



Nature Conservation Council

The voice for nature in NSW

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29 February 2016

SUBMISSION ON NSW COASTAL MANAGEMENT REFORMS

Dear Sir/Madam,

The Nature Conservation Council of NSW (**NCC**) is the peak environment organisation for New South Wales, representing 150 member societies across the state. Together we are committed to protecting and conserving the wildlife, landscapes and natural resources of NSW.

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

We welcome the opportunity to make a submission on the coastal reform 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.

NCC in principle 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, we have a number of concerns about specific details of the proposed new legislation and supporting materials.

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 comment on these aspects of the reform package at this stage is therefore limited. We acknowledge that the Government has committed to make the mapping of the proposed new coastal zone and full text of a draft SEPP available for public consultation prior to finalisation of the draft Bill.

Our **attached** submission addresses the following matters:

1. Key concerns with the proposed coastal management reform package
2. The NSW Coast – Values and Threats
3. Comments on the Draft Coastal Management Bill
4. Comments on the Explanation of Intended Effect for the proposed new Coastal Management State Environmental Planning Policy (SEPP)
5. Comments on the Draft Coastal Management manual
6. Other matters
7. Conclusion
8. Attachment – Case Studies

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 recommendations being incorporated into the ongoing development of the Bill, SEPP and supporting material.

Although we have prepared a detailed submission, many of our members continue to raise issues with us in relation to the reform package and we would welcome the opportunity to continue discussions with OEH and Government on how the reform package can be improved, once the public consultation period concludes.

Should you require any further information or assistance, please do not hesitate to contact Cerin Loane, Policy and Research Coordinator, on (02) 9516 1488 or cloane@nature.org.au.

Yours sincerely,



Kate Smolski
Chief Executive Officer

NCC SUBMISSION ON NSW COASTAL MANAGEMENT REFORMS

1. KEY CONCERNS WITH THE PROPOSED COASTAL MANAGEMENT REFORM PACKAGE

We welcome the opportunity to make a submission on the coastal reform package currently on exhibition, including a draft Coastal Management Bill (**draft Bill**), an Explanation of Intended Effect (EIE) for the proposed new Coastal Management State Environmental Planning Policy (SEPP), and key elements of a draft Coastal Management Manual (**draft Manual**).

NCC recognises 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, we have a number of concerns about specific details of the proposed new legislation and supporting materials.

Key concerns

Our key concerns can be summarised as follows:

- **Definition of the 'coastal zone':** The proposal to separate the 'coastal zone' into four different 'coastal management areas' will result in differing management objectives and protections for each of the four identified areas. In our view this is a more complicated and less transparent mechanism for managing the coast.
- **Weaker management objectives and development controls:** There has been no detailed explanation of how the existing matters for consideration under clause 8 of SEPP 71 or clause 5.5 of the standard instrument have informed the proposed new management objectives or development controls in the draft Bill or Explanation of Intended Effects. Rather than simply 'consolidating' the existing SEPPs, entirely new management objectives and development controls have been proposed. We are concerned that the proposed management objectives and matters for consideration, particularly for coastal use areas, are weaker than current requirements.
- **Absence of mapping and SEPP text:** 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 note that our ability to comment on these aspects of the reform package at this stage is therefore limited. We acknowledge that the Government has committed to make the mapping of the proposed new coastal zone and full text of a draft SEPP available for public consultation prior to finalisation of the draft Bill.

