



SYDNEY COASTAL COUNCILS GROUP INC.

councils caring for the coastal environment

SUBMISSION

EIA Improvement
Project

August 2017

To: Submitted via the online portal as individual letters per Guideline.

Prepared by: Sydney Coastal Councils Group Incorporated

Date: 16 August 2017

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Reference: 050-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission on Guideline 1: Overview of the EIA Improvement Project

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

The SCCG Strategic Plan 2015 – 2019 sets out three guiding principles which encapsulate the core vision, mission and goals of the SCCG, namely to:

1. Restore, protect and enhance the coastal environment, its associated ecosystems, ecological and physical processes and biodiversity
2. Facilitate the sustainable use of coastal resources, now and in the future
3. Promote adaptive, integrated and participatory management of the coast.

As managers, planners, and authorities with responsibility for ensuring positive environmental, social, economic outcomes for the community and the natural and built environment, our Member Councils share an interest in ensuring that state significant development including projects and infrastructure are subject to comprehensive, consistent, and rigorous Environmental Impact Assessment (EIA).

General comments on Guideline 1 'Overview of the EIA Improvement Project' are provided below:

- The Guideline is a comprehensive, well laid out document that provides a good overview of the EIA Improvement Project and the proposed changes to the EIA process.
- SCCG agrees with the aims, benefits and outcomes of the project, particularly consistency and clarity on process and procedures, greater accountability and transparency, linkages of measures and conditions of consent to specific impacts, and enabling greater community participation throughout the process.
- S1.2, dot point 3 (pg.2) – focusing the EIS onto the most relevant matters and localised issues of concern is supported, however, care needs to be taken to ensure that proponents do not miss or fail to address all relevant matters through a subjective approach.



- S1.3.2, dot point 2 (pg.3) states that condition of approval should not seek to control and regulate matters of minor detail. It should be recognised that there may be circumstances where it is necessary to condition matters deemed by the proponent as minor.
- S1.3.2, dot point 3 (pg.3) – the hierarchy approach is supported, with proponents clearly indicating avoidance and mitigation measures, with offsetting as the last response and only undertaken if appropriate. There need to be clear links to other legislation and regulations regarding offsetting including the Biodiversity reforms.
- S1.3.2, dot point 4 (pg.3) – earlier and better community/stakeholder engagement is supported. It is essential that engagement is genuine and transparent, targeted to the specific audience and encompass as appropriate engagement techniques from the entire spectrum from inform to consult and empowerment of the community to identify and determine solutions to localised issues and impacts.
- S1.3.2, dot point 5 (pg.3) – SCCG is highly supportive of including a cumulative impact assessment.
- S1.3.2, dot point 6 (pg.4) – a standard approach for setting consent conditions is supported. However, this approach should not prevent authorities from setting specific conditions including localised conditions considered to be of importance to the community, even if considered minor by the proponent.
- S3.2 (pg.9), developing a Community Guide to EIA is applauded as a means of building trust and indicating higher levels of transparency and willingness to ensure the community have a clear understanding of the EIA process. It is recommended that the Community Guide be more prescriptive on when and how the community can contribute and provide feedback.
- S3.4, table 2 (pg.11) – One project description chapter is supported provided all critical information is provided in the description. Clarification is required on who will be the responsible party required to update changes to a project description, and the schedule or milestone of updates required. A monitoring and compliance process is required to ensure that updates/changes are implemented and made available in a timely manner and through an appropriate delivery method for the community.
- S4 SEARs section (pg.20) – states that the *amendments to Schedule 2 may require an application to SEARS to be accompanied by a Scoping Report...the amendments will enable the Department to place the Scoping Report for **some** projects on exhibition....* Clarification is required on why this process would only apply to ‘some’ projects and not all, and who or what defines these projects.
- S4 (pg.20) – SCCG supports the inclusion of professional practice in the EIA process, whereby signatories to the EIA documents must be a member of a professional organisation and adhere to the Code of Practice of that organisation. However, there must be a caveat that if that organisation does not have a Code of Practice or the Code is inferior to the Departments requirements, that the signatory must adhere to the appropriate regulations and standards set by the Department.

Further commentary has been provided in individual submissions on the specific Guideline documents.

If you have any queries please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer, SCCG



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Reference: 051-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission on Guideline 3: Scoping an Environmental Impact Statement

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

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3. Promote adaptive, integrated and participatory management of the coast.

As managers, planners, and authorities with responsibility for ensuring positive environmental, social, economic outcomes for the community and the natural and built environment, our Member Councils share an interest in ensuring that state significant projects are subject to comprehensive, consistent, and rigorous Environmental Impact Assessment (EIA).

