

## A SUBMISSION ON THE STAGE 2 NSW COASTAL MANAGEMENT REFORMS

TO WHOM IT MAY CONCERN,

I appreciate this opportunity to provide feedback on the Stage 2 NSW Coastal Management Reforms. I live on the NSW south coast and I am active in various community and Council positions that contribute, through Committee and community volunteer work to protection of the coastal environment. These roles include;

- Member of the South Coast Regional Advisory Committee of NSW NP&WS (2011-2014).
- Member of the Central Shoalhaven Natural Resources and Floodplain Management Committee (Shoalhaven City Council) (2009- present).
- Member Shoalhaven Council Bushcare Representative Group (Including active bushcare volunteer) Current.
- Member of Wetland Care Australia. Current
- Member of Birdlife Australia and the local branch Birdlife Shoalhaven (Including active participant in NP&WS Shorebird Recovery Program). Current

The stated intention to develop new coastal protection laws for strategic planning and management of the coast in accordance with the principles of ecologically sustainable development (ESD) and for the long-term public interest is to be applauded. At this point, however, the package does not fulfil this aim.

There are essential parts of the coastal reform package such as mapping for the coastal zone and the draft text of a new Coastal Management SEPP that one would expect to be available for comment and feedback during this phase. I very much hope, and indeed implore the NSW Government to make these available for public comment before bringing the draft Bill to the NSW Parliament.

Please find, following on from this cover letter, my principal concerns with the Stage 2 Coastal Reforms. This also includes responses to the nine questions posed in the *Statement of Intended Effect*.

It's important that the recommended improvements provided through this feedback are incorporated into the ongoing development of the Bill, SEPP and supporting manual. Without them, it is clear to me that, the intended aims of the coastal reform will simply not be achieved.

Sincerely,

Dr Mike Clear



23<sup>rd</sup> February, 2016

## Stage 2 Coastal reforms – Key Issues

### 1. Introductory Comment

I welcome the Government's initiative 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.

**I strongly support the proposed overall objective of the new Act** *“to manage the coastal environment of NSW consistent with the principles of ecologically sustainable development for the social, cultural and economic wellbeing of the people of the State”*, together with the proposal to use the existing definition of ecologically sustainable development (ESD) as defined in section 6 (2) of the Protection of the Environment Administration Act 1991.

I am, however, concerned that 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.

Many of the issues and geographic areas dealt with in the Stage 2 Coastal Package overlap with or are linked to other NSW legislation and policy, including the Marine Estate Management Act 2014, NSW Flood Prone Land Policy and the Floodplain Development Manual, but **the coastal package does not clarify or articulate a coherent overall picture of how these various elements work together** and reinforce each other. This significant strategic deficiency needs to be remedied.

In particular, the reform package provides only **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. The emerging geophysical realities of the 21<sup>st</sup> century require that these linkages be rigorously analysed and a comprehensive approach adopted in order to safeguard the community and ensure that future planning decisions take account of these factors, rather than create even more vulnerable settlements which will not be sustainable in the medium to longer term.

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

### 2. Coastal zone/coastal management areas

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.

**Existing protections for coastal wetlands and littoral rainforests should be retained and enhanced in the new SEPP**, including important concurrence and assessment requirements. 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.

**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).

### 3. Coastal Management Programs

**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 (See comments in 4. Below).

### 4. Climate Change Issues

**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. The current package is very silent on this. For example, Part A of the Manual gives only scant recognition to global issues, with “sea level” mentioned just once and “climate change” twice in 19 pages of text, and the scoping component of the manual (Part B, stage 1) fails to mention sea level rise anywhere in its 21 pages.

**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.

Climate Change and Sea Level Rise are undeniably critical issues for all NSW coastal councils. The State Government should be thoroughly explicit in the coastal package, providing mainstream and credible scientific guidance to Councils.

### 5. NSW Coastal Council

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.

### 6. 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.

## **7. Comment on 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.

## **8. Coastal Management State Environmental Planning Policy – Statement of intended Effect**

The following is my response 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.