- **Inadequate recognition of climate change impacts and mechanisms for adaption and mitigation of climate change impacts:** The coastal reform package does not provide adequate 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 draft Bill fails to identify sea level rise and increased storm activity as coastal hazards. The draft Manual does not adequately deal with global climate issues, such as sea level rise and increased storm events. This is inconsistent with a forward looking 21st century approach to coastal management.
- **Inadequate requirements of the Coastal Manual:** The Coastal Manual must include clear and mandatory requirements for councils developing coastal management programs to ensure that councils are using the best science, engaging local communities and adequately assessing and responding to threats to the coastal environment.
- **Composition and functions of the NSW Coastal Council:** The functions and membership of the NSW Coastal Council 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.
- **Removal of concurrence requirements:** The proposal to remove important concurrence requirements is unjustified and will remove important oversight and lead to poorer outcomes for the environment. The concurrence of the Minister must be required for all development proposals within the coastal wetland and littoral rain forest areas and coastal environment area.
- **Compliance and enforcement:** The compliance and enforcement provisions of the Bill are inadequate. Firstly, the Bill specifically provides that certain provisions, if not followed, will not render an action invalid (e.g. clause 16(3)); secondly, there are no direct offences for breaches of the Bill. There are also gaps in relation to how certain provisions of the draft Bill will be enforced
- **Resourcing:** It is not known what level of resourcing will be given to councils to develop new coastal management programs.
- **Interaction with other legislation and agencies:** It is unclear how the new Coastal Management Act will interact with other legislation including the *National Parks and Wildlife Act 1974*, *Marine Estate Management Act 2014* and proposed new biodiversity conservation laws.

Recommendations

Our submission makes a number of recommendations for addressing our key concerns:

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

Recommendation 2: Amend the overarching objective of the draft Bill to read “to protect and 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”.

Recommendation 3: Amend clause 3(b) of the draft Bill as follows: “to support the social and cultural values of the coast and maintain the public’s right of access, sustainable amenity and use ...”

Recommendation 4: Amend clause 3(d) of the draft Bill as follows: “to facilitate ecologically sustainable coastal management to support a vital economic zone and healthy, ecologically sustainable coastal economies”.

Recommendation 5: Amend subclause 3(e) as follows “to facilitate ecologically sustainable land use planning and development decision-making”.

Recommendation 6: Remove clause 3(l) of the draft Bill

Recommendation 7: The definition of coastal hazard should be expanded to include sea level rise and increased storm activity

Recommendation 8: Include a definition of ‘resilience’ in the draft Bill

Recommendation 9: Adopt the same definition of ‘foreshore’ as the Local Government Act 1993, that is “the land situated on the water’s edge and forms a transition zone between the aquatic and terrestrial environment”.

Recommendation 10: Ensure that the definitions of ‘estuary’ and ‘foreshore’ cover intermittently closing and opening lakes and lagoons (ICOLLs), in particular land between high and low water levels as assessed by hydrological studies and the transition zone between aquatic and terrestrial environments.

Recommendation 11: Consolidate the management objectives for category a) and category c) into a single ‘coastal conservation area’ that provide strong and consistent management objectives for all sensitive coastal areas.

Recommendation 12: The ‘coastal environment area’ should be given precedence over ‘coastal vulnerability area’ and ‘coastal use area’ in the proposed hierarchy (see also Recommendation 11).

Recommendation 13: Environmental values must be included within the management objectives of ‘coastal use’ areas.

Recommendation 14: Limit opportunities for ad hoc changes to coastal management areas and include mandatory requirements for amending coastal management areas, which include public consultation on proposed amendments.

Recommendations 15: Strengthen the provisions of Part 3 of the draft Bill by including clear, mandatory requirements for councils and the Minister in relation to the preparation of coastal management programs.

Recommendation 16: Set clear parameters in legislation about making plans for parts of the coastal zone.

Recommendation 17: Identify in more detail the coastal management issues for each of the four coastal management areas (not just the coastal vulnerability area) that must be addressed by a coastal management program.

Recommendation 18: Require a coastal management program to identify risks to the environment and Aboriginal cultural heritage from coastal hazards (not just risks to development and human life).

Recommendation 19: Consider how the coastal reform package should deal with emergencies caused by coastal flooding or inundation.

