

Response to Proposed Climate Change and Natural Hazards State Environmental Planning Policy (SEPP) - DRAFT

Department of Planning, Housing and Infrastructure

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Prepared by the Northern Sydney Regional Organisation of Councils (NSROC) on behalf of our member councils:

- Hornsby Shire Council
- Hunter's Hill Council
- Ku-ring-gai Council
- Lane Cove Council
- Mosman Council
- North Sydney Council
- City of Ryde Council
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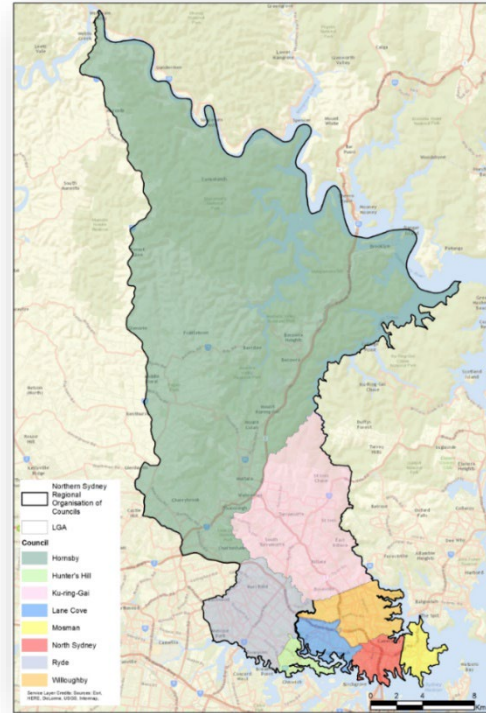
Introduction

The Northern Sydney Regional Organisation of Councils (NSROC) welcomes this opportunity to make a submission to the Department of Planning, Housing and Infrastructure (DPHI) regarding the NSW Government's proposed Climate Change and Natural Hazards State Environmental Planning Policy (SEPP).

NSROC members are the eight councils in the northern Sydney area: Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, and Willoughby. With a combined population of over 660,000 (ABS Estimated Resident Population 2024), together we service an area of 639km² which extends from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River.

This submission outlines the collective views of NSROC member councils on the proposed changes set out in the exhibited documents. This submission has been prepared with the input and support of our member councils but should be considered draft until it is formally endorsed by the NSROC Board.

NSROC and its member councils seek to work collaboratively with the NSW Government to support this fundamental reset in creating more resilient communities. This must be achieved through genuine council engagement and state-led resourcing that empowers councils to deliver a resilient built environment.



Introduction

With its coastal geography and bushland interfaces, the Northern Sydney region faces significant exposure to natural hazards. NSROC welcomes the overdue reform to consolidate natural hazard policy into a single SEPP, enabling councils to take proactive action in understanding climate risk, assessing impacts, and managing vulnerabilities.

This submission reviews the following three documents:

- The Climate Change and Natural Hazards State Environmental Planning Policy (SEPP)—Explanation of Intended Effect (EIE)
- The Draft Climate Change Scenario Guidelines
- The Draft Urban Heat Policy Statement

This response provides general feedback on overarching climate change policy, followed by specific comments addressing individual natural hazards: urban heat, bushfire, coastal hazards, flooding, and rebuilding after natural disasters.

General Feedback on Explanation of Intended Effect (EIE)

Insufficient Detail Risks Reform Outcomes

To translate the strategic intent of the EIE into functional outcomes, a consolidated and practicable set of statewide planning settings is essential. The current exhibition documents focus heavily on general concepts; however, the lack of technical detail makes it difficult for councils to understand how new clauses will operate.

A significant challenge for councils in providing feedback on these reforms is the absence of both the draft SEPP text and Ministerial Directions. Without these, it is impossible to determine how new clauses will operate alongside existing instruments. Specifically, how the SEPP interacts with existing and recently released frameworks, such as Sydney/State land-use frameworks, Regional Plans, and Disaster Adaptation Plans.

There is an urgent need for workable guidance that provides clarity on roles and responsibilities, updated pathways, and transition timeline and arrangements. Without these elements, there is a substantial risk of policy conflict and regulatory duplication.

Avoid Erosion of Effective Local Controls

The EIE's goal of consolidating hazard provisions to achieve greater consistency is appropriate. However, there has been a lack of prior engagement with councils, and the short exhibition period risks overlooking critical local input, potentially leading to costly re-work later.

