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Dear Coastal Reforms Team,

Please find attached a staff submission from Byron Shire Council on the Stage Two NSW Coastal Reforms. The submission is based on a preliminary analysis of several documents released as part of the consultation process (refer Part B for details). Due to the considerable volume of material released as part of the reforms, and limited time and resources, this submission has not considered 'Key elements of the draft coastal management manual - Part B and Part C.

It is noted that the material available in the public domain does not comprise all of the essential elements of the Stage 2 reforms. In this respect, we reserve the right to clarify or correct any views that are expressed in this submission, pending the release and review of further materials.

The submission has two main parts:

Part A – General comments and overarching issues

Part B – Specific comments on consultation materials:

- Table 1: Comments on public consultation draft Coastal Management Bill 2015 NSW (13 October 2015)
- Table 2: Comments on Explanation of Intended Effect for the proposed new Coastal Management State Environmental Planning Policy
- Table 3: Comments on 'Introduction to the coastal management manual' and Part A: Mandatory requirements and essential elements for the preparation of a coastal management program'

Byron Shire Council looks forward to further consultation on the reforms, and on working with the NSW Government to find solutions to the issues raised in this submission.

Yours sincerely

Shannon Burt
Director Sustainable Environment and Economy



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THE BUNDJALUNG PEOPLE

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PART A – GENERAL COMMENTS AND OVERARCHING ISSUES

1. The reforms proposed reflect a continuation of cost shifting from State Government to Local Government in terms of coastal zone management, with financial consequences for Councils, communities and all ratepayers, regardless of whether or not they live in the coastal zone.
2. The reforms proposed place significant responsibilities on councils to lead the implementation of Coastal Management Programs (CMPs) and associated actions; however the reforms to date do not address in any meaningful way, the question of how such programs are to be funded equitably, and how other relevant public authorities are to be made accountable for actions in a CMP.
3. It is of concern that there is a potentially higher threshold being set to meet the statutory defences to liability as per the proposed changes to the Local Government Act, as well as the potential creation of enforceable obligations to implement coastal management programs.
4. The reforms proposed fail to recognise the differences between regional and metropolitan areas, and their capacity to fund management solutions.
5. There is a need to contextualise and review the proposed reforms in terms of broader legislative reform, non-statutory planning instruments and regional planning strategies.
6. The new NSW Coastal Council proposed does not explicitly require direct representation of local government. There should be direct representation of local government on the NSW Coastal Council.
7. The late release of parts of the draft Coastal Management Manual, and the non-release of the draft Coastal Management SEPP and associated mapping, has limited our ability to conduct an in-depth analysis of the reforms proposed and associated consequences.

PART B – SPECIFIC COMMENTS ON CONSULTATION MATERIALS

Table 1 Comments on public consultation draft Coastal Management Bill 2015 NSW (13 October 2015)

Part / Clause	Details	Comment No.	Comment	Status*
2	Commencement This Act commences on a day or days to be appointed by proclamation.	1.	Councils under Directions would benefit from clarification of the proposed commencement date as this has implications for transitional arrangements regarding CZMPs currently under preparation.	●
3	Objects of this Act			
	(c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and	2.	Explicit object relating to Aboriginal people's use of the coastal zone.	●
	(g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and	3.	New object, implications unknown, not adequately explained in the materials to date.	●
	(l) to support the objects of the <i>Marine Estate Management Act 2014</i> .	4.	Explicit object cross reference to the objects of the <i>Marine Estate Management Act</i> .	●
4	Definitions (1) In this Act:			
	beach means coastal land that is generally composed of sand or similar sediment and that is limited to a range defined as submerged land to 40m depth seaward of the mean high water mark on the open coast and 10m depth seaward of the mean high water mark in estuaries, and extends to the landward extent of a beach fluctuation zone.	5.	More expanded definition than previous, estuary vs. coast, extending to a submerged depth of 40 m. Implications unknown.	●

Part / Clause	Details	Comment No.	Comment	Status*
	beach fluctuation zone means the range of locations a beach profile occupies from its fully accreted to its fully eroded condition.	6.	<i>Beach fluctuation zone</i> is new, implications unknown.	●
	coastal hazard means the following: (a) beach erosion, (b) shoreline recession, (c) coastal lake or watercourse entrance instability, (d) coastal inundation, (e) coastal cliff or slope instability, (f) tidal inundation, (g) erosion of foreshores caused by tidal waters and the action of waves, including the interaction of those waters with catchment floodwaters.	7.	(g), amended to include interaction of tidal waters and 'the action of waves'. Implications unknown, management of this hazard and relationship to catchment flooding / NSW flood management regime needs to be clarified.	●
Part 2	Coastal zone and management objectives for coastal management areas		The draft bill (and other documentation) does not provide information on the key parameters which define each management area, for example, the 'coastal vulnerability' area is undefined in terms of planning timeframe, sea level rise benchmark, hazard(s) being mapped, and probability and/or severity of hazard(s). This information is required to gain an understanding of whether or not this element of the reforms is robust and 'reasonable'. Given that the spatial maps for the four coastal management areas are not available; council reserves the right to provide further comment when the maps are released for consultation.	●
5	Coastal zone In this Act, the coastal zone means the area of land comprised of the following coastal management areas: (a) the coastal wetlands and littoral rainforests area, (b) the coastal vulnerability area, (c) the coastal environment area, (d) the coastal use area.	8.	The application of these categories, as reflected in the mapping, is critical to then understanding the requirements under the Act and the manual for the CMP, and the implications for coastal zone management and land use planning and development. Noting that the SEPP mapping may not coincide with existing council mapping. For many areas, at least 2 to 3 categories will apply. Councils will need to grapple with not only potentially overlapping management objectives, but also balancing potentially competing objectives	●

Part / Clause	Details	Comment No.	Comment	Status*
			between Management Areas and land use zones as per the LEP.	
6	Coastal wetlands and littoral rainforests area			
	(1) The coastal wetlands and littoral rainforests area means the land identified by a State environmental planning policy to be the coastal wetlands and littoral rainforests area for the purposes of this Act, being land which displays the hydrological and floristic characteristics of coastal wetlands or littoral rainforests and land adjoining those features.	9.	Mapping for SEPP 14 Wetlands and SEPP 26 Littoral rainforest areas needs to be reviewed, ground truthed and properly digitised with cadastre at an appropriate scale to enable accurate transfer into Council GIS mapping.	●
7	Coastal vulnerability area			
	(1) The coastal vulnerability area means the land identified by a State environmental planning policy to be the coastal vulnerability area for the purposes of this Act, being land subject to coastal hazards.	10.	<p>This clause indicates that the coastal vulnerability area will incorporate all of the land subject to 'coastal hazards' i.e. land subject to erosion as well as inundation, coastal cliff instability, watercourse entrance instability, tidal inundation, shoreline recession etc.</p> <p>The implications of including tidal inundation into the coastal hazard area needs to be considered, especially in light of the interaction of this hazard with catchment flooding and flood planning processes.</p> <p>It is unclear if the area, which will be spatially identified in the SEPP, using state government regional based mapping, will incorporate different planning timeframes and therefore sea level rise (and therefore sea level rise benchmarks). Council reserves the right to make further comment on this aspect of the Bill as more information becomes available.</p>	●
	(2) The management objectives for the coastal vulnerability area are as follows:			
	(f) to adopt coastal management strategies that reduce exposure to coastal hazards, (i) in the first instance and wherever possible,	11.	(f) Hierarchy of actions, natural defences first, then 'other actions'.	●