Recommendation 20: The role and functions of the new Coastal Council be expanded and clearly outlined as including:

- 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.
- 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 21: Expand the range of expertise required for the NSW Coastal Council to include expertise in areas such as coastal policy, Aboriginal cultural heritage, ecosystem function and resilience, climate impacts, and strategic planning.

Recommendation 22: Provide environment or community group representation on the NSW Coastal Council.

Recommendation 23: Create offences for breaches of the new Coastal Management Bill similar to those existing under the *Coastal Protection Act*.

Recommendation 24: The concurrence of the Minister must be required for all development proposals within the coastal wetland and littoral rain forest areas and coastal environment area.

Recommendation 25: That the coastal reform package provide for an acquisition scheme for coastal lands of high environmental, social and cultural significance.

Recommendation 26: Clarify the interaction between the draft Bill, draft SEPP and the *National Parks and Wildlife Act 1974*.

Recommendation 27: The concurrence of the Minister for the Environment be required to approve provisions of coastal management plans which apply to land reserved under the NPW Act.

Recommendation 28: Provide further clarification, and if necessary resolve conflicts, on the interaction between the *Marine Estate Management Act 2014* and the draft Coastal Management Bill, including any overlap or inconsistencies between Coastal Management Programs and the Marine Estate Strategy and Threat and Risk Assessment Report.

Recommendation 29: Clarify the role the Marine Estate Management Authority will have in relation to the Coastal Zone, including whether the Marine Estate Management Strategy and the Threat and Risk Assessment Report will apply to the coastal zone and how they will interact with Coastal Management Programs made under the Bill.

Recommendation 30: Consider the interaction, and potential conflict, between the coastal reform package and proposed new biodiversity conservation laws.

2. THE NSW COAST – VALUES AND THREATS

The stunning coastline and beaches of NSW are integral to our State's cultural identity. However substantial evidence is available to show that many of our spectacular, yet sensitive beaches, headlands, rocky shores, coastal wetlands, estuaries, bays and lakes are significantly degraded, and at risk of becoming further degraded if not effectively protected and managed into the future.

With over 80% of the NSW population living within 3 kilometres of the coast¹ 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 also 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 the destruction of middens and spiritual landscapes through coastal development.

The NSW Office of Environment and Heritage lists some 184 estuaries in NSW, including river estuaries, coastal lakes and coastal wetlands.² 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.³

A number of ecological communities are unique to the NSW Coast including Coastal Saltmarsh, Bangalay Sand Forest in the Sydney Basin and South East Corner Bioregion, Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner Bioregion and Swamp Sclerophyll forest of coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregion.

The coast also provides important habitat for coastal aquatic species, such as sea grasses, algae and fauna and coastal bird species, including shorebirds and migratory species.

The Australian Bureau of Statistics reports that:

“The expansion of coastal urban development places increasing pressure on the natural environment through the effects of land clearing, waste disposal and pollution. Building along the foreshore and on sand dunes can affect the coastal landscape, coastal processes, and the natural movement of sand. Structures built on the coastline can increase erosion, leading to the need for beach replenishment ... As well as increased erosion, coastal communities are also vulnerable to rising sea levels, tropical cyclones and a loss of wetlands”⁴.

¹ NSW Coastal Policy 1997

² NSW Office of Environment and Heritage List of NSW Estuaries. www.environment.nsw.gov.au

³ NSW Independent Inquiry into Coastal Lakes. 2002 NSW Healthy Rivers Commission.

⁴ Australian Bureau of Statistics, 1370.0 - Measures of Australia's Progress, 2010, available at [www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Coastal%20development%20\(6.4.4.1\)](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Coastal%20development%20(6.4.4.1)), accessed 13 September, 2013.

The impacts of increased population and development on the coast are known to include:

- Adverse changes to the natural variability of estuaries particularly coastal lakes, with clearing and development causing erosion, sedimentation and poor water quality.
- 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.
- Loss of dune, wetland and foreshore vegetation from foreshore development, resulting in increased beach erosion with coastal habitat connectivity compromised.
- 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.
- 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.
- 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.

