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February 24 2016

RE: A submission by the National Parks Association of NSW Inc on the NSW Coastal Management Reforms

Dear Sir/Madam,

The National Parks Association of NSW Inc. (NPA) welcomes the opportunity to make a submission to the review of the NSW Coastal Management Reforms.

NPA, formed in 1957, is a community-based organisation with a network of branches and over 20,000 members and supporters in rural, remote and urban areas across the state. NPA promotes nature conservation and sound natural resource management. We have a particular interest in the protection of the State's biodiversity and it's supporting ecological processes, both within and outside of the formal conservation reserve system. We promote connectivity conservation, for example, through our involvement in the Great Eastern Ranges Initiative. Our interests extend to protection and management of the heritage values of natural and cultural landscapes.

NPA members have a strong interest in planning and environment decisions in their local areas, including on the NSW coast. The NPA and our members have actively participated coastal strategic planning and development assessment over many years.

The NPA has been involved in coastal conservation and management issues since it was first established. Early participation by the NPA and other community groups in the Myall Lakes sand mining and conservation issues provided a solid grounding for the sands mining conflicts that broke out during the 1960's all along the North Coast as well as for other coastal issues that have followed.

Whilst much damage was done to areas of the of the coastal environment by sand mining and many of the mined areas are still not fully repaired, many lessons in resolving coastal planning issues were there to be learned by both governments and communities.

With regards to the NSW Coastal Management Reforms, NPA's primary concern is the need to have a clear and well-articulated vision for the coast. Secondly, we would like to see detailed inventories of coastal natural, social and economic resources undertaken as a basis for informed and participatory decision making in order to prepare a pathway for change. And finally, NPA would like to see the NSW Coastal Management Reforms keep a hand on the tiller to make sure the changes are implemented and their effects monitored and open to review.

The magnificent national parks on the North Coast are a legacy to the application of sound coastal planning and management processes thirty five to forty years ago. The results are there before our eyes on the North Coast any time we choose to refresh.

The NPA generally welcomes 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. However, like all major reform processes consideration must be given to the broad vision and objectives as well as specific details of the proposed new legislation and supporting materials.

We believe that the Office of Environment and Heritage, and Government, are keen improve the draft reform package in light of public feedback and we look forward to our comments and suggestions being incorporated into the ongoing development of the Bill, the SEPP and supporting material. We note with disappointment however of the decision, two working days before submissions close, to exhibit the full draft Coastal Management State Environment Planning Policy (SEPP), including the maps of the coastal management areas, separately in the coming months for public consultation. As a consequence of this we reinforce that mapping must be treated as a matter of urgency.

The NPA is a member of the NSW Nature Conservation Council and this submission has benefited considerably from the resources and processes of that organisation. In places where appropriate, sections of the NCC submission have been quoted and in others similar positions stated.

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Regards,



Kevin Evans

CEO, National parks Association of NSW Inc.

A SUBMISSION BY THE NATIONAL PARKS ASSOCIATION OF NSW INC
NSW COASTAL MANAGEMENT REFORMS

INTRODUCTION

The NPA welcomes the opportunity to make a submission on the public consultation package currently on exhibition, including a draft Coastal Management Bill, an Explanation of Intended Effect for the proposed new Coastal Management State Environmental Planning Policy, and key elements of a draft Coastal Management Manual.

1. SUMMARY COMMENTS

The NPA generally welcomes 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. Nevertheless the NPA identifies that the proposed provisions have numerous weaknesses and omissions, in particular;

1. The documents do not set out a clear vision for the future of the Coastal Zone nor provide the framework to achieve a visionary approach to coastal management.
2. The existing conservation reserve system, both terrestrial and marine, and areas identified for future addition to the reserve system should be identified as part of the coastal zone and protected from any coastal management programs.
3. All elements of biodiversity in the coastal environment and the connections and dependencies linking them should be identified by best practice audit and assessment and protected wherever possible.
4. All cultural sites including, coastal sites of significance to Aboriginal people should be identified in consultation with local communities where and be protected wherever possible.
5. The 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 practice science, engaging local communities and adequately assessing and responding to threats to the coastal environment.
6. The proposal for newly established Coastal Council is generally welcomed, however its functions and membership should be expanded to provide for independent advice on an integrated approach to coastal management, including policy, strategic functions in relation to the new Act, and community engagement.