A thorough review is required to determine how the SEPP will interact with well-established local provisions, particularly those designed for high-risk LGAs, to ensure these are not overridden or weakened.

To deliver this, genuine and meaningful engagement with councils is essential. We recommend a co-design approach for model clauses, practice notes, and worked examples to scale leading practices. A true collaborative process particularly for high-risk LGAs will ensure that existing, more robust clauses are not diluted.

Capacity Building and Resourcing Councils

The scale and frequency of natural disasters is advancing rapidly. It is important that the capabilities and skills required by council staff to manage risk and ensure community safety mature at a similar rate. Councils are on the front line of securing their communities; however, the resources and tools they rely on are increasingly inadequate compared to the intensity of current natural disasters. There is an urgent need for the State Government to provide state-led datasets, funding, and training to ensure consistent and defensible decision-making across all councils.

A challenge for councils in implementing reforms is the inconsistency between data used by different state departments and the difficulty of interrogating that data at an LGA scale. There is an urgent need for state-resourced consistency across departments, including user-friendly, state-led datasets, support for applying hazard data at the local level, and funding for modelling and translation. The State government should align its published datasets and tools—such as NARClIM projections and coastal/flood layers, with the Guidelines' minimum scenarios. These must be made easy to interrogate at an LGA or "place" scale through clear documentation, filters, and download capabilities.

Housing Delivery vs. Climate Risk

Accelerating housing delivery is a critical state priority; however, the planning system must provide clear direction for when hazard avoidance and risk minimisation conflict with housing targets. This fundamental principle requires immediate clarification to ensure long-term community safety.

The proposed EIE's emphasis on "simplification" and "faster delivery" could be interpreted as placing housing supply in direct tension with disaster resilience. To prevent this, the SEPP must explicitly state that hazard avoidance and risk minimisation are foundational principles, not variables to be "balanced away" or compromised to meet numerical housing targets.

The Ambiguous Tolerable Risk Framework

"Tolerable risk" is a vital concept in the draft guidance package; however, it lacks a clear definition or practical application within the planning system. As stakeholders hold varying risk appetites, the Tolerable Risk Guideline must be strengthened to provide clearer thresholds, decision pathways, and practical examples. This should include scenarios that illustrate the distinction between tolerable and intolerable risk to support consistent and defensible decision-making.

Furthermore, it is unclear which authority is empowered to determine what constitutes 'tolerable' risk. This ambiguity might create significant legal exposure for councils; without established benchmarks for tolerable and intolerable risk, councils are left vulnerable to legal disputes over where the line of 'tolerance' is drawn.

The Framework must balance statewide consistency with place-based implementation. While a uniform standard is necessary, the framework should allow councils to apply stronger local controls where warranted by local risk profiles, community context, and hazard exposure. This flexibility is essential to avoid "lowest-common-denominator" outcomes in high-risk LGAs.

Importantly, the assessment of "tolerable risk" must extend beyond physical assets to include essential services and infrastructure interdependencies. For example, if a road or rail line is the sole access point to a regional landfill and is severed during a natural hazard, the risk is not merely to the transport network, which represents a significant public health risk to the entire region. This was clearly demonstrated in 2022 when flooding disrupted the rail line to the Woodlawn landfill, highlighting the need for the framework to account for the systemic impacts of infrastructure failure.

Aligning Mitigation with Adaptation

The proposed policy creates a problematic disconnect by focusing solely on a development's exposure to climate risk while explicitly excluding its contribution to climate change. For planning to be truly resilient, adaptation cannot be viewed in isolation; the SEPP must also address mitigation by reducing development-related emissions. Without this integrated approach, the policy risks ignoring the very drivers that exacerbate the hazards it seeks to manage.

A primary example of this policy gap is the omission of drought, which is not categorised as a natural hazard within the EIE, despite much of NSW frequently experiencing severe drought conditions. This omission leads to a significant contradiction regarding the surge in State Significant Development (SSD) applications for hyperscale data centres. These facilities act as "heat anchors," exhausting massive amounts of waste heat into the local atmosphere and exacerbating the urban heat island effect, which potentially places communities at greater risk of water shortages during periods of extreme heat.