Although there has been specific coastal protection legislation in NSW since 1979, the coast is still at risk from inappropriate and poorly planned development. We have **attached** a number of **case studies** that highlight the failure of the current coastal protection laws to adequately protect environmentally sensitive coastal areas. These case studies also highlight challenges that the new coastal laws must seek to overcome.

In 2003, the Total Environment Centre toured the NSW coast to inspect development and land clearing sites and get local community feedback on the planning and development problems. More than 450 inappropriate or controversial development and land clearing activities were surveyed and 130 community groups consulted. The conclusions of the report are outlined in the case study below.

CASE STUDY: CONCRETING THE COAST, DEVELOPMENT AND LAND CLEARING PRESSURES ON THE NSW COAST

In 2003, the Total Environment Centre toured the NSW coast to inspect development and land clearing sites and get local community feedback on the planning and development problems. More than 450 inappropriate or controversial development and land clearing activities were surveyed and 130 community groups consulted.

The resulting report ***Concreting the Coast, Development and Land Clearing Pressures on the NSW Coast***⁵ found that the coast was fast losing its coastal dune complexes, heathlands, forests and wetlands – some of the most species-rich habitat in NSW. The result has been loss of wildlife, degraded water quality, changed flow and increased flooding danger, erosion of soil, beaches and dunes, overstretched infrastructure such as sewerage and waste facilities, loss of fish breeding grounds and tourist attractions, and loss of residential amenity as coastal villages blend into each other through sprawling kit-home estates.

The report identified a range of problems and trends common to most coastal council areas that were frustrating attempts to achieve ecologically sustainable planning outcomes and meaningful coastal protection:

- Planning lacks cumulative, long-term view
- Strategic planning is usually driven by developer demands and not land-use capability
- Planning instruments (including Local Environment Plans and Development Control Plans) are inadequate
- Public participation is inadequate
- Developments were changed to higher-impact development after consent was obtained
- Development consent conditions were often breached
- Environmental Impact Statements and Species Impact Statements were tokenistic and biased
- Action was rarely taken to against illegal land clearing
- State regulations, policies and plans are based on non-mandatory and flexible guidelines rather than setting firm requirements

The report recommended several ways to achieve effective and sustainable planning and development on the coast, including:

- All planning and development should be based on a mandatory state-wide coastal planning 'blueprint' that sets unambiguous rules for development based on the land's natural capability
- State Environment Planning Policy 71 Coastal Protection (SEPP 71) should be strengthened
- Coastal native vegetation needs to be protected through legislation that includes tight rules on clearing for development including pre-emptive clearing and clearing of weeds, bushfire control and on rural-zoned lands
- Public land must be retained and expanded. More national parks and reserves are needed, corridors linking protected land should be strictly protected, buffer zones should be made around sensitive and protected areas and there should be no rezoning and development of environmentally protected Crown or council lands

⁵ Total Environment Centre, *Concreting the Coast, Development and Land Clearing Pressures on the NSW Coast* (2003), www.tec.org.au/docman/func-startdown/26

It is within this context that the Government has proposed major changes to NSW coastal protection laws. These changes include:

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

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 prioritises protection to ensure that these areas are protected now, and for future generations.

3. COMMENTS ON THE DRAFT COASTAL MANAGEMENT BILL

PART 1 – PRELIMINARY

- **Title and Aim of the Bill**

We are 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 ‘management’ of the coast, with an increased emphasis on uses and development. The Minister has explained that the name change derives from his understanding of the dynamic nature of the coast, and as a consequence how it could be managed more for resilience, rather than for maintaining its current values. We disagree with this approach.

Further, the term ‘management’ describes a process, not an 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 changes due to climate change, and impacts of existing and proposed levels of development and use.

- **Objects**

NCC **supports** 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”.