7. 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.
8. Key elements of the coastal management package, including crucial requirements under the Coastal Manual, must be mandatory and enforceable.
9. The Government must publicly exhibit key elements of the coastal reform package, including all proposed mapping and the draft text of the proposed new State Environmental Planning Policy prior to the Bill being finalised.
10. Mapping must be based on a broadly agreed definitions and criteria, robust techniques at meaningful scale and be ground-truthed. Mapping must permit flexibility to accommodate ecosystem process and landscape connectivity and the need to conserve landform patterns as against isolated landform element. We note that key aspects of the coastal management package, including mapping for the coastal zone and the draft text of a new Coastal Management SEPP have not been released as part of the consultation package.

These are key elements of the reforms, and our ability to fully understand and comment on the reform package is limited by the information that has been made available to date. We strongly encourage the Government to release these outstanding elements of the reform package for public comment prior to finalising the reforms, and before bringing a draft Bill before the NSW Parliament.

2. IMPORTANT VALUES OF THE NSW COAST

The outstanding coastline and beaches of NSW are integral to our State's natural heritage and cultural identity. This has been recognised by over forty percent of the coastline being included to date in coastal conservation reserves.

Nevertheless comprehensive protection of the states coastal natural and cultural heritage has not as yet been achieved within the reserve system. In addition many of our spectacular, yet sensitive beaches, headlands, rocky shores, coastal wetlands, estuaries, bays and lakes are significantly degraded, are at risk of becoming further degraded if not effectively protected and managed into the future.

With over 80% of the NSW population living within 50 kilometres of the coast and the proportion rising, increased urban development and other uses are placing intolerable demands on sensitive coastal environments. The social and economic wellbeing of coastal communities including industries

such as tourism, fishing and oyster farming are also potentially under pressure, being dependent on healthy coastal environments.

The NSW coast is rich in Aboriginal cultural heritage, with Aboriginal communities continuing to fulfil their traditional custodial responsibilities for the land. However, development expansion also threatens this heritage as exemplified by destruction of middens and spiritual landscapes through coastal dune development.

The NSW Office of Environment and Heritage lists some 184 estuaries in NSW, including river estuaries, coastal lakes and coastal wetlands. The NSW Coastal Lakes Inquiry 2002 found that of over 90 NSW coastal lakes, only 16 were in natural or near natural condition, with the extent of impacts directly related to the extent of development and rural uses in their catchments.

The impacts of increased population and development on the coast are copied here from the NCC submission and known to include:

1. Adverse changes to the natural variability of estuaries particularly coastal lakes, with clearing and development causing erosion, sedimentation and poor water quality.
2. Resulting nutrient overload causing loss of aquatic ecosystem diversity, due to algal blooms smothering seagrasses, causing de-oxygenation and diminishing habitat and food sources for fish and birds.
3. Loss of dune, wetland and foreshore vegetation from foreshore development, resulting in increased beach erosion with coastal habitat connectivity compromised.
4. Increased listing of coastal vegetation communities and species as Threatened under both NSW and Commonwealth legislation; e.g. Coastal Salt Marsh and nesting Shorebird species including the Hooded Plover and Little Tern.
5. Increased damaging interventions in natural coastal processes such as unauthorised opening of Lake entrances due to lack of understanding by many coastal residents of complex coastal physical and ecological systems.
6. Impacts on fishing, oyster and tourism industries with closures and increased testing costs, due to polluted waters.

Evidence of sea level rise and increased storminess and inundation due to climate change is robust and unequivocal. The level of threat from such hazards to coastal environments and communities will substantially increase the challenges already obvious from inappropriate urban expansion. Climate change impacts will exacerbate natural coastal erosion and inundation and threaten precious

beaches, rocky shores, wetlands, estuaries and coastal lakes and their ecosystems as well as Aboriginal coastal heritage and the majority of coastal cities and towns.

Given the important environmental, social, cultural and economic values of the NSW coast, and the growing threats to these sensitive areas, it is imperative that any new legislation recognises the natural limitations of ongoing growth in these environmentally sensitive areas and prioritise protection to ensure that these areas are protected now, and for future generations.