General comments on 'Guideline 3: draft Scoping an EIS' are provided below:

- SCCG strongly supports community and stakeholder engagement within the scoping phase of the EIS, to ensure that the community are well informed and are provided the opportunity to input relevant information and local knowledge on issues to be addressed in the EIS. Early engagement will also foster more trust in the transparency of the process.
- It is recommended that the Community and Stakeholder Engagement Plan be developed for the scoping phase, and reviewed and updated to include all subsequent phases of the EIA, to ensure community/stakeholder engagement is maximised and that appropriate, targeted engagement techniques are applied at all phases of the project including scoping.



- S4.1, Figure 3 (pg.8) is a clear and concise flow diagram setting out the methodology for identification of relevant matters, impacts and level of assessment. SCCG strongly supports the inclusion of identification of cumulative impacts, and the design of the Scoping Worksheet to record where detailed cumulative impact assessment is required.
- S5 (pg.10) states that the Department may ask other government agencies to attend the scoping meeting. It is recommended that this include the local council(s) relevant to the project area.
- SCCG supports consultation with public authorities, including local councils, on the accuracy of a proponent's characterisation of impacts, and the subsequent issuing of SEARs (S8 pg.14).
- SCCG supports the purpose of the Scoping Worksheet in ensuring a consistent approach to identifying project impacts to inform the scoping report. However, within the 'checklist of matters' proponents must be required to provide strong justification in the consideration of all matters, particularly where matters have been deemed not relevant or unlikely to have adverse impacts (Appendix A, pg.19).
- Appendix A, S2 (pg.19) states that *'it is not necessary to record details of every activity – an overview of the main activities likely to cause impacts is sufficient'*. A consistent and stringent monitoring and auditing process is required to ensure that proponents do not categorize specific activities which may be of interest or controversial to the community/stakeholders as minor or secondary, and as such do not include sufficient detail.
- The 'Glossary of Matters' tab (pg.20) is supported to ensure consistency and comprehensiveness of matters considered. However, the Department needs to ensure through this guideline and Worksheet that the proponent not only defines all the relevant matters in the provided examples, but also includes and addresses additional matters not yet defined within the glossary if they are applicable to the project.
- Appendix A, S3 (pg.20) provides four characteristics for rating impact. It is recommended that this be changed to 'five' characteristics, incorporating cumulative impacts.
- Appendix A (pg.21) states that *'if one or less characteristics are likely to have material effect then it will not be considered a relevant matter and consideration of the matter in the scoping report (rather than the EIS) will be sufficient'*. The number of characteristics should not matter as much as the level of impact/effect from a characteristic. This formula for assessing material effect which gives rise to what characteristics will be included within the EIS is considered a risk and should be reassessed.

If you have any queries regarding the above comments, please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer
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Reference: 052-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission on Guideline 4: Preparing an Environmental Impact Statement

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

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As managers, planners, and authorities with responsibility for ensuring positive environmental, social, economic outcomes for the community and the natural and built environment, our Member Councils share an interest in ensuring that state significant projects including development and infrastructure are subject to the preparation of a comprehensive, consistent, and rigorous Environmental Impact Statement (EIS).

General comments on 'Guideline 4: draft Preparing an EIS' are provided below:

- SCCG supports the premise of the Guideline in promoting consistency and quality in the preparation of an EIS. S3.2 (pg.3) provides a table of contents that 'can' be used to assist in the preparation on an EIS. To ensure quality and consistency this table of contents should be a requirement for all EIS documents with the ability to include additional information as relevant.
- S3.3 (pg.4) – SCCG supports the requirement that the author of the EIS must provide a declaration stating its preparation in accordance with the EP&A regulation, as it provides a greater level of accountability and transparency.



- S3.7 (pg.7) – providing a project description in one chapter of the EIS is supported with respect to readability, ease of reference and removing repetition. However, given this project description will be the basis for project consent, it is essential that all relevant and critical information be included within this project description, including a summary table on the key activities/works and the corresponding environmental impacts.
- S3.7.2 (pg.9) – the concept of adopting a maximum parameter approach allowing the proponent more flexibility, where some elements of the project are unknown, is supported for elements such as specific methodology, technologies and equipment, provided that these design elements achieve best practice. So that a proponent does not take advantage of this approach, it is recommended that a stringent monitoring and auditing system be developed and put in place to ensure the project description provided is of sufficient detail, and the reasoning for utilising the maximum parameter approach sound.