However, in line with Recommendation 1 above, we suggest that the overall objective be slightly amended to read “to protect and manage the coastal environment of NSW...”.

We also **support** 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.

We also generally **support** the detailed objects set out in clause 3 of the draft Bill. The objects cover social and cultural values, specifically referring to Aboriginal heritage, public access, facilitating coastal development and land use planning, mitigating current and future risks from coastal hazards, taking account of effects of climate change, recognition of the local, regional scale effects of coastal processes and dynamic nature of shoreline, including loss of land to sea, impacts of uncertain climate.

We are particularly pleased to see clause 3(a) focus specifically on the natural environment, with the aim to “protect and enhance natural coastal processes and coastal environmental values including natural character, scenic values, biological diversity and ecosystem integrity and resilience”.

This object recognises the intrinsic value of nature and the importance of maintaining biological diversity and ecosystem integrity and resilience.

We also submit that minor amendments can be made for improving other objects in clause 3 of the draft Bill:

- **Clause 3(b)** - The wording of sub-clause b) aims to “...maintain public access.” This statement represents a weakening of provisions in the existing Act, which upholds the right of public access.

Subclause (b) should therefore be amended as follows: “to support the social and cultural values of the coast and maintain the public’s right of access, sustainable amenity and use ...”

- **Clause 3(d)** – This subclause refers to supporting “sustainable coastal economies”. In order to recognise the important link between a healthy, sustainable environment and the economy, this object could be reworded as follows:

“to facilitate ecologically sustainable coastal management to support a vital economic zone and healthy, ecologically sustainable coastal economies”

- **Clause 3(e)** - This subclause should be strengthened to reinforce that the first consideration should be that both planning and development are ecologically sustainable, and to emphasise the importance of strategic land use planning prior to development.

- **Clause 3(l)** – Clause 3(l) should be deleted. This is discussed below in relation to the interaction between the Marine Estate Management Act and the Bill.

Recommendation 2: Amend the overarching objective of the draft Bill to read “to protect and 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”.

Recommendation 3: Amend clause 3(b) of the draft Bill as follows: “to support the social and cultural values of the coast and maintain the public’s right of access, sustainable amenity and use ...”.

Recommendation 4: Amend clause 3(d) of the draft Bill as follows: “to facilitate ecologically sustainable coastal management to support a vital economic zone and healthy, ecologically sustainable coastal economies”.

Recommendation 5: Amend subclause 3(e) as follows “to facilitate ecologically sustainable land use planning and development decision-making”.

Recommendation 6: Remove clause 3(l) of the draft Bill

- **Definitions**

We are pleased to see clear and specific definitions in the draft Bill, including definitions of ‘beach fluctuation zone’, ‘coastal hazard’- particularly coastal inundation and tidal inundation, and ‘coastal sediment compartment’.

We also make the following comments in relation to the definitions section of the draft Bill (clause 4):

- The definition of ‘coastal hazard’ does not adequately capture anticipated impacts of climate change, including sea level rise and increased and more intense storm activity
- “Resilience” should be defined
- The definition of “Foreshore” seems much narrower than the definition of “Foreshore” in the *Local Government Act 1993*. The Definition in the Bill is “the land between the mean high water mark and the mean low water mark in tidal waters. The *Local Government Act 1993* provides for Community Lands categorised as “Natural Areas, including “Foreshore.” Clause 1.3.6 of that Act categorises “Foreshore” as “the land situated on the water’s edge and forms a transition zone between the aquatic and terrestrial environment.” This definition appears preferable to the proposed definition in the Bill, which does not take account of all types of coastal foreshores.
- It is concerning that definitions of “estuary” and “foreshore” are not necessarily applicable to intermittently closing and opening lakes and lagoons (ICOLLS). Some ICOLLS, including Lake Wollumboola, are “perched” above mean sea level and high tide levels. As a consequence water levels reach heights above that of “highest astronomical tide” when the lake is closed. The definitions should be amended to incorporate high water levels of ICOLLS as assessed by hydrological studies. For ICOLLS “Foreshore” should apply to land between high and low water levels as assessed by hydrological studies and the transition zone between aquatic and terrestrial environments.