3. COMMENTS ON THE DRAFT COASTAL MANAGEMENT BILL 2015

PART 1 - PRELIMINARY

3.1 Name of the Act

The NPA is concerned that the change in terminology from 'Coastal Protection Act' to 'Coastal Management Act' signifies a shift in priority from the protection of sensitive coastal environments, to the encouragement of their use as a resource for coastal management programs

This is the type of shift the NPA believes was picked up by the Clarence Valley Council leading to them developing their coastal management program for Woolli to firstly include the removal of sand from Yuraygir National Park, and more recently, the removal of sand from the Solitary Islands Marine Park. Further, the term 'management' describes a process, not a vision, goal or objective. Whilst the specific objects of the Act provide further guidance on what the Act is intended to achieve, these outcomes are not reflected in the title.

Recommendation 1: The title "Coastal Protection Act" should be retained to ensure that the coastal environment is protected to the highest extent possible, recognising the changes due to climate change, and impacts of existing and proposed levels of development and use.

The NPA is concerned that the draft Bill itself does not establish any legislative protections for sensitive coastal environments, for example: the coastal conservation reserve system, areas required for addition to the coastal reserve system or the habitats of threatened species and threatened ecological processes.

The draft Bill 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. For example, the threat of coastal urban sprawl to the coastal environment has been recognised for at least forty years (e.g. *North Coast Regional Environmental plan*, 1982) and still continues (e.g. Tweed, Coffs Harbour and Forster – Tuncurry coastlines); but the threat is not identified nor limits on development established to address this longstanding and ongoing threat.

3.2 Objects of the Act

The NPA supports 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. We also the proposal to use the existing definition of ecologically sustainable development (ESD) as defined as in section 6 (2) of the *Protection of the Environment Administration Act* 1991.

The NPA supports the first objective of the draft bill: “(a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience “ but notes that :

- “...natural coastal processes...” are not defined in the draft Bill nor are criteria or targets for enhancing them.
- “...natural character...” is not defined or described in a way criteria or targets for protecting natural character could be developed or programs implemented.
- “...biological diversity...” is not defined in the draft Bill nor are criteria or targets for achieving the “...protect and enhance...” requirement of the objective. Amongst other things a comprehensive, adequate and representative conservation reserve system is generally acknowledged as a fundamental requirement of conserving biodiversity, however this receives no mention in the draft bill. Nor is there mention of the need to protect existing coastal conservation reserves from coastal development works.
- “...ecosystem integrity and resilience...” are not defined nor are criteria or targets to “protect and enhance” them.

<p>Recommendation 2: Insert or improve definitions as identified in this submission to support management objectives.</p>
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The NPA supports the specific objectives of the draft Bill, protecting and enhancing coastal environmental values including:

- *“natural character, scenic value , biological diversity and ecosystem integrity and resilience...”* but notes there has been no systematic assessment, audit or inventory of these values across the NSW coast on which to base their protection.

Recommendation 3: Insert objectives requiring a comprehensive understanding of natural character, scenic value , biological diversity and ecosystem integrity and resilience of the coastal zone and associated lands and water

The NPA is very concerned that there is no commitment in the Objects of the draft Bill to identify and protect Aboriginal cultural heritage sites in the coastal zone. The current objectives for social and cultural values of the coastal zone are fairly meaningless. They also compound the fact there has been no systematic assessment, audit or inventory of these values across the NSW coast on which to build programs for their protection.

Recommendation 4: Insert objective requiring a comprehensive understanding of Aboriginal heritage sites in and associated with the coastal zone

The NPA generally supports the use of 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. We reinforce the lack of knowledge of the quantum and location of many of the natural and cultural features to be protected.

3.3 Definitions

The NPA supports the comments made in the submission by the Nature Conservation Council on definitions in the draft Coastal management Bill, 2015

Comments on the definitions of coastal management areas are made in the following section

PART 2 Coastal zone management objectives for coastal management areas

3.4 General comments

The NPA has some concerns the new definition of 'coastal zone', which will categorise the coast into four new areas, namely: coastal wetlands and littoral rainforest area, coastal vulnerability area, coastal environment area coastal use area

The main concern is the failure in these categories to identify and provide a high level of protection to existing statutory based conservation reserves, both terrestrial and marine, in the coastal zone. Clearly these features have more statutory protection and more community recognition and acceptance than the other coastal management areas recognised and protected by the draft Bill.