The EIE should not contradict itself by advocating for hazard avoidance and risk minimisation on one hand, while on the other allowing high-impact infrastructure to intensify heatwaves and strain water security. The SEPP must move beyond treating climate solely as an external risk to be assessed; it should be viewed as a driver for proactive adaptation. This requires a more integrated approach, such as reinforcing requirements for canopy retention to combat urban heat and implementing stricter controls to prevent infrastructure—like data centres from increasing local thermal loads.

Integrating Vulnerability into Climate Risk Assessments

It is encouraging to see social vulnerability recognised in the proposed framework. However, it should not be treated as a "soft" or optional consideration. The framework must provide clearly articulated factors that are mandatory within all climate risk assessments. This requires the development of detailed, workable guidance and state-resourced tools to support local implementation.

Community vulnerability is mentioned specifically in the context of urban heat and Coastal Vulnerability Area mapping; however, vulnerability is not limited to certain climate disasters. A comprehensive approach is required across all hazards, including urban heat, bushfire, coastal hazards, and flooding.

When planning for climate risk and post-disaster recovery, planning authorities must consider the intersection of vulnerability and risk exposure. These factors should be formal components of the planning process to ensure that resilience strategies protect the most at-risk members of the community.

Recommendation

- Provide the full draft SEPP text and Ministerial Directions immediately to allow councils to assess the legal operation and interaction of the new clauses with existing instruments.
- Develop a clear instrument guide to prevent policy conflict and regulatory duplication between local, regional, and state frameworks.
- Provide a defined timeline and transitional provisions that outline how "in-flight" planning applications and existing local controls will be handled.
- Adopt a co-design approach that engages with councils for the development of model clauses, practice notes, and worked examples to ensure robust local provisions are not diluted.
- Ensure the SEPP will not override existing local controls in high-risk areas where those controls exceed the state's minimum standards.
- Provide user-friendly, downloadable datasets that are interrogable at the LGA/place scale, supported by clear technical documentation for council staff.
- The SEPP must reinforce that sustainable housing delivery is only possible when it is resilient. Speeding up the planning process must not occur at the expense of placing future residents in high-risk environments.
- Provide a clear, legal definition of "tolerable" versus "intolerable" risk, including specific decision pathways and thresholds.
- The SEPP / Tolerable Risk Guidelines should include "Waste Infrastructure Continuity" as a factor when determining if a risk is "tolerable."
- Require that high-impact developments (such as data centres) assess their contribution to local heat loads and emissions.
- Transition vulnerability from a "soft consideration" to a mandatory, formal component of the climate risk assessment process.

Urban Heat

NSROC supports the introduction of an Urban Heat Policy, recognising that extreme heat is one of NSW's most pervasive and deadly climate hazards. As climate change intensifies, urban heat presents a significant risk to community health, comfort, and liveability. While the draft policy outlines objectives to improve heat resilience, it requires clearer implementation measures to be effective. Also, there is currently a lack of clarity regarding how these policies apply to the Complying Development pathway, which accounts for a significant portion of NSW development. The framework must explicitly address heat considerations within this pathway.

Urban heat considerations must be mandatory during precinct planning and the development of Indicative Layout Plans (ILPs). This ensures that street networks, open space, and built form are designed for cooling outcomes, such as optimal solar orientation and breezeways, before designs and lot layouts become fixed. Resilient Infrastructure and Public Health Heatwaves impact the entire population, necessitating a broader approach to infrastructure design. Buildings and public spaces must support community wellbeing during extreme heat.

To achieve a consistent statewide methodology, genuine engagement with councils is required to audit existing work and map current gaps. Implementation must account for varying council capacities. While larger councils may have established heat policies, smaller councils require additional state resourcing and technical support to ensure the SEPP is applied consistently and effectively across all LGAs.

Recommendation

- The policy should mandate that applicants prepare and submit an Urban Heat Strategy demonstrating how a proposed development will mitigate heat impacts.
- Clearer metrics or performance benchmarks are essential to assist consent authorities in determining if design measures effectively address urban heat.
- Explicitly extend heat consideration policies to the Complying Development pathway to ensure that the significant volume of development occurring through this route is not exempt from heat resilience standards.
- Provide for continuous shading along pedestrian and cycle routes to maintain mobility during hot days.
- Design homes and public buildings (such as libraries and community centres) to function as accessible "cool havens" for the community during extreme heat events.