Recommendation 7: The definition of coastal hazard should be expanded to include sea level rise and increased storm activity

Recommendation 8: Include a definition of 'resilience' in the draft Bill

Recommendation 9: Adopt the same definition of 'foreshore' as the Local Government Act 1993, that is "the land situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment".

Recommendation 10: Ensure that the definitions of 'estuary' and 'foreshore' cover intermittently closing and opening lakes and lagoons (ICOLLs), in particular land between high and low water levels as assessed by hydrological studies and the transition zone between aquatic and terrestrial environments.

PART 2 – COASTAL ZONE AND MANAGEMENT OBJECTIVES FOR COASTAL MANAGEMENT AREAS

- **Definition of Coastal Zone**

NCC has significant concerns regarding the proposed new definition of 'coastal zone', which will see the NSW coast categorised into four new areas, namely:

- a) coastal wetlands and littoral rainforest area
- b) coastal vulnerability area
- c) coastal environment area
- d) coastal use area

This is a significant change from the current definition, which identifies a single, uniform area as the 'coastal zone', for the purpose of the existing *Coastal Protection Act 1979*.

The proposed new definition will result in differing management objectives and protections for each of the four identified areas. In our view this is a more complicated and less transparent mechanism for managing the coast. We note that no substantial justification has been given for this significant change, and fear that this change will weaken protections for some areas (in particular the coastal use area) and subsequently expose those areas of the coast to impacts from increased development and use. We are specifically concerned about the lack of protection and management objectives of significant pockets of remnant vegetation and natural habitat that may occur in the coastal use area. This is inconsistent with objects of the draft Bill and the principles of ecologically sustainable development.

We are also concerned that coastal wetlands and littoral rainforests (category a) have been categorised separately to other sensitive areas of high conservation value (category c). This suggests that they are more important than other environmentally sensitive coastal areas. In our view, all of these areas warrant strong protection and this is an opportunity to achieve improved environmental outcomes by establishing strong and consistent management objectives for all of these areas. We are also concerned that coastal vulnerability areas have been given greater priority than coastal environment areas.

Finally, our members are deeply concerned that the mapping of the new coastal zone areas has not yet been made publically available. These maps are a key component of the reform package and integral to understanding how the new coastal zone definition will operate. It is unreasonable to ask environment groups, and the broader community, to support such a significant legislative change without all the information being made available.

- **Management objectives for coastal management areas**

Despite the concerns outlined above regarding the separation of the coastal zone into four separate areas, we provide the following comment with respect to the proposed management objectives for coastal areas:

Distinction between category a) and category c:

The separation of coastal wetlands and littoral rainforests (essentially SEPP 14 and SEPP 26 areas) from other environmentally sensitive areas suggests that these ecosystems are more environmentally significant and sensitive than other ecosystems identified in c) the Coastal Environment area, when no evidence has been provided to support such a supposition. Land reserved under *the National Parks and Wildlife Act 1974*, the habitat of threatened species and endangered ecological communities are examples of highly significant and environmentally sensitive areas which should have the highest protection under the SEPP and the Bill.

We understand that this may reflect the historical legacy of the various SEPPs, however suggest that this reform process, and in particular the proposal to consolidate existing SEPPS into a single SEPP provides an opportunity to establish strong and consistent management objectives for all environmentally sensitive coastal areas. For example, management objectives from category c) (e.g. maintain and improve water quality and estuary health) would also be relevant for category a), and vice versa.