Recommendation 5. That an additional coastal management area be adopted to include the coastal reserve system and areas proposed for addition to the coastal reserve system

Recommendation 6. That appropriate definitions for the coastal reserve system- both terrestrial and marine and areas proposed for addition to the reserve system be included in the Bill

Recommendation 7. That management objectives be included in the Bill for the coastal reserve system coastal management area consistent with the requirements of the NPWS Act and the Marine Parks Act.

The NPA is concerned that coastal wetlands and littoral rainforests (category a) have been categorised separately to other sensitive areas of high conservation value (category c). we recognise that this is a carry forward of protection currently provided by SEPPs but it gives priority to older interpretations of coastal conservation features over more recent and contemporary interpretations such as endangered ecological communities.

We are also concerned that coastal vulnerability areas have been given greater priority than coastal environment areas. For the nesting site of an endangered species in a dune area it is important to

know first that it is critical habitat for an endangered species before assessing what risk mitigation actions are appropriate.

Further concerns regarding the mapping, including specific provisions of the draft Bill, are raised below. We also provide more detailed comment in relation to each of the proposed new areas.

The definitions of the proposed coastal management areas have a number of weaknesses and omissions. The definition of the “**coastal management area**” is provided as “...means an area of the coastal zone identified in Part 2.” Therefore comments on these definitions are made below.

3.5 Coastal wetlands and Littoral rainforest area

The draft Bill says 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.* “

This definition is inadequate as it literally says wetlands are wetlands as mapped by the government and littoral rainforests ore littoral rainforests as mapped by the government .

The current mapping for SEPP 14 coastal wetlands is approximately 35 years old, was undertaken without community consultation and has been subject to widespread and ongoing criticism in relation to definition and spatial arrangement. Criticisms, as summarised by Griffith. S. (OEH unpublished report 2005) includes:

Exclusion of key wetland formations as illustrated in the table below:

Formations included in SEPP14	Formations mostly excluded from SEPP1
Sedgeland, rushland, fernland, grassland and forbland,	heathland, shrubland and mallee, forest and woodland Chenopod scrubland

- Permits little flexibility to accommodate ecosystem process
- Need to conserve landform patterns as against isolated landform elements

The need for a more inclusive definition of coastal wetlands is supported by the poor reservation status of coastal wetlands in formal conservation reserves. Griffith. S (2005) rated the reservation status of coastal wetland communities on the North Coast, where the majority of coastal wetlands are located, as:

Good 19 (12%)

Fair 28 (17%)

Poor 117 (71%)

The Littoral rainforest SEPP was adopted in in 1985 without community input into the definition or mapping of littoral rainforest and virtually no updating has occurred in the following thirty years.

In 2004, Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions was listed as an endangered ecological community under the NSW Threatened Species Act. It has also been listed as a critically endangered ecological community under the Federal Governments Environmental Protection and Biodiversity conservation Act.

NSW Scientific Committee final determination included the statement that: *“Littoral Rainforest occurs in numerous, small stands and in total comprises less than 1% of the total area of rainforest in NSW. The largest known stand occurs in Iluka Nature Reserve, which is approximately 136 ha. **Many, but not all, stands of Littoral Rainforest have been included in mapping for State Environmental Planning Policy 26 Littoral Rainforest, but degradation of the ecological community is still occurring”*** (authors emphasis).

The definition of littoral rainforest should be amended to be consistent with the definition of littoral rainforest under both the NSW Threatened Species Act and the Federal Government’s Environmental Protection and Biodiversity conservation Act.

NPA members are deeply concerned that there has been no consultation on reviewing and upgrading the spatial depiction of coastal wetlands and littoral rainforests though there has been informal advice that this process is occurring.

There are serious errors and omissions in the current maps. These maps are a key component of the reform package and integral to understanding how the new coastal zone definition will operate. It is important for the Government to undertake a review of the definitions and criteria for mapping consistent with current understanding of the requirements to identify and ecological make the

mapping of the proposed new coastal zone available for public consultation prior to finalisation of the draft Bill.

Recommendation 8. Develop contemporary criteria for re-mapping coastal wetlands and littoral rainforests and undertake a revised mapping program.

3.6 Coastal environmental area

It is assumed that the “*coastal environmental area*” is intended to include biological diversity; including genetic, species and ecosystem diversity within the coastal area that are not encompassed within coastal wetlands and littoral rainforest.

There are a number of weakness in the definition of ***coastal environmental area***. Rather than being a holistic definition it takes the limited approach of “...*such as*”- providing some examples of a whole which is not clearly defined.

