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SUBMISSION ON NSW COASTAL REFORMS

INTRODUCTION

The Clarence Valley Conservation Coalition Inc (CVCC) is a community group based in Grafton in the Clarence Valley in the NSW Northern Rivers. It was formed in 1988 and has been involved with environmental issues – both locally and nationally – since that time.

As an organisation in a coastal LGA and with members who live in the coastal zone, the CVCC has a long-standing interest in the coast in its own area and further afield.

We believe that effective management of our coast and protection of its significant natural features is important to all Australians. We also believe that effective planning is needed to deal with the challenges that our coastal lands are facing – including that of over-development and above all the impacts of climate change.

In this submission we refer to some of our concerns about the proposed changes as well as to measures we support. Unfortunately time constraints have limited the extent of our comments.

DEFINITION OF COASTAL ZONE

The CVCC believes the term **coastal zone** needs clarification. There is no specific definition of the actual coastal zone in either the Draft Bill or the documentation Coastal Management State Environmental Planning Policy: Explanation of the intended effect. Reference which is made (p.10 and 11) to mapping for SEPP 26 and SEPP 14 and the definition of the coastal zone under the **Coastal Protection Act 1979** includes the proviso that the specific coastal zone management areas will be varied in the new SEPP.

A definition of what comprises the coastal zone is necessary as well as the mapping.

The principles for mapping the Coastal Management Area 4: Coastal Use Area (listed on p.19 of Coastal Management State Environmental Planning Policy: Explanation of the intended effect) are those from the **Coastal Protection Act 1979**. Can these then be considered as defining the coastal zone?

If these mapping principles can be taken as a definition of the coastal zone, the CVCC notes that in connection with the Clarence River the coastal zone presumably is well upstream of Maclean given the extent of mangroves along the river bank. If another principle were to be used and the tidal limit of the river was to be taken, the coastal zone would extend to Copmanhurst - around 70 km upstream of the river mouth. The Clarence River has the most extensive estuary on the NSW coast.

The CVCC points out that using mangroves as an indication is questionable as many river estuaries have had significant changes to their riverine vegetation over the years – particularly with regard to removal of mangroves. Many of these changes have probably occurred since the 1979 Act and its principles were framed.

MAPPING

The CVCC was expecting that the mapping of the various coastal management areas would be available well before the close of submissions on the elements of the reforms that are currently on exhibition. The lack of maps limits our ability to effectively scrutinise the reforms and comment on them. It is to be hoped that this will be taken into account so that, when the maps are eventually exhibited, community members will have full opportunity to comment broadly on both the maps and any other aspects of the proposed changes that require further comment in the light of the maps.

COMMENTS ON SELECTED QUESTIONS POSED IN PART B OF COASTAL MANAGEMENT STATE ENVIRONMENTAL PLANNING POLICY: EXPLANATION OF THE INTENDED EFFECT

Q1: Should councils be able to propose changes to the maps for all or some of the coastal management areas?

We understand that there has been considerable consultation with councils during the preparation of the maps. Following the period of exhibition – during which we assume all stakeholders, including councils, will have the opportunity to propose changes – we assume the maps will be finalised. Thereafter we do not believe there should be any further need for changes until the scheduled review “at least every ten years”. While councils undoubtedly have local knowledge, they do not have the resources of the government and its agencies. Furthermore, council decisions sometimes fail to consider fairly all relevant matters. (This comment is based on concerns about Clarence Valley Council’s Wooli Coastal Zone Management Plan in 2015. This will be discussed in more detail below.)

Q2: 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 proposed Coastal Management SEPP.

Q3: Do the proposed development controls for mapped coastal wetlands and littoral rainforests remain appropriate for that land?

The existing controls on land that is identified as mapped coastal wetlands and littoral rainforests should be maintained and so should concurrence provisions.

In relation to residential developments on land within a 100 m perimeter of a littoral rainforest we believe there is a strong case for a buffer between such a development and an adjacent littoral rainforest – particularly in the light of the limited amount of littoral rainforest still in existence. A buffer would mitigate impacts from run-off, provide space between the development and fauna in the rainforest (in relation to the threats from traffic, dogs and cats), and serve as a fire break. Naturally the buffer should be on the land of the proposed development.

Case Study: 162 lot residential subdivision and new roads at Lot 99 DP823635 Hickey Street, Iluka

This large residential development at Iluka, on the northern side of the mouth of the Clarence River, is currently before Clarence Valley Council. It is adjacent to the Iluka Nature Reserve, a littoral rainforest remnant. Iluka Nature Reserve's special significance as one of the few remaining areas of littoral rainforest in NSW led to its inclusion in the World Heritage Listed Gondwana Rainforests of Australia. This 135 ha. reserve, which is adjacent to Bundjalung National Park, is already very vulnerable to threats such as feral animal predation and weed infestation because of its small size and its proximity to the urban area of Iluka. Placing a further comparatively large urban development just across the road is obviously going to increase the risk of degradation of the values that make this reserve so important.