We suggest that it would be feasible to establish a single 'coastal conservation area' that covers all areas of category a) and category c), and which includes strong and consistent management objectives for all of these areas under a single category. In the spirit of these reforms, we would expect the stronger protections to apply, rather than possible weakening of environmental protections. This would be consistent with the broader objectives of the draft Bill, and could potentially simplify the proposed new 'coastal zone' to some extent.

Recommendation 11: Consolidate the management objectives for category a) and category c) into a single 'coastal conservation area' that provide strong and consistent management objectives for all sensitive coastal areas.

Hierarchy of management objectives:

We do not support the proposed hierarchy of management objectives (clause 10(3), draft Bill). It is unclear why coastal vulnerability areas have been given greater precedence over coastal environment areas. Coastal environmental values should be identified as the first priority in their own right, but then must also be considered as information critical for addressing coastal hazards and risk management strategies, and for ensuring that any development and uses is consistent with the principles of ESD. To this end, 'coastal environment area' should be given greater precedence to 'coastal vulnerability area' in the proposed hierarchy.

We note that consolidation of categories a) and c) into a single 'coastal conservation area' may overcome this concern, with the 'coastal conservation area' being given precedence over coastal vulnerability and coastal use areas.

Recommendation 12: The 'coastal environment area' should be given precedence over 'coastal vulnerability area' and 'coastal use area' in the proposed hierarchy (see also Recommendation 11).

Coastal Vulnerability Area:

We make the following suggestions for strengthening the management objectives of the coastal vulnerability area:

- The management objectives for the coastal vulnerability area should make specific reference to sea level rise and increased storminess due to climate change, particularly as these are not identified within the definition of 'coastal hazard'
- The environmental values of beaches and foreshores referred to in 2 g) should be included in 2 c) so they are taken into consideration in all aspects of hazard management
- Objective 2 c) could be strengthened to ensure that wherever possible hazard management measures seek to maintain or enable the natural adaptation of the physical and biological character of beaches and foreshores as well as their cultural and social values and as the most effective management measures
- Objective 2 e) should be rephrased so that land uses and development vulnerable to coastal hazards are **prohibited** in areas of high risk from coastal hazards

Coastal Use Area:

We are concerned that identifying areas as ‘coastal use’ areas will open areas of the coast up to increased development despite impacts on the environment. This is inconsistent with the primary objective of the draft Bill, to be consistent with the principles of ecologically sustainable development. While we do not support these areas, we suggest they could be more aptly named ‘coastal development’ areas, which appears to be more in line for the management objectives of these areas. We are concerned that the proposed management objectives and matters for consideration for these areas are weaker than current requirements (clause 8, SEPP 71 and Clause 5.5 of the Standard Instrument). Rather than having uniform management objectives and controls for the entire coastal zone ‘coastal use’ areas will be subject to a different set of management objectives and controls, which are, in our view, weaker provisions.

We are particularly concerned that the proposed management objectives for ‘coastal use’ areas do not seek to protect and enhance the environmental values of these proposed areas. Clause 9(2)(a) requires protection and enhancement of the scenic, social and cultural values of the coast and consideration on the appropriateness of the development on the natural scenic quality of the area. It is an anomaly that environmental values are excluded from this clause. Environmental values and impacts on those values are relevant across all of the coast and there is no justification for excluding the consideration of impacts on the environment within the coastal use zone.

While environmental impacts may still need to be considered under the EP&A Act (e.g. s 79C), the exclusion of environment values from the management objectives of ‘coastal use’ areas is viewed as a retrograde step by our members, and is inconsistent with the objectives of the Bill, and the overall intent of the reforms.

The coastal environment is already under significant pressure from development expansion, with coast-specific ecological communities listed as Endangered and the majority of coastal lakes and estuaries adversely impacted by water pollution from urban, industrial and rural uses. It is therefore imperative that the management objectives for ‘coastal use’ areas require consideration of environmental values and impacts on those values.

Recommendation 13: Environmental values must be included within the management objectives of ‘coastal use’ areas.