Furthermore the use of the phrase “...***and land adjoining those features, including headlands and rock platforms***” fuels further uncertainty because the criteria for size, shape, disposition or function defining “...*adjoining lands..*” is not provided in any logical sense. The example of “...*including headlands and rock platforms..*” is confusing as these rarely adjoin the coastal features such as “...*coastal waters of the state, estuaries, coastal lakes coastal lagoons.*” With the possible exception of coastal waters of the state which are not defined in the draft Bill.

The definition of ***coastal environmental area*** should be redefined to include all natural cultural features of the coastal environment including:

- the habitat of threatened species and endangered ecological communities including critical habitat
- cultural heritage including artefacts and sites of significance to Aboriginal communities
- the accommodating of coastal ecosystem processes and coastal landform patterns as against isolated landform elements.

Recommendation 9. The definition of the coastal environment area should be redefined to more accurately reflect natural and cultural features and process of the coastal zone and all important features should be mapped and released for public consultation prior to

finalisation of the draft Bill

3.7 Section 10 (3) Hierarchy of management Objectives if overlapping

The Bill provides for a hierarchy of objectives where the proposed coastal management areas overlap, in the following order: *“Littoral Rainforests and Coastal Wetlands, Coastal Vulnerability Area, Coastal Environment Area, Coastal Use Area.”*

NPA is proposing an additional coastal management area: **the coastal reserve system coastal management area**. The statutory requirement for managing formal reserves in this area will override requirements for other management areas where overlap occurs. Therefore the coastal reserve system coastal management area should be placed at the top of the hierarchy of management areas.

The NPA is also concerned that coastal vulnerability areas have been given greater priority than coastal environment areas. For example, the nesting site of an endangered species in a dunal area it is important to know first that it is critical habitat for an endangered species before assessing what risk mitigation actions are appropriate. For this reason, the coastal environmental area should sit above the coastal vulnerable area in the hierarchy.

Recommendation 10. The hierarchy for coastal management areas should be revised as follows; (a) the Coastal Reserve System, (b) Littoral Rainforests and Coastal Wetlands, (c) Coastal Environment Area , (d) Coastal Vulnerability Area, (e) Coastal Use Area.

PART 4 - NSW COASTAL COUNCIL

3.8 Role and functions

The NPA generally supports the establishment of a NSW Coastal Council however the proposed Coastal Council's role and functions should be expanded. The operation of the Coastal Council is completely at the discretion of the Minister. The Bill should be amended to provide the Council with the authority to act independently whilst accounting for its actions by regularly reporting to parliament.

The major focus of the Coastal Council is on lower level actions such as local council compliance with the Coastal Management Manual in preparing Coastal Management Programs. Alternatively, the council should focus on higher level activities such as integrated approaches to coastal policy and planning, and community engagement.

Previously, the NSW Coastal Council was responsible for co-ordinated implementation of the NSW Coastal Policy across different portfolios and Councils. The Coastal Council reported on progress and emerging issues, as well as providing guidance to Ministers on legislation and strategies for planning and major developments. These roles are conspicuous by their absence in the current Bill.

There is clearly a role for a body with a degree of independence as should be provided to the Coastal Council to report on the development and achievement of higher order tasks such as a vision for the coastal zone. For example, there has been a high order objective in coastal planning documents for at least forty years to reduce the extent of coastal urban sprawl. The NPA is not aware of any body or process responsible for monitoring and reporting on the success of achieving this objective, in fact in a number of areas including the Tweed, Coffs Harbour and Forster-Tuncurry coast the coastal urban sprawl continues.

The NPA proposes that the role and functions of the new Coastal Council be expanded and clearly outlined as including:

1. Providing oversight on coastal policy development to conserve and protect high conservation value sensitive coastal environments, important cultural values, coastal communities and infrastructure, enshrining public access and enjoyment.
2. Advising Ministers, planning decision-making bodies and local Councils, on integrated approaches to coastal policy, legislation, planning and management via statutory requirements, across the Environment, Heritage, Natural Resources, Planning and Local Government portfolios.