It is recommended that the Department set a specified limit within the Guideline to restrict the specific elements and the number of elements that this maximum parameter approach can be applied to.

- S3.7.3 (pg.10) – the Department should provide definitive guidance on when and how updates to the project description should be undertaken and published, rather than the minimum requirement.
- S3.9 (pg.12) – SCCG supports the engagement approach including the development of a Community Stakeholder Engagement Plan and the requirement that proponents must demonstrate how issues raised during the engagement process have been considered and dealt with in the project design and preparation of the EIS.
- S3.11 (pg.15) – SCCG is supportive of the EIS presenting mitigation measures in a manner consistent with the framework for setting conditions, in particular, the reference to the hierarchy for managing impacts – avoidance, minimisation then offsetting, and providing linkages between specific impacts and mitigation measures and/or performance criteria.

If you have any queries regarding the above comments, please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer
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Reference: 053-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission on Guideline 6: Community and Stakeholder Engagement

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

The SCCG Strategic Plan 2015 – 2019 sets out three guiding principles which encapsulate the core vision, mission and goals of the SCCG, namely to:

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2. Facilitate the sustainable use of coastal resources, now and in the future
3. Promote adaptive, integrated and participatory management of the coast.

Our Member Councils share an interest in ensuring that state significant projects, including development and infrastructure, are subject to comprehensive, consistent, and rigorous Environmental Impact Assessment (EIA), and involve a high level of community and stakeholder engagement throughout the project.

General comments on 'Guideline 6: draft Community and Stakeholder Engagement' are provided below:

- SCCG is supportive of, and welcomes the development of, a community and stakeholder engagement guideline, that specifies that community engagement and opportunity for community and stakeholder input will occur from the early scoping phase of a project.
- Figure 2 (pg.4) within the guideline clearly articulates and communicates the stages of the process where the community and stakeholders can participate and provide feedback and input into the process, enhancing transparency of the process, and providing more opportunities for engagement at all stages. There is a recognition that community/stakeholder perspectives and local knowledge is important to capture in the initial stages of a project. SCCG is highly supportive of this process.
- The requirement for the proponent to prepare a Community and Stakeholder Engagement Plan (CSEP) to document participation and engagement outcomes/activities and evaluate how these will be achieved, is applauded. However, this CSEP is prepared only after the SEARS is issued and based on the preparation of the environmental impact statement, and yet according to figure



2 (pg.4) the proponent must discuss their approach to engagement with the Department and then engage with the community and other stakeholders during the scoping phase. It is recommended that a draft CSEP be developed on commencement of the scoping phase to encompass the approach and methods that will be utilised to engage with the community and stakeholders during the 'scoping engagement' phase of the project. This document should then be reviewed and revised following the issue of the SEARS throughout the EIS preparation, construction, operation, and post-project phases.

- A stakeholder mapping exercise (ref: 3.1.1) is essential in identifying the stakeholders that should be engaged in the project to obtain representative perspectives of the community/relevant stakeholders. Local councils should be involved and engaged in the initial scoping phase and can also assist the proponent in undertaking stakeholder mapping.
- Table 2 (pg.10) indicates the level/approach to engagement is a qualitative assessment. The use of a subjective method, applied by the proponent or consultant, to determine the engagement approach, creates a risk that an issue of importance to stakeholders will not be realised and that stakeholders may not be involved at the appropriate level. There is potential for the approach to be downplayed to a lower level to reduce community/stakeholder engagement effort.

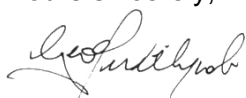
The number of responses alone should not determine the best way to engage. It is essential that the right approach be utilised regardless of the level i.e. a project assessed at a low level should not just 'inform' the community if quality input can be obtained. It should also not be assumed that one level of engagement can satisfactorily be applied throughout the project. The level of engagement should not automatically be nominated at one level for the project in its entirety.

It is recommended that the assessment allow for multiple levels of engagement to be assigned, where relevant to phases of a project based on the various aspects and impacts identified.

- Section 3.3.2 (pg.12) sets out minimum requirements for information to be provided to the Department on engagement during scoping. The guideline states that '*proponents should demonstrate in the Scoping report how they have met these minimum requirements...*'. There is a risk that, by asking proponents to meet 'minimum requirements', the department is setting the bar low to only undertake the minimum. Through this guideline the Department needs to encourage the proponent to go above and beyond the minimum requirements.
- Section 4.2 (pg.18) states that '*proponents should choose engagement techniques that will achieve participation outcomes based on... consideration of how the proponent usually engages and how stakeholders expect they will engage...*'. Each individual project will be different in terms of the issues and techniques required to engage with the community in the most appropriate manner for that circumstance. The previous methods of engagement applied by the proponent may not be relevant and should not form the basis for consideration of techniques. If this is a consideration proponents may fall into the trap of engaging how they have always done rather than applying the most appropriate techniques.
- SCCG supports the requirement (S4.3, 4.4, pg.18) that the proponent report on and evaluate stakeholder participation, and how participation outcomes have been achieved, within the EIS.

