

Dear Coastal Reform Team

On behalf of the Threatened Species Conservation Society Inc (TSCS) I hereby attach my submission in relation to major changes to NSW coastal protection laws including the following:-

- Replacing current *Coastal Protection Act* with new *Coastal Management Act*
- Replacing current *NSW Coastal Policy* with new *Coastal Manual*
- Replacing existing State Environment Planning Policies (SEPP 14 - Coastal Wetlands, SEPP 26 Littoral Rainforests and SEPP 71 – Coastal Management) with new Coastal SEPP) with new Coastal SEPP
- Redefining 'coastal zone' with new mapping and coastal 'land use' categories.

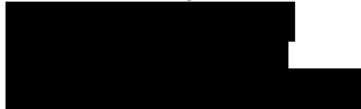
TSCS has studied the information available on the NSW OEH website re the above changes. The attached submission supports the opinion of the Nature Conservation Council and the Environmental Defenders Office in relation to these matters.

Yours faithfully

David Norris

President

Threatened Species Conservation Society Inc



# SUBMISSION BY THREATENED SPECIES CONSERVATION SOCIETY INC

Re: **Replacing current *Coastal Protection Act* with new *Coastal Management Act*  
Replacing current *NSW Coastal Policy* with new *Coastal Manual*  
Replacing existing *State Environment Planning Policies* with new *Coastal SEPP*  
Redefining 'coastal zone' with new mapping and coastal 'land use' categories**

## PART A: KEY ISSUES

### Overarching comment

1. I generally welcome the Government's efforts to develop new coastal protection laws for **strategic planning and management of the coast** in accordance with the **principles of ecologically sustainable development and for the long-term public interest**.

### Coastal zone/coastal management areas

2. The proposed new Coastal Management Areas must be further refined to provide **clear and consistent protection for coastal environmental and public interest values**, including within the Coastal Use Area.
3. **Existing protections for coastal wetlands and littoral rainforests should be retained and enhanced in the new SEPP**, including important **concurrence and assessment requirements**.
4. **Protections for other land and water bodies** identified as being ecologically sensitive to impacts from coastal development activity (coastal environment area) should be consistent with the protections for coastal wetlands and littoral rainforests, and **the management objectives for these areas should be accorded higher priority** than Coastal Vulnerability and Coastal Use Areas.
5. Objectives for **protecting and enhancing the environment should be included in the Coastal Use Area**. The existing coastal zone boundary (generally 1km inland) should be used to retain current protection measures, and be fixed (unable to be increased or decreased).

### Coastal Management Programs

6. **Requirements for councils developing coastal management programs** set out in the proposed new Manual **must be mandatory and enforceable** to ensure that councils are using the best science, engaging local communities and adequately assessing and responding to threats to the coastal environment.

### NSW Coastal Council

7. **A newly established Coastal Council is generally welcomed**, however its functions and membership should be expanded to provide advice on an integrated approach to coastal management, including policy, strategic functions in relation to the new Act, and community engagement.

## Climate change impacts

8. The coastal reform package must provide **clearer requirements and guidance for climate change adaptation and mitigation**, including in relation to flora and fauna species migration, more extreme weather events, increased flooding and inundation and sea level rise.

## Compliance and enforcement

9. Key elements of the coastal management package, including crucial requirements under the Coastal Manual, **must be mandatory and enforceable.**

## Reform process

10. The Government must publicly exhibit key elements of the coastal reform package, including the **coastal zone mapping and the draft text of the proposed new State Environmental Planning Policy prior to the Bill being finalised.** Mapping must be based on robust techniques at a meaningful scale and be ground-truthed.

## PART B: ADDITIONAL TALKING POINTS

### Coastal Management Bill 2016

- The draft Bill itself does not establish any legislative protections for sensitive coastal environments. It does not set any limits on development or include mandated requirements for decision makers. In order to achieve effective and meaningful protection for the coast, key controls and decision making requirements must be established in legislation.

### Objects

- I support the overarching objective to manage the coastal environment of New South Wales in accordance with the principles of ecologically sustainable development, as defined in section 6 (2) of the *Protection of the Environment Administration Act 1991*.
- I generally support the specific objectives of the draft Bill, particularly protecting and enhancing environmental values, special acknowledgement of Aboriginal cultural heritage and use, ecologically sustainable coastal development and land use planning, mitigating future as well as current risks from coastal hazards, taking account of climate change, local and regional scale of coastal processes and implications of dynamic nature of the coast and managing use and development accordingly.

### Coastal Manual

- Greater emphasis should be given to climate change and sea level rise impacts in Part A and Part B, Stage 1 of the Coastal Manual.
- It is of concern that councils could move directly from Stage 1 (scoping study) to Stage 4 (exhibition and adoption of a Coastal Management Program) without addressing Stage 2 (detailed studies of vulnerabilities and opportunities) and Stage 3 (response identification and evaluation), particularly given that the consideration of important issues, such as social and cultural values, vegetation, biodiversity and ecological integrity, hydrology, and water quality is required at Stage 2.
- Part B, Stage 5 should provide further guidance on how feedback provided during public exhibition will be responded to or incorporated into the final Coastal Management Program.
- The Coastal Manual provides too much discretion for local councils. Key components of the Manual must be obligatory for councils and enforceable via the legislation.
- The Coastal Manual must ensure coastal management programs are strategic, adopt an integrated approach, consistent with ESD principles, are consistent with an hierarchy of objectives which accords priority to assessment of and planning for Coastal Wetlands, Littoral Rainforests and Coastal Environment Areas ahead of and as the foundation for Coastal Vulnerability and Coastal Use Areas.
- The Coastal Manual should also ensure that Councils are relying on recognised expert, peer-reviewed evidence and advice and appropriate assessment in responding to existing and predicted threats to the coastal environment, whilst providing for community engagement throughout the process.