Recommendation 11: the new Coastal Council be given increased independence and the role and functions of expanded and clearly outlined as including:

Providing oversight on coastal policy development and implementation

Advising Government, the Minister, planning decision-making bodies and local Councils, on integrated approaches to coastal policy,

3.9 Membership

The draft Bill proposes that membership of the NSW Coastal Council include people with expertise in coastal scientific and engineering disciplines, land use planning, coastal ecology, social science, economics and local government management.

In order to meet the broad objectives of the Act and additional responsibilities proposed in this submission people with expertise areas such as coastal policy, Aboriginal cultural heritage ecosystem function and resilience, climate impacts, community engagement, strategic planning, management and leadership.

Recommendation 12: the range of expertise required for the NSW Coastal Council be expanded to include expertise in coastal policy, Aboriginal cultural heritage ecosystem function and resilience, climate impacts, community engagement, strategic planning, management and leadership.

4. COMMENTS ON THE DRAFT 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; and, consistent with a 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.

4.1 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.

4.2 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.

4.3 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.

4.4 Land acquisition provisions

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

4.5 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.

5. COMMENTS ON THE EXPLANATION OF INTENDED EFFECT FOR THE PROPOSED NEW COASTAL MANAGEMENT STATE ENVIRONMENTAL PLANNING POLICY (SEPP)

The following points respond to the nine question outlined in the *'Coastal Management State Environmental Planning Policy - Statement of Intended Effect'*

Question 1. Should LGA's be able to propose changes to the maps for all or some of the coastal management areas?

A disciplined approach to management of mapped information is required. The history of map review processes incorporated in the Regional Forest Agreements demonstrating map reviews are almost always proposed to reduce the mapped extent of environmental features. 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 and detailed ground validation. 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. Remapping to more contemporary ecological interpretation is essential.

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. The additional 100m perimeter area proposed around the mapped wetlands does not compensate for or replace the need to remap coastal wetlands to a more contemporary ecological interpretation

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. Equally important is protection of the integrity of recognised wild rivers flowing into the coastal zone such as the Esk, Sandon and Woolli Rivers.

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.

6. CASE STUDY

Clarence Valley Council: Draft Woolli Beach Coastal Zone Management Plan, Yuraygir National Park.

The Draft Woolli CZMP was produced by Clarence Valley Council (CVC) and proposed the extraction of sand from within Yuraygir National Park for beach nourishment at Woolli.

The proposal was for 60000 cubic metres of sand to be taken at 5-year intervals for 20 years.

This was despite a number of impediments, not the least being that the proposal did not recognise the objectives of national park management, nor that a Plan of Management was in place.

The NPWS was not consulted, and only became aware of the proposal in the last few days of the period for public submissions. A submission was made, but was not included in the papers for the meeting at which Council considered the CZMP.

What were notes that did not address the substance of the draft CZMP, were included as a submission from OEH.

Council processed the matter with little discussion before the vote was taken. The decision was that the CZMP be sent through to the Minister for decision with a recommendation that it be approved by him, despite the impediments. It was further suggested that if necessary, changes be made to any legal instruments that might prevent the extraction of the huge volumes of sand.

Failure to ensure the Coastal Management Bill 2015, when enacted, to firm up the environmental protection of the national park estate, and the role of the National Parks and Wildlife Service as the managers will be a retrograde step. It would have adverse consequences for environmental management across the state by, in effect, giving local government an overarching role in the management of national parks, and reducing the authority and power of the NPWS to meet the principles and objectives under the National Parks and Wildlife Act.

There is a suggestion that CVC considers the Minister has, or should have, the power to over-ride legislative impediments.

Point 8 of the November resolution would not only return to the sand-mining days that played a large part in the original establishment of the coastal parks, but would make them available for other "resources". It would also lead to fragmentation and flexible boundaries of national parks making them transient land tenures

Copies of Council resolutions with points relevant to this discussion:

COUNCIL RESOLUTION – 07.013/15 June 2015. Point 3.

(Crs McKenna/Baker)

That Council:

1. Endorse the Woolli Beach Draft Coastal Zone Management Plan, subject to amendments specified in Schedule 1.
2. Submit the unedited version of the Woolli Beach Draft Coastal Zone Management Plan, together with the Interim Report and the Supplementary Report (including attachments) and details of Council's resolution to the Minister for the Environment prior to 30 June 2015, with an edited version consistent with the amendments as identified in 1 above submitted as soon as practicable thereafter, and request the Minister's consideration and certification under the Coastal Protection Act 1979.
3. Request the Minister for the Environment to allow implementation of the Woolli Beach CZMP despite the inconsistency with Strategic Action 5.2.9 of the NSW Coastal Policy 1997, on the basis that CVC considers that the inconsistency, being the proposed sourcing of sand from Yuraygir National Park for the beach nourishment scheme, is justified in the circumstances of the case.
4. Request OEHL to undertake and/or coordinate research to document the benefits of beach scraping as a form of coastal management, particularly on the NSW coastline.