Part / Clause	Details	Comment No.	Comment	Status*
	by restoring or enhancing natural defences including coastal dunes, vegetation and wetlands, and (ii) if that is not sufficient, by taking other action to reduce exposure to those coastal hazards,			
	(g) if taking that other action to reduce exposure to coastal hazards: (i) to avoid significant degradation of or disruption to biological diversity and ecosystem integrity, and (ii) to avoid significant degradation of or disruption to ecological, biophysical, geological and geomorphological coastal processes, and (iii) to avoid significant degradation of or disruption to beach and coastal foreshore amenity and social and cultural values, and (iv) to avoid adverse impacts on adjoining land, resources or assets, and (v) to provide for the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by actions to reduce exposure to coastal hazards,	12.	The term 'significant' is used repeatedly, except in relation to 'avoid adverse impacts on adjoining land'. The matters under (g) and their 'significance' will be subject to interpretation and expert opinion. The <i>EP&A Act and EP&A Act Regulation 2000</i> , for example clause 228 'What factors must be taken into account concerning the impact of an activity on the environment?', should be reviewed to ensure they align with the consideration of matters in (g) when undertaking environmental impact reviews and assessments. Clause 27 'Granting of development consent relating to coastal protection works' focuses on public access and safety and may benefit from review to align it with the management objectives for the coastal vulnerability area, including objectives at (f) and (g).	●
9	Coastal use area			
	(1) The coastal use area means the land identified by a State environmental planning policy to be the coastal use area for the purposes of this Act, being land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is or may be carried out (at present or in the future).	13.	SEPP will provide overarching definition of 'coastal use area'. Several options under consideration.	●
10	Matters relating to identification of coastal			

Part / Clause	Details	Comment No.	Comment	Status*
	management areas			
	<p>(1) LEPs may amend SEPPs to identify coastal management areas</p> <p>For the avoidance of doubt, a local environmental plan under the <i>Environmental Planning and Assessment Act 1979</i> may amend a State environmental planning policy under that Act to identify a coastal management area (or part of such an area) for the purposes of this Act.</p>	14.	<p>In the first instance, it would be preferable that the state-wide mapping provides the resolution and accuracy required for mapping coastal areas. For vulnerability areas, this would ensure a consistent approach to coastal hazard and vulnerability definition across the state (refer Council res 15-033).</p> <p>It is a novel approach for LEP maps (through a planning proposal) to override a SEPP. This process however, needs to be properly considered and clarified. In addition, a logical pathway may be that mapping from a certified CMP automatically updates the SEPP mapping e.g. upon gazettal of the CMP.</p> <p>The manual indicates that alternative mapping must be based on work undertaken in accordance with Stage 1 and 2 of Part B of the manual (Part A doc, page 6), however contemporary studies and maps may have been prepared under the old framework, if appropriate, this mapping should also inform the planning proposals.</p> <p>From the draft manual, there appears to be an expectation that councils will 'drill down' and produce LEP maps with finer scale resolution of coastal vulnerability areas, for the range of hazards included in this area. Councils do not necessarily have this mapping for all coastal hazards.</p>	●
	<p>(3) Hierarchy of management objectives if overlapping</p> <p>A single parcel of land may be identified by a State environmental planning policy as being within different coastal management areas. However, in such a case, if the management objectives of the areas are inconsistent, the management objectives of the highest of the following coastal management areas (set out highest to lowest) prevails to the extent of the inconsistency:</p>	15.	<p>This clause needs to be amended to make it consistent with and reflect cl. 10(1). A change along the following lines would be sufficient:</p> <p>(3) A single parcel of land may be identified by a State environmental planning policy, or an LEP as referred to in clause 10(1), as being within different coastal management areas.</p> <p>Given this hierarchy in terms of management objectives if overlapping, it will be critical that mapping for both the coastal wetlands and littoral rainforests area, as well as the coastal vulnerability area, is accurate, contemporary and ground-truthed.</p>	●

Part / Clause	Details	Comment No.	Comment	Status*
	(a) the coastal wetlands and littoral rainforests area, (b) the coastal vulnerability area, (c) the coastal environment area, (d) the coastal use area.			
14	Preparation of coastal management program			
	(1) A local council is to prepare a coastal management program in accordance with the coastal management manual. (2) The Minister may, by notice in writing given to a local council, direct the local council in its preparation of a coastal management program. A direction under this subsection prevails to the extent of any inconsistency between it and the coastal management manual. Note. See sections 20 and 30 regarding a failure of the local council to comply with a direction of the Minister.	16.	We support the proposals however clause (2) needs to be amended to ensure that the presumptions in s733 of the Local Government Act also continue to apply where a Direction has been issued which may be inconsistent with the coastal management manual. We request an addition at the end of subclause (2) along the following lines: "The Minister may coastal management manual. A local council acting in accordance with a direction under this subclause will be deemed to be acting in accordance with the coastal management manual. "	●
	(3) In preparing a coastal management program, a local council must: (a) consider and promote the objects of this Act, and (b) give effect to the management objectives for the coastal management areas covered by the program, and (c) consider the State and regional policies and plans prescribed by the regulations for the purposes of this section.	17.	(3) Previously there were a number of Coastal Management Principles to consider which also brought in the objects of the Act the NSW Coastal Policy etc. Three tiers of objectives to consider is a somewhat simpler framework and more integrated.	●
15	Matters to be dealt with in coastal management program	18.	A new clause (5) is recommended in this section, similar to 16(3): (5) A failure to comply with this section does not invalidate a coastal management program.	●

Part / Clause	Details	Comment No.	Comment	Status*
	(1) A coastal management program must:			
	(d) identify the costs of those actions and proposed cost-sharing arrangements and other viable funding mechanisms for those actions to ensure the delivery of those actions is consistent with the timing for their implementation under the coastal management program, and	19.	Incorporation of costs and funding mechanisms into the Bill.	●
	(3) A coastal erosion emergency action subplan is a plan that outlines the roles and responsibilities of all public authorities (including the local council) in response to emergencies immediately preceding or during periods of beach erosion, where the beach erosion occurs through storm activity or an extreme or irregular event, including the carrying out of works for the protection of property affected or likely to be affected by beach erosion.	20.	To ensure that clause (b) is not misinterpreted, the following clarification is suggested: (b) emergency actions carried out during periods of beach erosion, including, if in accordance with the coastal management program objectives , the carrying out of related works, such as works for the protection of property affected or likely to be affected by beach erosion, where beach erosion occurs through storm activity or an extreme or irregular event, and	●
	(4) A coastal management program must not include the following:			
	(b) proposed actions or activities to be carried out by any public authority or relating to any land or other assets owned or managed by a public authority, unless the public authority has agreed to the inclusion of those proposed actions or activities in the plan	21.	Where authorities have agreed to actions in a CMP, these authorities should take responsibility, and be accountable, for carrying out those actions, this should be reflected in cl. 22, 23 and 26.	●
16	Consultation (1) Before adopting a coastal management program, a local council must consult on the draft program with:			
	(b) if the local council's local government area	22.	New requirement. Logic is sound and this may facilitate regional	●