If you have any queries regarding the above comments, please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer, SCCG



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Reference: 054-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission on EIA Improvement Project, Guideline 7: Approach to Setting Conditions

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

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As managers, planners, and authorities with responsibility for ensuring positive environmental, social, economic outcomes for the community and the natural and built environment, our Member Councils share an interest in ensuring that state significant projects, including development and infrastructure are subject to comprehensive, consistent, and rigorous Environmental Impact Assessment (EIA) and conditions of consent.

General comments on 'Guideline 7: draft Approach to Setting Conditions' are provided below:

- Conditions of consent are an extremely important component of project approval and can enhance project outcomes, mitigate environmental impacts and regulate the project works. The premise behind Guideline 7 is supported in ensuring consistency and quality of conditions as well as implementing a stringent compliance process.
- Section 2.3 (pg. 4) states *'for state significant projects, conditions of consent may require intensive environmental monitoring together with independent audit and expert review of environmental performance'*. It is the recommendation of SCCG that environmental monitoring and auditing of conditions of consent must be required for all state significant projects.



- SCCG is supportive of the Department developing relevant conditions in consultation with other agencies including local Councils (ref: S3.1, pg.5).
- SCCG is supportive of the conditioning framework in providing consistency in developing conditions of consent, including the development of the most relevant type(s) of conditions of consent (i.e. performance-based, prescriptive, and management-based). It is essential that the framework is prescriptive enough to provide adequate guidance and rigour in its utilisation, and enforcement, whilst also providing flexibility in adoption of best practice technologies, methodologies and approaches.
- It is recommended that the conditioning of all state significant projects incorporate some form of environmental enhancement for the local area and community benefit (ref:S5.2).
- S5.4.2 (pg.14) states: *'if the Department believes insufficient detail has been provided in the EIA documentation or if the Department does not agree that the proposed performance criteria, prescriptive measures or management-based measures will effectively avoid, mitigate or offset the impacts, the Department **may** choose to.....'*. It is recommended that the wording and intent of the use of 'may' in this document be upgraded to *'the Department shall'*. Under these circumstances it should be a standard requirement for the Department to seek more information, draft and apply recommended conditions of consent, and recommend project refusal.
- The Assessment and Mitigation Framework for Proponents as shown at Figure 3 (S5.5.2, pg.17) is supported as a concise and consistent model to follow. It provides a clear indication of the hierarchy to follow to avoid, mitigate or offset adverse impacts. Through this framework mitigation measures must be linked to a specific adverse impact and describe in sufficient detail how the measure will address the adverse impact and achieve the best possible environmental outcomes.

If you have any queries regarding the above comments, please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer
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Reference: 055-17BA

16 August 2017

EIA Improvement Project
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submitted via the online 'make a submission' link

Dear NSW Department of Planning and Environment,

Re: Submission - EIA Improvement Project, Guideline 8: Modifying an Approved Project

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a submission in relation to the EIA Improvement Project.

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General comments on 'Guideline 8: draft Modifying an Approved Project' are provided below:

- SCCG supports the aim of the draft Guideline in providing improved direction and clarity on the process involved in making changes to approved projects, and enhancing understanding and consistency regarding the changes that are permissible under the existing terms of approval, those changes that require modification, or where a new application must be submitted.
- The document is easy to follow and comprehend, particularly due to the use of the decision trees (i.e. Figure 3. S4).



- Section 4.2.1 (pg. 6) dot point 2 states: 'A development can still be substantially the same even if the development as modified involves land that was not the subject of the original consent'. This statement, although a determination of the NSWLEC, is not supported and should be used with caution. Any new land that is the subject of a modification should at a minimum require a site assessment to determine existing environmental/heritage aspects that may be impacted on by the project.
- Modification application classifications (Table 2, S5, pg.9) are supported.
- Where modifications are approved, it is essential that changes in project description/design are updated immediately with strict version control on documentation, to ensure accuracy and transparency throughout the project (ref:6.1.1).

If you have any queries regarding the above comments, please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer
SCCG