Bushfire

NSROC supports the integration of bushfire risk into the new SEPP to improve consistency and accessibility across the planning system. However, absolute certainty is required regarding policy primacy and transition arrangements. If bushfire controls are relocated or reframed without explicitly defining their interaction with Planning for Bush Fire Protection (PBP) 2019 and the Codes SEPP, development assessments risk becoming highly contested.

Recommendation

- Explicitly state the "policy primacy" to determine which instrument takes precedence if there is a conflict between the new SEPP, Planning for Bush Fire Protection (PBP) 2019, and the Codes SEPP.
- Provide a detailed framework for how existing bushfire controls will be relocated or reframed to ensure no regulatory gaps exist during the changeover.
- Ensure that the interaction between these legislative instruments is clearly defined to avoid "contested" development assessments.

Coastal hazards

NSROC holds concerns regarding the standardisation of Coastal Risk clauses across different regions. A "one-size-fits-all" approach risks weakening well-established local hazard controls that have been tailored to specific geographic and environmental contexts. To provide greater certainty for both developers and the community, the State should consider the creation of a dedicated Land Use Zone. This would clearly identify land that is highly vulnerable to climate change and sea-level rise, ensuring that land-use permissions are fundamentally aligned with long-term risk profiles.

Recommendation

- Avoid a "one-size-fits-all" approach for Coastal Risk clauses to ensure that established local hazard controls, which are specifically tailored to unique regional geographies, are not weakened.
- Create a specific Land Use Zone to formally identify land highly vulnerable to sea-level rise and climate change.
- Ensure that land-use permissions and development rights within these areas are fundamentally and legally aligned with long-term environmental risk profiles to provide certainty for developers and residents.

Flooding

NSROC supports the objective of 'stopping inappropriate development on floodplains' while supporting increased housing supply. However, it is unclear how the proposed relocation of Standard Instrument LEP Clauses 5.21 (Flood Planning) and 5.22 (Special Flood Considerations) into the new SEPP will improve flood planning outcomes or enhance the assessment of flood risk. Further explanation is required to assist councils in understanding the strategic rationale for this change and how it will streamline, rather than complicate, local planning controls. The SEPP should provide a seamless and transparent administrative pathway to ensure that councils already utilising these clauses do not face a regulatory gap or a dilution of their existing flood management standards.

Recommendation

- Provide a clear rationale for moving Clauses 5.21 and 5.22 to the SEPP ensuring this change improves rather than complicates the assessment of flood-prone land.
- The transition must include a "savings and transitional" provision that allows councils to maintain their current, more stringent flood management standards where they exceed the SEPP's baseline.
- Ensure that the relocation of these clauses is supported by clear, updated mapping and guidance to prevent confusion during the transition phase for councils.

Rebuilding After Natural Disasters

NSROC appreciates the intention to embed 'Build Back Better' guidance within land-use planning. Embedding the principles of 'Build Back better' will strengthen infrastructure resilience and potentially save on long term maintenance costs. It also provides the opportunity to deliver social, economic and environmental outcomes for the community. To that end, the principles outlined within the EIE should explicitly recognise Circular Economy integration as a core component of resilience. Rebuilding must move beyond mere structural durability to encompass resource efficiency and long-term sustainability.

Disaster events generate immense volumes of waste that often overwhelm local infrastructure. Therefore, "Build Back Better" guidance must incorporate disaster waste management and materials recovery from the outset. By setting diversion targets and establishing protocols for temporary sorting facilities, the planning system can support faster recovery while reducing both costs and the carbon footprint of reconstruction.

Recommendation

- Incorporate specific disaster-waste diversion targets within the reconstruction guidance to minimise landfill impact.
- Mandate or incentivise the use of recycled content such as crushed concrete and recycled aggregates sourced from the disaster event itself in new infrastructure where safety and quality standards permit.
- Emphasise that these circular measures are intended to work alongside life-safety tests, ensuring that resource recovery supports rather than compromises community safety and structural integrity.

Conclusion

NSROC appreciates the opportunity to provide this submission and looks forward to working constructively with the NSW Government to refine and finalise a Climate Change and Natural Hazards State Environmental Planning Policy (SEPP) that delivers coordinated, consistent, and locally responsive outcomes.