Part / Clause	Details	Comment No.	Comment	Status*
	contains land within the coastal vulnerability area, any local council whose local government area contains land within the same coastal sediment compartment (as specified in Schedule 1), and		approaches to issues.	
	(3) A failure to comply with this section does not invalidate a coastal management program.	23.		●
17	Certification, adoption and gazettal of coastal management program	24.	Bill is silent on exhibition requirements. The manual specifies a 28 day exhibition period under 'Essential Elements', but not under 'Mandatory Requirements'. Concern that 'the 'exhibition' of the draft CMP is not specified in the Act, or detailed under Mandatory Requirements' in the Manual. This may result in errors or inconsistent exhibition processes across the state.	●
	<p>Note. Section 733 (2) of the Local Government Act 1993 provides that a local council does not incur any liability in respect of:</p> <p>(a) any advice furnished in good faith by the council relating to the likelihood of any land in the coastal zone being affected by a coastline hazard (as described in the coastal management manual) or the nature or extent of any such hazard, or</p> <p>(b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being so affected.</p> <p>Also, section 733 (4) (b) provides that a council is, unless the contrary is proved, taken to have acted in good faith for the purposes of this section if the advice was furnished, or the thing was done or omitted to be done in accordance with the principles and mandatory requirements set out in the coastal management manual.</p>	25.	Refer comments on Section 733 (2).	●

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18	Review, amendment and replacement of coastal management programs (4) Following a review, a local council may, by notice published in the Gazette, repeal a coastal management program.	26.	(4) The manual needs to be clear about how to review and then repeal a CMP. Noting that under the CP Act, a CZMP could not be repealed unless a CZMP replaced it. The 'manual' needs to clarify the process for reviewing a CMP, and should ensure that the review and repeal process is open and transparent. In addition, the consequences in the event of a repeal of a CMP should be clarified, particularly with respect to 'hot spot' areas under Ministerial directions to prepare CZMPs.	●
20	Minister to prepare coastal management programs in certain circumstances	27.	This clause is far more extensive than previous, which is inevitable and appropriate, however state agencies and other entities that agree to certain actions in the CMP should also be accountable for implementing these actions in the CMP. By extension, the NSW Coastal Council audit function should apply to other agencies who have agreed to undertake actions in the CMP and there should be greater emphasis in the legislation concerning the roles and responsibilities of state agencies in coastal zone management. Clarification required that the state government will meet costs associated with the audit function.	●
Division 3	Coastal management manual			
21	Coastal management manual			
	(2) The manual is to impose mandatory requirements and provide guidance in connection with the preparation, development, adoption, amendment, and review of, and the contents of, coastal management programs.	28.	Mandatory requirements vs. guidance – this approach is welcomed however to avoid confusion, it important that the manual contains only genuine 'mandatory requirements' for preparing a CMP, whereas the current draft contains two sections one being 'Mandatory Requirements' and the other being discretionary considerations titled 'Essential Elements'.	●
	(7) In this section, integrated planning and reporting framework obligations means obligations relating to the preparation, development and review of, and the contents of, community strategic plans, resourcing strategies, delivery programs, operational plans, community engagement strategies,	29.	As the Local Government Act is also under review and will be changing in the near future, may be prudent to remove chapter references and to simply refer to the LG Act.	●

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	annual reports and state of the environment reports of local councils under Chapter 13 of the Local Government Act 1993.			
22	<p>22 Implementation of coastal management program by local councils</p> <p>(1) A local council is to give effect to its coastal management program and, in doing so, is to have regard to the objects of this Act.</p> <p>(2) In particular, without limiting subsection (1), a local council is to give effect to its coastal management program in:</p> <p>(a) the preparation, development and review of, and the contents of, the plans, strategies, programs and reports to which Part 2 of Chapter 13 of the <i>Local Government Act 1993</i> applies, and</p> <p>(b) the preparation of planning proposals and development control plans under the <i>Environmental Planning and Assessment Act 1979</i>.</p>	30.	<p>The relationship of CMPs to the IP&R framework, including the alignment of reporting and financial processes, requires further consideration and clarification.</p> <p>Limitation on resources and competing priorities for these resources, in practical terms, mean councils seek flexibility to determine where finite resources are applied and in what circumstances. The inclusion of cl. 22 of the Draft Bill is opposed insofar as it has no precedent under the CP Act and it imposes a positive (and potentially enforceable) obligation to give effect to CMPs.</p>	●
26	Performance audit of implementation of coastal management programs			
	(1)The NSW Coastal Council, at the request of the Minister, is to conduct a performance audit of the implementation of a coastal management program of a local council.	31.	Clarification required on what information the Minister requires to trigger a performance audit. The performance audit criteria should be consistent throughout the state, should be specified in the manual and should be linked to, and not in addition to, IP&R reporting requirements.	●
	(2)The purpose of the performance audit is:			
	(a) to determine whether a local council is effectively implementing its coastal management program, and (b) to identify opportunities for local council capacity building.	32.	The NSW Coastal Council audit function should apply to other agencies who have agreed to undertake actions in the CMP and there should be greater emphasis in the legislation concerning the roles and responsibilities of state agencies in coastal zone management.	●

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	(3) The NSW Coastal Council may, by notice in writing given to a local council, require the local council to provide it with such information or records (or both) as the notice requires in connection with a performance audit.	33.	Clarification required that the state government will meet costs associated with the audit function.	
	(7) The regulations may make provision for or with respect to performance audits under this section.	34.	Clarification on the information required under an audit would be useful and should align with and be integrated into reporting frameworks.	●
Part 5	Miscellaneous			
27	<p>Granting of development consent relating to coastal protection works</p> <p>Development consent must not be granted under the <i>Environmental Planning and Assessment Act 1979</i> to development for the purpose of coastal protection works, unless the consent authority is satisfied that the works will not, over the life of the works:</p> <p>(a) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or</p> <p>(b) pose or be likely to pose a threat to public safety.</p>	35.	<p>This clause places a number of potential responsibilities on the consent authority e.g. developing thresholds for implementation, formulation of detailed mitigation measures, monitoring for compliance. In addition, conditions may be disputed, at the time of assessment and for the life of the development. This may lead to ad hoc or inconsistent outcomes.</p> <p>(a) and (b) focus on public access and public safety, and may need review in light of new CM Act objectives, and the considerations for the 'coastal vulnerability' management area, especially those at 7(g). Refer also comment above on 7(g).</p>	●
	<p>Note. Section 80A (6) of the <i>Environmental Planning and Assessment Act 1979</i> provides that a development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of making good any damage caused to any property of the consent authority as a consequence of the doing of anything to which the consent relates.</p>	36.	<p>Note: Section 80A, even as amended, does not have the effect alleged in this note. Further, section 80A, even as amended will have limited or no utility in this context.</p> <p>Reliance on s80A conditioning of consents will lead to inadequate management of offsite impacts and is not supported. See also further comment on Schedule 4 (#44).</p>	●