### Quality Control

- Mechanisms should be established under the new framework to ensure that coastal management planning and impact assessment is carried out by qualified experts and subject to rigorous external review.

## **Cumulative Impacts**

- The new framework must include mechanisms for ensuring that the cumulative impact of development on sensitive environments is taken into account in coastal management planning and development assessment.

## **Floodplain management issues**

- The reform package provides limited integration between coastal management and floodplain management. This is a significant gap, given the overlap between increased coastal flooding and inundation, with threats of sea level rise and increased storminess and more intense catchment runoff arising from climate change.

## **Land acquisition provisions**

Given the significant environmental values and the vulnerability of the coastal zone, existing coastal land acquisition provisions need to be retained.

## **SEPP 50**

The existing provisions of SEPP 50 – Canal Estate Development, which prohibits any new canal estate development throughout NSW, must be transparently retained in the coastal reform package.

## **Coastal Management State Environmental Planning Policy**

The following points have been prepared to assist you in responding to the nine questions outlined in the *'Coastal Management State Environmental Planning Policy - Statement of Intended Effect'*

- **Question 1. Should councils be able to propose changes to the maps for all or some of the coastal management areas?**

Given that substantial research and analysis will be undertaken to prepare the initial maps, there should be limited need for councils to change maps. Any changes outside of regular map review should be strictly limited and supported by clear scientific evidence. Proposed changes must also go through a process of public consultation.

- **Question 2. Should the development controls be included in the proposed Coastal Management SEPP or as a mandatory clause in Council LEPs?**

The Development Controls should be included in the SEPP to ensure the application of controls across Councils is consistent with the Objects of the Act and SEPP.

- **Question 3. Do the proposed development controls for mapped coastal wetlands and littoral rainforests remain appropriate for that land?**

The existing controls for mapped coastal wetlands and littoral rainforests should be maintained, including concurrence provisions.

- **Question 4. Do you support the inclusion of a new 100m perimeter area around the mapped wetlands, including the application of additional development controls.**

Yes. Further, the 100m buffer area of a coastal wetland should apply to land zoned for residential use.

- **Question 5. Are the proposed development controls for mapped coastal vulnerability areas appropriate for the land?**

The proposed controls are appropriate but can be strengthened by specifically requiring that development consent is required for any damage or removal of coastal dunes, foreshores, vegetation and wetlands.

- **Question 6. Are the proposed development controls for coastal environment areas appropriate for that land?**

The proposed development controls are appropriate, but can be strengthened by requiring that the consent authority establish that the proposal meets the criteria, and requiring the consent authority to consider cumulative impacts.

- **Question 7 - Is the inclusion of the catchments of the 15 sensitive coastal lakes (listed in Schedule 1) within coastal environment area appropriate?**

Yes, it is very important that the conservation value and sensitivity of these lakes and lagoons are recognised by constraining development that would adversely impact on these values. However it is concerning that the coastal zone applicable to other coastal lake catchments could be reduced from 1 kilometre to 500m.

- **Question 8. Which is the best option for mapping the Coastal use Area?**

The existing coastal zone boundary would be the most appropriate, given that no case for change has been made. Therefore the current boundary should be used to retain current protection measures, and be fixed.

- **Question 9. Should councils be able to propose variations to the Coastal Use Area maps over time to take into account local characteristics and conditions?**

Generally no. If Councils wish to expand the development footprint in parts of their Region, this should be done consistent with Regional Planning Processes and review of LEPS.

## PART C: SUMMARY OF KEY CHANGES

### New Act

- The Government plans to repeal the current *Coastal Protection Act* and replace it with a new *Coastal Management Act*.

### New definition of Coastal Zone

- The existing 'coastal zone' will be redefined using four new Coastal Management Areas:
  - Coastal Wetlands and Littoral Rainforests
  - Coastal Vulnerability Area
  - Coastal Environment Area
  - Coastal Use Area

Each of these coastal management areas will have its own management objectives and development controls.

The Bill provides for a hierarchy of objectives where these zones overlap, in the following order: Littoral Rainforests and Coastal Wetlands, Coastal Vulnerability Area, Coastal Environment Area, Coastal Use Area.”

### New Mapping

- New mapping will identify each of the four new Coastal Management Areas (some areas may overlap, and will be prioritised).

### New Coastal Management State Environmental Planning Policy

- The Government will introduced a new Coastal Management SEPP that will replace the following three SEPPs:
  - SEPP 14 - Coastal Wetlands
  - SEPP 26 Littoral Rainforests
  - SEPP 71 – Coastal Management
- The new SEPP will specify the development controls that will apply in each of the four new coastal management areas.
- Concurrence provisions in the existing SEPPs will not be retained in the new SEPP.
- A 100m buffer will be introduced for coastal wetlands.



- The coastal zone and associated development controls will be expanded to include all the catchments of coastal lakes classified for “Comprehensive Protection” (Schedule 1).

## **New Coastal Manual**

- The Government will replace the current *NSW Coastal Policy* with a new *Coastal Manual*. The new Coastal Manual will guide local councils to make coastal management programs (in place of coastal zone management plans).
- Reporting and monitoring of coastal management programs will be undertaken in accordance with the Integrated Planning and Reporting Framework under the *Local Government Act*.

## **New NSW Coastal Council**

- A new independent NSW Coastal Council will replace the statutory NSW Coastal Panel and the NSW Coastal Expert Panel that was established to provide advice on the current reforms. The new NSW Coastal Council will provide independent advice to the Minister for Planning on coastal planning and management issues and conduct performance audits of a local council’s implementation of its coastal management program.