Following correspondence from OEH, Council made modifications, but seeks to have changes to allow sand mining in national parks, and specifically that the Coastal Management Bill 2015 include a provision to allow certification of CZMPs/CMPs despite relevant public authorities not agreeing to them:

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Williamson/Hughes

That Council:

6. Request the Minister to review the merit of sand extraction from the NSW national park estate for coastal management purposes in special circumstances as well as the potential for public land estate to contribute to future management and adaptation of local communities that are expected to be directly impacted by coastal hazards and processes.
7. Request provisions be added to the Draft Coastal Management Bill 2015 that enable the Minister to certify a CZMP/CMP despite a public authority not agreeing to a draft CZMP/CMP, especially where actions are likely to provide an environmental or community benefit, for example, as provided for in the Marine Estate Management Act 2014 (NSW) with regards to sand extraction in a marine park.
8. Consider the potential for management actions seeking to extract sand from national park estate and investigation of asset relocation and land swap (or similar) in future draft CZMPs or Coastal Management Programs prepared for coastal zones within the Clarence Valley LGA.

Voting recorded as follows

For: Williamson, Baker, Howe, Hughes, Kingsley, Lysaught, McKenna, Simmons, Toms

Against: Nil

7. LIST OF RECOMMENDATIONS

Recommendation 1

The title “Coastal Protection Act” should be retained to ensure that the coastal environment is protected to the highest extent possible, recognising the changes due to climate change, and impacts of existing and proposed levels of development and use.

Recommendation 2

Insert or improve definitions as identified in this submission to support management objectives.

Recommendation 3

Insert objectives requiring a comprehensive understanding of natural character, scenic value, biological diversity and ecosystem integrity and resilience of the coastal zone and associated lands and water.

Recommendation 4

Insert objective requiring a comprehensive understanding of Aboriginal heritage sites in and associated with the coastal zone.

Recommendation 5

That an additional coastal management area be adopted to include the coastal reserve system and areas proposed for addition to the coastal reserve system

Recommendation 6

That appropriate definitions for the coastal reserve system- both terrestrial and marine and areas proposed for addition to the reserve system be included in the Bill

Recommendation 7

That management objectives be included in the Bill for the coastal reserve system coastal management area consistent with the requirements of the NPW Act and the Marine Parks Act.

Recommendation 8

Develop contemporary criteria for re-mapping coastal wetlands and littoral rainforests and undertake a revised mapping program.

Recommendation 9

The definition of the coastal environment area should be redefined to more accurately reflect natural and cultural features and process of the coastal zone and all important features should be mapped and released for public consultation prior to finalisation of the draft Bill.

Recommendation 10

The hierarchy for coastal management areas should be revised as follows; (a) the coastal reserve system, (b) Littoral Rainforests and Coastal Wetlands,(c) Coastal Environment Area , (d) Coastal Vulnerability Area, (e)Coastal Use Area.”

Recommendation 11

The new NSW Coastal Council is given increased independence and the role and functions of the Council be expanded and clearly outlined as including:

1. Providing oversight on coastal policy development and implementation
2. Advising Government, the Minister, planning decision-making bodies and local Councils, on integrated approaches to coastal policy.

Recommendation 12

The range of expertise required for the NSW Coastal Council be expanded to include expertise in coastal policy, Aboriginal cultural heritage, ecosystem function and resilience, climate impacts, community engagement, strategic planning, management and leadership.

8. CONCLUSION

The NPA acknowledges the NSW Government’s commitment 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.

However, we have identified a number of key concerns with the proposed coastal reform package and made a number of recommendations for strengthening the draft Bill, SEPP and Manual.

We understand that the Office of Environment and Heritage, and Government, are keen to improve the draft reform package in light of public feedback, and we look forward to our comments and suggestions being incorporated into the ongoing development of the Bill, SEPP and supporting material.

We look forward to further public consultation on this important environmental law reform.