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28	Modification of doctrine of erosion and accretion	37.	This clause unchanged with reference to cl. 55N of CP Act. Should this clause be reviewed in light of the recognition of ambulatory boundaries (object 3(g))?	●
Part 4	NSW Coastal Council			
24	Establishment of NSW Coastal Council (3) The members of the NSW Coastal Council must have expertise in one or more of the following fields: ...(g) local government management.	38.	The new NSW Coastal Council proposed does not explicitly require direct representation of local government. There should be direct representation of local government on the NSW Coastal Council.	●
Schedule 1	Local government areas and coastal sediment compartments	39.	It is noted that the following compartments are relevant for Byron Shire and that additional consultation is indicated: <ul style="list-style-type: none"> Point Danger–Cape Byron Tweed, Byron Cape Byron–Richmond River Byron, Ballina 	●
6	Certification of pending coastal zone management plans		Interaction between (1) and (3) is clumsy, at best. We strongly recommend review and redrafting of the proposed transition provisions.	●
	(1) If, before the repeal date, a draft coastal zone management plan has been submitted to the Minister for certification under section 55G of the former Act, but has not by that date been certified, the Minister and council may continue to deal with that plan as if Division 1 of Part 4A of that Act had not been repealed.	40.	(1) This should just refer to the former Act, section reference unnecessary.	●
	(2) Subclause (1) ceases to have effect 6 months after the repeal date.	41.	(2) What is the reason for the 6 month expiry date? If the Ministerial certification process (which is completely beyond the power of a local council) takes longer than 6 months, local government will be left to start the process all over again and the time and resources relating to the preparation of the draft CZMP would be wasted. We have been warning against this possibility, for a long time now and are extremely concerned to ensure that	●

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			<p>proposed subclause (2) is deleted and no timeframe applies.</p> <p>For example, please know that we have a draft EASP and a draft CZMP, already lodged with the Minister that we have been waiting well over 24 months for a response on.</p> <p>At the very least, if there is an insistence on the 6 month sunset period staying in place, there should be 'stop the clock' provisions to exclude from that period, the time between the date of submission of the draft CZMP to the Minister and the date of determination of the Minister.</p>	
	(3) A coastal zone management plan certified and made in accordance with subclause (1) is taken to be a coastal management program prepared and adopted under this Act.	42.	Agree, CZMPs under subclause (1) should have the same status as CMPs, but subclause (4) is inconsistent with this premise.	●
	(4) Subclause (3) ceases to have effect at the end of 31 December 2021.	43.	<p>We object to proposed subclause (4) and request its deletion.</p> <p>CZMPs certified under subclause (3) prepared in accordance with the current statutory regimes, should be treated the same as CMPs prepared under the new statutory regime and local councils and community should not be penalised by the legislative changes.</p> <p>Much time, resources and energy goes into the preparation of a CMP and 5 years does not provide for an adequate implementation timeframe. We agree that 10 years is a reasonable implementation timeframe. The proposed 2021 sunset date on CZMPs certified under the savings provisions should be deleted and CZMPs certified under the transitional arrangements should have the same status as CMPs.</p>	●
7	Temporary coastal protection works			
	Part 4C (Temporary coastal protection works) of the former Act continues to have effect as if that Part were not repealed in relation to temporary coastal protection works if: (a) the works were placed on private land in	44.	Temporary works were meant to be required to be removed after 2 years. This clause should have a sunset clause, with a maximum 2 years, after which this clause would cease to have effect, to ensure consistency with the existing legislative requirements.	●

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	<p>accordance with that Part before the repeal date, and (b) the owner of the land complied with section 55X (Notice to council and others of placement of temporary coastal protection works) of the repealed Act in respect of the placement of those works.</p>			
Schedule 4	Amendment of Acts and instruments			
4.1	Environmental Planning and Assessment Act 1979 No 203		<p>Compliance functions associated with coastal management have been moved into the <i>Environmental Planning and Assessment Act 1979</i> and this has some merit. However councils are unlikely to have the resources or specialist expertise to undertake compliance monitoring and/or the carrying out of orders relating to the coastal zone. This compliance function should be carried out by other public authorities.</p>	●
	<p>[2] Section 80A Imposition of conditions</p> <p>Insert after section 80A (6) (c): (d) in relation to coastal protection works (within the meaning of the Coastal Management Act 2015), either or both of the following: (i) the maintenance of the works, (ii) the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works.</p>	45.	<p>Section 80A(6)(c), as proposed to be amended, is not an effective tool for managing offsite impacts of coastal protection works for a variety of reasons including by way of example only:</p> <ul style="list-style-type: none"> - It only allows conditions requiring security for maintenance/repair not conditions requiring the person benefitting from the consent to carry out maintenance/repair; - Imposing a security condition under s80A will not generate the right of a consent authority to trespass on private land to carry out maintenance/repair works so the security may never be able to be drawn down on and on-ground works never able to be carried out; - It can be difficult to predict offsite impacts and in turn the potential costs of maintenance/repair so securities imposed may prove to be inadequate; - The costs associated with administration of securities are not recoverable by local authorities and may be prohibitive for applicants; - The paper nature of securities and inability to invest them, resulting in inflation reducing the value of the securities over time. 	●

Part / Clause	Details	Comment No.	Comment	Status*
			<p>The proposed new 80A(6)(d) are also of themselves inadequate, for example:</p> <ul style="list-style-type: none"> - should be changed to reflect the uncertain nature of attempting to predict offsite impacts; - should not be limited to adjacent land because offsite impacts may be on land that is not adjacent or on infrastructure or services as well as land; - should not be limited to the beach but also other environments that could be impacted eg dunal systems/vegetation or estuaries etc. 	
	<p>[2] Section 80A Imposition of conditions ... Continued</p>		<p>At a minimum 80A(6) (d) (ii) should also refer to:</p> <p><i>(d) (ii) the restoration of any beach or environment, or repair of any damage to any land or infrastructure that is could be caused by the presence of the works.</i></p> <p>80A(1)(h) is also relevant and would require review if the intention to amend 80A(6)(d) proceeds.</p> <p>Further, other changes to the EP&A Act and/or additional powers in the Coastal Management Act need to be considered to ensure conditions on development consents for coastal works are adequate and practical. For example, noting the holding of security does not authorise trespass on private land, this power or the power to impose conditions to give effect to on-ground works needs to be addressed.</p> <p>Attempting to regulate future costs of maintenance or repair of damage from private coastal works through the development consent process is impractical and will most likely lead to significant costs being borne by the community.</p> <p>A state-regulated scheme where payments must be made via the consent conditions into a central pool of funds that can be invested and allocated as deemed necessary by the agency tasked with management of the fund should be considered.</p>	
	<p>[13] Schedule 4 Joint Regional</p>	<p>46.</p>	<p>It will be important for appropriate expertise to be on the JRPP to</p>	<p>●</p>

