP and Ministerial Directions should be expanded to include more urban catchments.</p>	<p>The amended BC SEPP is structured to allow us to add catchments if we have evidence that this is necessary.</p>
<p>The draft planning principles in the Ministerial Directions should incorporate principles of water-sensitive urban design and integrated water management.</p>	<p>This suggestion is beyond the scope of the current SEPP review program, but the department will continue to consider how water-sensitive urban design can be incorporated into the planning system.</p>
<p>The Ministerial Direction for Bushland in Urban Areas should have definitions for 'satisfied' and 'significant' to ensure an assessment tool is applied consistently.</p>	<p>We considered this but found it unnecessary for a Ministerial Direction.</p>
<p>When transferring SREP Sydney Harbour catchment Harbour provisions to a Ministerial Direction, the provisions could acknowledge that port and working harbour uses are a fundamental part of the harbour's unique character.</p>	<p>The amended BC SEPP and Ministerial Directions acknowledge that port and working harbour uses are a fundamental part of the harbour's unique character. The amended BC SEPP and Ministerial Direction maintain the same protections as the previous provisions.</p>

Definitions

Comments on proposed changes to definitions included that the Standard Instrument – Principal LEP should be the primary source of all definitions, where possible, for consistency. There were also requests for the department to review, update, and refine the definitions.

The Standard Instrument – Principal LEP definitions have been adopted in the amended BC SEPP where possible. We have systematically reviewed and refined the definitions as needed as part of the legal drafting process. Definitions for Sydney Harbour were reviewed in consultation with Transport for NSW.

Conclusion

The public exhibition of the EIE for the proposed SEPP (Environment) allowed the department to engage early with stakeholders on proposed changes to the planning framework. This included a suite of SEPPs that deal with selected water catchments, bushland in urban areas, canal estate development and the Willandra Lakes Region World Heritage Property. The submissions we received during the exhibition period have helped us refine and develop the proposals outlined in the EIE.

A number of advances in the policy framework have occurred since the exhibition of the EIE, including that the SEPPs were transferred to the BC SEPP as separate chapters 6-12 in March 2022. Instead of creating a new SEPP (Environment), the water catchment chapters (8, 9, 10 and 11) have been consolidated into a single chapter of the BC SEPP (Chapter 6).

The provisions from the bushland in urban areas, canal estate development and Willandra Lakes Region World Heritage Property were transferred into relevant LEPs and these chapters (6, 7 and 12) have been repealed from the BC SEPP. The changes contribute to the NSW Government's SEPP consolidation program. They remove unnecessary and outdated policy, address issues raised during and following exhibition of the EIE and locate provisions in the most appropriate part of the planning system.

Most of the amendments updated, transferred, and consolidated provisions as appropriate, without changing the policy aim. However, a small number of changes for the Sydney Harbour catchment and Georges River catchment affect whether certain developments are permitted.

- **We have permitted mooring pens with development consent in Sydney Harbour Zone 7 'Scenic Waters: Casual Use'**, if they meet development controls. This resolves the concerns of several stakeholders that the existing blanket prohibition on mooring pens was unnecessarily restrictive in this zone. We made this change in December 2018.
- **We have updated the objectives of Sydney Harbour Zone 8** to make clear that this zone:
 - aims to support development of public and community facilities
 - prohibits private over-water development, consistent with the provisions in the land-use table.
- **We have permitted subdivision on the Sydney Harbour foreshore land**, if it:
 - considers the need for public access to the foreshores and waterways
 - (for private land) meets development standards of the relevant LEP.
- **We have made the maintenance of existing lawful and non-commercial boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways complying development in Sydney Harbour.** We made this change in December 2018.
- **We removed the need for development consent for oyster aquaculture in the Georges River catchment** (where it is not otherwise required by another legal instrument). This was in response to feedback after the exhibition. We made this change in June 2022.

More information about the reforms is on the department's website.