The CVCC has, along with many other concerned community members, put in a submission to Clarence Valley Council opposing this development.

Q4: Do you support the inclusion of a new 100m perimeter area around the mapped wetlands, including the application of additional development controls?

The CVCC supports this. We also believe that this provision should also apply to residential land that borders a wetland - primarily because a buffer is needed to limit the effect of run-off containing fertiliser/pesticides which have the potential to cause serious degradation of a wetland.

Q5: Are the proposed development controls for mapped coastal vulnerability areas appropriate for that land?

These controls are appropriate in relation to new developments. However, they could be strengthened by requiring that development consent is specifically required for any damage to or removal of coastal dunes, foreshores, vegetation and wetlands.

In relation to existing developments in areas which are vulnerable to the impacts of storm surge/ climate change particularly where residences/infrastructure exists we believe that there are so many beach fronts under threat throughout the state and indeed throughout the nation, that protection

of these assets in any medium to long term will be impossible – and even if only some are protected temporarily the cost to the public purse will be immense.

Case Study: Clarence Valley Council's Draft Woolli Coastal Zone Management Plan

In June 2015 Clarence Valley Council put the Draft Woolli CZMP on exhibition.

The older part of Woolli is built on a sand dune between the Woolli River and the ocean and is very vulnerable as the beach below continues to lose sand.

This 2015 Draft CZMP followed an earlier attempt to deal with the issue of Woolli village's vulnerability some years earlier when a relocation plan was developed. This was firmly rejected by those in the residences under threat who have since developed a very effective lobbying campaign which has persuaded council that relocation is not the answer.

The 2015 Draft proposed a sand nourishment scheme sourcing sand from nearby Yuraygir National Park. Although there were obviously other sand sources, Council persisted with this source despite the fact that it was inconsistent with the Coastal Policy. Furthermore Council had not consulted the park management (NPWS) before finalising its document.

There are numerous other issues in relation to this draft CZMP including the fact that at best the plan was a temporary solution and the issue of whether our apparently cash-strapped council could afford to fund the works – or indeed whether another level of government would oblige. Then there is the creation of a precedent. Will all coastal communities under threat be able to be assisted as council was planning in this case?

Q6: Are the proposed development controls for coastal environment areas appropriate for that land? These controls need to be strengthened by requiring that the consent authority establishes that the proposal meets the criteria. Furthermore the consent authority should be required to consider the cumulative impacts of the development.

Q7: Is the inclusion of the catchments of the 15 sensitive lakes (listed in Schedule 1) within the coastal environment area appropriate?

We commend the inclusion of a list of coastal lakes meriting comprehensive protection, noting that three of them – Arragan, Hiawatha and Minnie Water – are in our LGA. We are pleased that the Healthy Rivers Commission's recommendation was accepted.

ROLE OF LOCAL COUNCILS

1. While it is obvious that local councils are important managers of the coastal land in their LGAs, there are other public authorities which have management responsibilities in most LGAs along the coast. In our LGA the National Parks and Wildlife Service has responsibility for large and significant coastal lands including Yuraygir National Park, Iluka Nature Reserve and Bundjalung National Park. Following Clarence Council's development of its faulty Draft Coastal Management Plan for Woolli

Beach the CVCC has concerns about the potential for our council – and perhaps others – failing to seek advice from managers of other lands in their LGAs. We trust that the Coastal Reforms will make it clear that local councils are not able to over-ride other instrumentalities such as NPWS with regard to the management of their lands.

2. It appears to the CVCC that local councils are going to be required to take on much more responsibility under the coastal reforms. We trust that this will not be an exercise in coast-shifting and that councils will be able to access appropriate resources from the state government.

SEPP 50

The CVCC supports the existing provisions of SEPP 50 regarding the banning of canal estate development and expects that it will be retained either in its current form or included in the new legislation.

CLIMATE CHANGE

While the draft legislation and the other material on exhibition acknowledges the challenge of climate change, the CVCC believes it must provide clearer requirements and guidance on climate change adaption and mitigation. This should include attention to flora and fauna species migration, effects of extreme weather events including increased flooding and sea level rise. This will be the really great challenge for the coastal zone in the future. (*See also the comments on the Wooli CZMP in the case study above.*)

SOME OTHER MATTERS WHICH NEED EMPHASIS

Compliance and Monitoring are obviously essential if the provisions of the coastal reforms are to be properly implemented – and to have their intended effect. Effective action on these and on enforcement where necessary is also vital for the community to have faith in the legislation and its operation. However, it is unfortunate that very often these important follow-ups are neglected by government at a local and a state level. There has to be the **will** to monitor and enforce but there also must be provision of **adequate resources**.

Cumulative Effects are matters which are often ignored in considering development. They are obviously as important in considering coastal management as in considering land management elsewhere.

Leonie Blain
Hon Secretary