Part / Clause	Details	Comment No.	Comment	Status*
	<p>Planning Panels Insert after clause 2 (5): (6) Substitute members for coastal protection works Despite subclause (1), if a matter is the determination a development application regarding coastal protection works on land within the coastal zone (within the meaning of the <i>Coastal Management Act 2015</i>), the Minister is to appoint substitute State members of the Panel in substitution for the State members (other than the chairperson) of the Panel. A substitute State member is not required to have expertise in an area referred to in subclause (1) (a) but is required to have expertise in coastal engineering or coastal geomorphology.</p>		assess coastal protection work development applications.	
	4.4 Local Government Act 1993 No 30	47.	Local Government Act 1993, Section 733 provisions require a number of amendments to ensure that the legislative reforms do not diminish or unintentionally impact the indemnities.	●
	<p>[5] Section 733 Exemption from liability— flood liable land, land subject to risk of bush fire and land in coastal zone Omit “a manual referred to in subsection (5) (b)” from section 733 (2) (a). Insert instead “the coastal management manual under the Coastal Management Act 2015”.</p>	48.	<p>It is critical that the proposed omission not proceed. The indemnity needs to relate to the previous versions as well as the new.</p> <p>Instead, the clause could say something along the lines: “the relevant manual prescribed by the relevant legislation at the applicable time” to ensure coverage for the previous as well as future manuals .</p>	●
	<p>[6] Section 733 (3) (b) Omit the paragraph. Insert instead: (b) the preparation and adoption of a coastal management program under the Coastal Management Act 2015, and</p>	49.	As above, it is critical the current provision remain intact and instead simply add in new clause that refers specifically to the new Act. Alternatively, omit as proposed but add in a new sub clause e.g. (b) (i) to provide coverage for the CZMPs under the previous Act.	●
	<p>[7] Section 733 (3) (f) and (f3) Omit “coastal management works” wherever</p>	50.	Do not omit this definition, rather, add in the new definition and retain previous reference.	●

Part / Clause	Details	Comment No.	Comment	Status*
	occurring. Insert instead “coastal protection works”.			
	[8] Section 733 (3) (f6) Omit the paragraph.	51.	Do not omit, temporary coastal protection works may be in place under the CP Act for a period of 2 years, therefore this clause is still required. Refer also comment at [13] above, and comment on Schedule 3, clause 7 of the Bill.	●
	[9] Section 733 (4) Omit the subsection. Insert instead: (4) Without limiting any other circumstances in which a council may have acted in good faith, a council is, unless the contrary is proved, taken to have acted in good faith for the purposes of this section if the advice was furnished, or the thing was done or omitted to be done: (a) substantially in accordance with the principles contained in the relevant manual most recently notified under subsection (5) at that time, or (b) in accordance with the principles and mandatory requirements set out in the current coastal management manual under the <i>Coastal Management Act 2015</i> .	52.	Suggest the following addition, for clarification, to 4(a): <i>(a) substantially in accordance with the principles contained in the relevant manual most recently notified under subsection (5) at that time, or under the Coastal Protection Act 1979.</i> The changes to the s733 provisions in the <i>Local Government Act</i> that provide statutory exemption from liability will potentially be harder to meet. The threshold at 4(b) has been changed from “substantially in accordance with” to “in accordance” with the coastal management manual. The draft manual does not expressly provide for readily identifiable ‘Principles’ which was a feature of the Coastal Zone Management Plan Guidelines. The statutory immunities contained in s733 of the <i>Local Government Act 1993</i> , as proposed to be amended by the Bill, continue to refer to the ‘principles’ in the draft manual. An extra sub clause is needed here, to cross reference to a Ministerial Direction as per 14(2) of the Bill where a Ministerial Direction prevails over the manual in the event of an inconsistency.	●
	[10] Section 733 (5) (b) Omit the paragraph.	53.	If remove this paragraph, then could create a risk of a retrospective impact, as provision (4) will have no work to do if section 5(b) omitted i.e. no reference to the former manual.	●
	[11] Section 733 (8) Omit the definition of coastal management works.	54.	This should stay, as advice may have been furnished etc under this definition.	●

Part / Clause	Details	Comment No.	Comment	Status*
			Unless can guarantee that the definition hasn't changed over time.	
	[12] Section 733 (8) Omit the definition of coastal zone . Insert instead: coastal zone has the same meaning as in the Coastal Management Act 2015.	55.	Retain the old definition and add in the new definition, e.g. coastal zone has the same meaning as in the <i>Coastal Management Act 2015 and as applied to the relevant Act at the time</i> . Unless can guarantee that the definition hasn't changed over time.	●
	[13] Dictionary Omit "Coastal Protection Act 1979" from the definition of coastal hazard . Insert instead "Coastal Management Act 2015".	56.	Retain the old definition and add in the new definition, e.g. coastal hazard has the same meaning as in the <i>Coastal Management Act 2015 and as applied to the relevant Act at the time</i> . Unless can guarantee that the definition hasn't changed over time.	●
	[14] Dictionary, definition of "temporary coastal protection works" Omit the definition.	57.	Retain the old definition, as this protection may still be required, refer also comment at [8] above, and comment on Schedule 3, clause 7 of the CM Act.	●

Table 2 Comments on Explanation of Intended Effect Coastal Management State Environmental Planning Policy

Ref. #	Page #	Details	Comments	Status
1.	9	Proposed Coastal Management State Environmental Planning Policy	In principle, the consolidation of consent conditions and development controls into one EPI has merit and should provide for a more streamlined, transparent assessment process for the community.	●
2.	10	Mapping coastal management areas	<ul style="list-style-type: none"> • Opportunity to comment on mapping is required as soon as possible to inform proper consideration of the reforms. • Given that the spatial maps for the four coastal management areas are not available; council reserves the right to provide further comment when the maps are released for consultation. • Mapping for SEPP 14 Wetlands and SEPP 26 Littoral Rainforest areas needs to be reviewed, ground truthed and properly digitised with cadastre at an appropriate scale to enable accurate transfer into Council GIS mapping. • A consistent, state-wide approach towards hazard identification and mapping of 'coastal vulnerability areas' by the state government is preferred, note Council res 15-033 (part c) where Council requested state government to 'Take over responsibility for preparing all Coastal Hazard Studies in NSW to ensure consistency of methods applied to examine coastal hazards.' • There appears to be an expectation that councils will undertake finer resolution vulnerability mapping and will submit planning proposals to the Minister. It would be preferable for the state government to undertake the appropriate resolution mapping, as per council resolution 15-033 note Council res 15-033. • What 'hazards' will be incorporated into the vulnerability area? Is the state government going to undertake mapping of all hazards identified under the Act, noting that council's hazard study has not mapped all hazards, e.g. coastal and tidal inundation has not been spatially mapped. • Clarification required on the planning time frames to be 	●

Ref. #	Page #	Details	Comments	Status
			<p>incorporated into the state-wide vulnerability area. Vague requirements (as per manual) and lack of consistency between state and council(s) mapping parameters (e.g. timeframes, sea level rise planning benchmarks) is problematic.</p> <ul style="list-style-type: none"> It is noted in the manual (Part B, Stage 2, p16): <p><i>Studies of coastal erosion and shoreline recession should aim to improve knowledge about the likelihood of these hazards over time frames relevant to management of current infrastructure and development, as well as for future planning and development of the coast. Time-frames to consider include immediate, 20 years, 50 years 100 years and beyond if ongoing recession is likely.</i></p>	
3.	10	Question 1: Should Councils be able to propose changes to the maps for all or some of the coastal management areas?	<p>Refer above comments.</p> <p>A consistent, state-wide approach towards hazard identification and mapping of 'coastal vulnerability areas' by the state government is preferred. However it will be important for councils to be able to propose changes to these maps, based on a consistent and robust methodology for hazard mapping that is prescribed in the Manual.</p> <p>The process for an LEP amending a SEPP needs to be properly considered and clarified. In addition, suggest that mapping from a certified CMP could automatically update the SEPP mapping e.g. upon gazettal of the CMP.</p>	●
4.	10	<i>The proposed SEPP will also include a provision that the Office of Environment and Heritage will review maps for the Coastal Vulnerability Area at least every ten years to ensure that the mapping accommodates new and emerging scientific information on the dynamics of the coast.</i>	10 year review supported, or more frequently if substantial new information becomes available.	●
5.	12 - 13	Question 2: Should the development controls be included in the proposed Coastal Management SEPP or as a mandatory	<p>There are pros and cons and this is difficult to answer given that the text of the new SEPP is not available. Pros and cons include:</p> <ul style="list-style-type: none"> Development controls in the SEPP, in principle, should provide 	●

Ref. #	Page #	Details	Comments	Status
		<p>clause in council LEPs?</p> <p><i>It is proposed that Clause 5.5 of the Standard Instrument and any local coastal hazard risk clause be repealed once the SEPP is made.</i></p>	<p>for greater, state wide consistency.</p> <ul style="list-style-type: none"> LEPs are the first point of reference for the general public. Councils should have the ability to include their own, additional local provisions in their LEPs/DCPs in relation to development within coastal management areas e.g. clauses specific to local conditions, historical land use controls and hazard mapping that is reflected in the controls. 	
6.	16	<p>Question 3:</p> <p>Do the proposed development controls for mapped coastal wetlands and littoral rainforests remain appropriate for that land?</p>	Mapping needs to be updated and ground truthed as discussed above.	●
7.	16	<p>Question 4:</p> <p>Do you support the inclusion of a new 100m perimeter area around the mapped wetlands, including the application of additional development controls?</p>	Wetland buffer welcomed and the associated controls seem appropriate to manage edge effects. It is noted that a 100m buffer exists already in SEPP 71.	●
8.	17	<p>Question 5:</p> <p>Are the proposed development controls for mapped coastal vulnerability areas appropriate for that land?</p>	<p>Additional clarification of the controls is required before this question can be properly considered. For example, where property boundaries are defined by property survey (i.e. fixed), it is unclear how the ambulatory dynamic controls would apply in terms of beach access and ownership, location of development.</p> <p>The lead in to the controls provide that the consent authority ‘...is satisfied that...’. This is a relatively high benchmark, which would seem appropriate for this area.</p>	●
9.	18	<p>Question 6:</p> <p>Are the proposed development controls for mapped coastal environment areas appropriate for that land?</p>	A comprehensive review of the implications of the controls has not been undertaken, however it is noted that the lead in to the controls provide that the consent authority ‘...has considered the extent to which the development...’. This is a relatively low threshold and may not be appropriate.	●
10.	18	<p>Question 7</p>	The inclusion of catchments will broaden the controls. This would	●

Ref. #	Page #	Details	Comments	Status
		Is the inclusion of the catchments of the 15 sensitive lakes (listed in Schedule 1) within the coastal environment area11 appropriate?	seem appropriate, given these lakes have been classified as 'requiring comprehensive protection', however, this is a preliminary comment as the implications are unknown and assumes that the methodology for classifying the lakes and lagoons in Schedule 1 is robust and contemporary. It is noted that the list is based on a study dated 2002, and may need updating.	
11.	19	Question 8 Which is the best option for mapping the coastal use area? Is the proposed approach to mapping of the coastal use area for the Sydney metropolitan area appropriate?	Option 1 provides councils with the greatest flexibility; therefore this is the preferred option. No comment on mapping for Sydney metropolitan area.	●
12.	19	Question 9: Should councils be able to propose variations to the Coastal Use Area maps over time to take into account local characteristics and circumstances?	Where justified, subject to ground truthing based on a consistent and robust methodology. Refer #11.	●
13.	20	Question 10: Are the proposed development controls for mapped coastal use areas appropriate for that land?	A comprehensive review of the implications of the controls has not been undertaken, however it is noted that the lead in to the controls provide that the consent authority '...considers the extent to which the development...'. This is a relatively low threshold and may not be appropriate. The Master Plan requirements under SEPP 71 (Part 5) do not seem to have been included. These controls should be incorporated into the SEPP.	●
14.	21	Question 11: Should the current exempt development and complying development provisions be retained for coastal management areas?	Exempt development should be reviewed. Some forms of existing development may be undertaken in the active coastal zone, such earthworks and retaining walls, masonry fences, which arguably could be used as de facto erosion protection works.	●
15.	21	Question 12: Should consideration be given to applying other controls for these areas? For example, what types of exempt and complying development might be	Yes.	●

Ref. #	Page #	Details	Comments	Status
		appropriate in coastal wetlands and littoral rainforests or in the catchments of sensitive coastal lakes and lagoons?		
16.	23 to 24	<p>Emergency and temporary coastal protection works</p> <p><i>If the relevant council has an adopted CMP, including a Coastal Erosion Emergency Action Sub Plan (CEEASP), the proposed SEPP will provide for emergency coastal protection works as exempt development, if undertaken by a public authority, and the proposed works:</i></p> <ul style="list-style-type: none"> • are provided for in the relevant CEEASP • involve only the placement of sand, or fabric bags filled with sand, on a beach • are removed (other than loose sand placed for protection) within 30 days of the placement of the material on the beach. <p><i>For the above scenario, a public authority would have considered the environmental effects of the emergency works as part of the development of the CEEASP and for this reason the emergency protection works can be treated as exempt development under the Environmental Planning and Assessment Act 1979.</i></p>	<ul style="list-style-type: none"> • Clarification required on adopted vs. certified CEEASP (as part of a CMP). • Councils should not be solely responsible for the installation and removal of these emergency works, this could become a resource and compliance burden. • Removal of bags within 30 days of placement may not be physically possible, noting that erosion events often occur as a series or succession of events. It may take 6 months to a year before an erosive phase is over and the beach accretes. 30 days provision should be caveated, for example 'or removed as soon as possible thereafter 30 days in consideration of local conditions and workplace health and safety considerations.' • General guidance should be provided as to the design parameters for the structure, and how the potential environmental affects of the works are to be considered in the CEEASP. \ Noting that geofabric units and structures can vary greatly in size, height, etc. 	●
17.	24	<p>Question 13:</p> <p>Should any provisions be retained to allow the use of emergency coastal protection works in emergency situations?</p> <p>What limitations should be put on such works being undertaken by private individuals or public authorities?</p>	<p>There are a number of issues to be considered in answering this question:</p> <ul style="list-style-type: none"> • Generally speaking, the installation of emergency works should be discouraged, and other mitigation measures employed during an emergency e.g. community education, restriction of public access to beaches, foreshores and erosion escarpments. • Emergency works may be required if a protective strategy has been adopted in a certified CMP, and such emergency works are required as an interim measure until approved and engineered CPW are in place. • Where a CMP is in place, it should specify whether private 	●

Ref. #	Page #	Details	Comments	Status
			individuals or public authorities can undertake emergency CPWs and this should consider who is the primary beneficiary from the installation of the works.	

*Status ● support ● concerns ● major concerns
 Excluded clauses have been noted and have a neutral status

Table 3 Comments on ‘An Introduction to the NSW Coastal Management Manual’ and ‘Part A: Mandatory requirements and essential elements for the preparation of a coastal management program’

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
1.	13	Figure 3: Stages in developing a coastal management program Box notes that councils may go from Stage 1 to 4 if the following applies: <ul style="list-style-type: none"> • Low coastal risks identified in scoping study • Where there is an existing certified plan, policies or practice in place that are consistent with state and local objectives and are managing coastal risks effectively 	This criteria should be expanded to provide for councils that have undertaken significant work under the former framework and <i>Coastal Protection Act 1979</i> (CP Act) but that have not yet submitted their CZMP to the Minister, and hence the ‘transitional arrangements’ under the <i>Coastal Management Bill</i> (CM Bill) may not apply. NB Part A of the manual indicates that there is greater flexibility in the process: <i>‘The manual provides for the flexibility for councils to fast-track the process, to tailor the level of analysis to local conditions, and to develop locally relevant management responses.’</i> (p30) <i>‘ 4. A CMP is to be prepared using the staged process set out in the manual (see Figure 3 of the Introduction for an outline of the five stages), noting that all stages do not need to be completed if they are not relevant.’</i> (p7)	●
2.	14	Stage 1: Scoping Study All councils will be required to complete Stage 1, which includes: ... - a statement of local objectives and targets for coastal management’	The requirement for a statement of ‘local objectives and targets’ may be pre-emptive, as Stage 3 and Stage 4 identify ‘vulnerabilities and opportunities’, whilst stage 3 identifies available management actions. The linear format of the process presented somewhat restricts the ability of the process to be iterative. Suggest the ‘statement of objectives and targets’ belongs in Stage 1 and 3.	●
3.	15	Stage 2: Detailed studies of vulnerabilities and opportunities	The current Guidelines (OEH, 2013) are specific concerning planning timeframes e.g. section 3.2.4, 2050 and 2100 hazard area. Stage 2 text is vague and does not mention planning time frames for hazard studies.	●
4.	16	Stage 3: Response identification and evaluation ‘...These actions will align with council’s vision and objectives...’	As per above, the vision and objectives may be dependent on Stage 3 outcomes. Refer # 2	●

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
5.	18	<p>Figure 5: Review stages in the development of a coastal management program</p> <p><u>Role of OEH:</u></p> <p>Stage 1: Councils consult with OEH...Strategic review by OEH. Stage 2: Technical review by OEH. Stage 3: Councils consult with OEH...about response identification and evaluation... Stage 4: Review by OEH</p>	<p>Consultation with OEH is not explicitly mentioned in the current Guidelines (OEH, 2013), rather there is a general requirement to consult with 'public authorities' (at section 2.2.2 Consultation).</p> <p>The Office of Environment and Heritage (OEH) is afforded a number of opportunities for review in the staged process set out, as well as the NSW Coastal Council (NSWCC) at stage 1 and 4.</p> <p>It is unclear what weight councils should put on the advice received, particularly if advice from the two organisations is contradictory. OEH/NSWCC need to guarantee adherence to Council review timeframes, and there should be 'stop the clock' provisions on Ministerial Directions, so that the time taken by the multiple reviews by OEH/NSWCC is deducted from the time period the Minister has granted for preparation of a CMP.</p> <p>A clear and consistent process for reviews should be developed, ensuring that councils receive 1 set of non-contradictory comments from each organisation.</p> <p>There is different language used for the OEH reviews, e.g. technical vs strategic vs review. These terms, and the way in which they are different, should be clarified.</p>	●
6.	3	<p>The coastal management manual</p> <p>When developing a CMP, local councils will make a conscious decision about which of the four coastal management areas the program will apply to.</p>	<p>At most locations, coastal management areas overlap, and may incorporate all 4 coastal management areas, however the draft Bill prescribes a hierarchy of management areas.</p> <p>In this context, the intent of this sentence is unclear. Shouldn't the higher order management area apply?</p>	●
7.	3	<p>The coastal management manual</p> <p>The manual provides the flexibility for councils to fast-track the process, to tailor the level of analysis to local conditions, and to develop locally relevant management responses.</p>	<p>Welcomed, although fast-track process could be improved with clarification of criteria. Refer #1</p>	●

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
8.	5	<p>Mandatory requirements and essential elements for preparing a CMP</p> <p><i>'Part 3 of the draft CM Bill establishes mandatory requirements for the process for preparing a CMP and what must be included in a CMP... ...The essential elements provide additional guidance on how to prepare and what to include in a CMP, as well as information to help demonstrate that the mandatory requirements have been addressed.'</i></p>	<p>The current guidelines (OEH, 2013) contain 'Minimum requirements' and it is unclear as to the status of the other guidance in the document.</p> <p>To avoid confusion, it important that the manual contains only genuine 'mandatory requirements' for preparing a CMP, whereas the current draft contains two sections one being 'Mandatory Requirements' and the other being discretionary considerations titled 'Essential Elements'.</p> <p>Note also that proposed amendments to s733 of the Local Government refers to 'principles' in the manual. There are no 'principles' set out in the manual.</p>	●
9.	6	<p>Essential Element #2</p> <p>What area should a CMP cover?</p> <p><i>Note: The boundaries of these areas will be defined in maps gazetted with the proposed Coastal Management SEPP. A local council may submit a Planning Proposal to the Department of Planning and Environment to modify the boundary of a coastal management area. Any proposed boundary modifications must be supported by evidence from studies conducted in accordance with the manual. In general, this will include studies and assessments conducted in accordance with Stage 1 and Stage 2 of PART B of the manual.</i></p>	<p>It would be preferable if hazard studies could be considered that were prepared under the old framework, particularly if relatively recent. If not, then councils will require time, funds and / or transitional arrangements to enable localised hazard mapping to be undertaken and, potentially, to enable planning proposals to be prepared and considered by the Minister.</p>	●
10.	6	<p>3(c)</p> <p><i>Local councils that decide to prepare a CMP must determine whether it is being prepared... (b) all or part of the coastal zone of adjoining local council areas located within a coastal sediment compartment (applicable to coastal vulnerability areas including coastal lakes and estuaries). Where adjoining local council areas are located within a single sediment compartment (at the secondary compartment level), their CMPs must reflect this regional context, and (c) to include areas adjoining the coastal zone that are integrally connected to the management of the zone, and are contiguous.</i></p>	<p>Wording is confusing. Clarify what this clause is trying to achieve.</p>	●

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
11.	7	Essential Element (4) <i>4. A CMP is to be prepared using the staged process set out in the manual (see Figure 3 of the Introduction for an outline of the five stages), noting that.' Aall stages do not need to be completed if they are not relevant</i>	This flexibility is positive, however can this be broadened, i.e. can pre-existing studies be used? Noting comment at #1	●
12.	7	Essential Element #5 <i>All councils commencing the preparation or review of a CMP must complete Stage 1 (scoping study) of the process. At the conclusion of the scoping study, councils should take the opportunity to seek advice from OEH and the Coastal Council on which of the subsequent stages are applicable.</i>	Two levels of review are indicated, from both OEH and Coastal Council. This has time and cost implications. How should the Coastal Council be engaged by councils and what happens if the advice between the 2 parties is inconsistent? - There should be 'stop the clock' provisions on Ministerial Directions, to account for these reviews.	●
13.	7	Essential Element #6 <i>Councils should take the opportunity to seek advice from OEH and the Coastal Council at the conclusion of key stages of the CMP process. The key review points and roles are shown in Figure 5 of the Introduction.</i>	Advice from both OEH and Coastal Council required at the conclusion of each stage. Comments as per above. The review requirements should be re-considered, at a minimum; OEH/Coastal Council should guarantee adherence to Council review timeframes, and there should be 'stop the clock' provisions on Ministerial Directions, to account for these multiple, double layered reviews by both OEH and the Coastal Council. Multiple reviews will increase costs associated with the re-drafting and re-issue of reports. It will be important that these costs are factored into project budgets.	●
14.	7	Essential Element #7 <i>After exhibition of the draft CMP, Councils should provide a copy of the final draft of the CMP to OEH for review before it is submitted to the Minister for certification...</i>	OEH will be reviewing after each stage and pre (refer Essential Element #19) and post the exhibition of the CMP, what is the rationale for these multiple reviews by OEH? As per above, the review requirements should be re-considered, at a minimum, OEH/Coastal Council should guarantee adherence to Council review timeframes, and there should be 'stop the clock' provisions on Ministerial Directions, to account for these multiple reviews by OEH.	●
15.	7	Essential Element #8 <i>Councils should identify priority objectives for their coastal management areas....councils must be consistent with the objectives for coastal management areas as required by the</i>	The relationship of CMPs to the IP&R framework, including the alignment of reporting and financial processes, requires further clarification, including the implications of a mis-alignment between a CMP and the CSP.	●

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
		<i>draft CM Bill and proposed SEPP. The objectives must align with the objectives identified by the local community in developing the Community Strategic Plan.</i>		
16.	9	10(a) a Coastal Strategy Statement <i>The Strategy Statement sets out the long-term strategy for the integrated and coordinated management of the coastal zone....This includes identification of...strategies and actions linked to coastal management areas covered by the CMP including a map of proposed actions...</i>	How does the Strategy Statement link to the 'local objectives and targets' or 'vision and objectives' as referred to in the Introduction (Stage One and Three) and as to be established at the Scoping Study stage? Refer Introduction, page 14 and 16.	●
17.	11	What are the requirements for preparing a CMP for a coastal vulnerability area? <i>13. If a CMP is prepared to address a coastal vulnerability area, that program should include all parts of the coastal zone that are:</i> <i>a) vulnerable to existing or potential hazards (including extreme events), or</i> <i>b) likely to be affected by coastal hazards over a defined planning horizon.</i>	Will planning horizons be specified by state government, there seems to be a move away from this which will result in inconsistencies across the state. Refer SEPP comments.	●
18.	11	<i>14. The CMP should be developed to consider potential, very large, low probability events and ongoing long-term changes, at timeframes up to, and if appropriate, beyond 100 years. Different levels of hazard and risk assessment detail are appropriate for long term (less certain) and near-term hazards and risks.</i>	This signals a move away from establishing clear parameters for hazard studies. This will result in inconsistencies across the state. How would these differing assessments align with the state wide 'vulnerability' mapping, which should reflect consistent approaches?	●
19.	11	<i>15. The area covered by the CMP should allow for uncertainty about the impacts of future coastal hazards and potential threats to coastal biodiversity and socio-economic assets and their condition.</i>	Presumably the mapping by the state government will also consider this? It is unclear concerning the role of the state government mapping vs the hazard studies undertaken by Councils.	●
20.	11	<i>16. The planning horizons should consider potential coastal change, including</i> <i>a) climate change, including relative sea level rise</i> <i>b) population growth, and</i> <i>projected use of coastal infrastructure.....</i>	As above, the vague parameters will devolve more responsibility to local government and result in inconsistencies and debates concerning appropriate the mapping. Local government should not have to take sole responsibility for establishing these parameters.	●

Ref #	Page #	Document / Part / Clause Details	Comments	Status*
21.	11	17 <i>...The area covered by the CMP should include appropriate buffer areas to allow for uncertainty and change over time.</i>	Refer above comments re consistent approach to hazards assessment and mapping.	●
22.	12	19. <i>Prior to exhibition, a local council should provide a copy of its draft CMP to OEHL for a review of consistency with the draft CM Bill and the manual.</i>	Refer above comments re OEHL reviews, e.g. #14	●
23.	12	20. <i>A draft CMP must be exhibited for a period of not less than 28 calendar days. Councils must collate submissions made during exhibition and identify and justify proposed changes to the draft CMP. A final draft CMP must be prepared.</i>	Exhibition period formerly outlined in CP Act, now in the manual. May be overlooked in the manual. Exhibition period has been extended from 21 to 28 days.	● ●
24.	14	Mandatory requirements Section 18 of the draft CM Bill... <i>Following a review, a local council may, by notice published in the Gazette, repeal a coastal management program.</i>	The 'manual' needs to clarify the process for reviewing a CMP, and should ensure that the review and repeal process is open and transparent. In addition, the consequences in the event of a repeal of a CMP should be clarified, particularly with respect to 'hot spot' areas under Ministerial directions to prepare CZMPs.	●
25.	14	25 to 27 <i>How and when is a CMP reviewed?</i> <i>25...aligned with the review and reporting requirements of the IP&R framework.</i> <i>26. The CMP and Delivery Program of the IP&R framework should include measures of the outputs and outcomes of delivery of coastal management responses.</i> <i>Councils should report:</i> <i>a) annually on the implementation of coastal management actions...</i> <i>b) at four yearly intervals on what has been achieved from management of the coast (as inputs to updates of the CSP and DP...</i> <i>c) at intervals of not more than 10 years on the performance of the CMP</i> <i>27. The strategic review of the CMP should be conducted at least every 10 years....</i>	The relationship of CMPs to the IP&R framework, including the alignment of reporting and financial processes, requires further consideration and clarification. Limitation on resources and competing priorities for resources, in practical terms, mean councils seek flexibility to determine where finite resources are applied and in what circumstances. The inclusion of cl. 22 of the Draft Bill is opposed insofar as it has no precedent under the CP Act and it imposes a positive (and potentially enforceable) obligation to give effect to CMP's.	●