- **Amendments to coastal management areas**

Clause 10(1) of the draft Bill allows for local environment plans to amend State Environment Planning Policies, including identification of a coastal management area. That is, a local council can propose to change coastal management areas via a planning proposal to change a LEP. Clause 10(2) provides that this would not be able to be done without the recommendation of the Minister administering the Coastal Management Act (note – at this stage it is unclear which Minister will administer the Act, see our further comments on this issue below).

While we understand that planning proposals would need to be prepared in accordance with section 55 of the EP&A Act, it is unclear what level of analysis of the characteristics of a coastal management or public consultation would be required prior to submitting a planning proposal (as alluded to by the SEPP EIE).

Our members have significant concerns about provisions that facilitate ad hoc changes to local environment plans, outside of a strategic planning process. There is a real risk that ‘spot categorisation’ of coastal management areas could occur, similar to ‘spot rezoning’ of LEPs. We have previously raised concerns that spot rezoning has the potential to undermine important strategic planning processes that include evidence based decision making and community consultation. If strategic planning is done properly then there should be little need for rezoning to take place between regular reviews of local environment plans. Further, spot rezoning decisions have the potential to deliver significant windfalls for developers, with proponents with a pecuniary interest aggressively pursuing rezoning applications and manipulating processes in order to achieve outcomes that they want.

We suggest that ad hoc changes to coastal management areas should be limited and there must be clear and mandatory requirements for amending coastal management areas, with appropriate levels of transparency and accountability including public consultation requirements.

Recommendation 14: Limit opportunities for ad hoc changes to coastal management areas and include mandatory requirements for amending coastal management areas, which include public consultation on proposed amendments.

PART 3 – COASTAL MANAGEMENT PROGRAMS AND MANUALS

In principle, NCC does not oppose the shift to coastal management programs. We support the proposed statement of purpose of coastal management programs (clause 12) with its focus on setting the long-term strategy for co-ordinated management of land within the coastal zone together with the focus on achieving the objects of the Act.

That said, we are concerned that the requirements for preparing and making coastal management programs are too flexible, and not adequately enforceable. This undermines the entire reform package. Coastal management programs are a key element of the reform package and there is a real risk that the objects of the Act will not be achieved unless the provisions of the legislation establish clear and mandatory requirements for the preparation and making of coastal management programs.

It is also unclear what level of resourcing will be given to councils to develop new coastal management programs.

Flexibility and discretion in the preparation of coastal management programs

We are concerned with the level of discretion surrounding the preparation of coastal management programs.

For example:

- Councils 'may,' prepare coastal management programs;
- A coastal management program may be in relation to any part of the coast;
- Councils must 'consider' rather than give effect to key matters such as the objects of the Act and State and regional policies.

Additionally, the Minister has discretion in relation to directing a council to prepare a coastal management program and the legislation anticipates that the Minister's direction to a council may be inconsistent with the Manual (clause 14(2)).

In order to realise the objects of the Act and to increase accountability and transparency, there must be clear, mandatory requirements for councils to prepare coastal management programs and for the Minister to exercise his/her functions under this Part.

We are also concerned that the draft Bill makes provision for coastal management programs for only parts of the coastal zone (clause 13(2)), without clear guidance on the circumstances in which it would be appropriate for that occur. We are concerned that this provision will undermine the overall intent of the legislation and the 'hierarchy' of coastal management areas. Rather than undertaking strategic planning and management for the entire coastal area within its jurisdiction, a council may 'cherry pick' certain areas, such as coastal use areas, in order to facilitate development and overlook more important obligations, such as identifying and conserving the environmental and cultural values of the coast or properly managing coastal hazards. It would be preferable for strategic planning purposes to have one "Coastal Management Program" per Council area, however, given the scale of the task it may be necessary to allow staged preparation of a Coastal Management Program.

Recommendations 15: Strengthen the provisions of Part 3 of the draft Bill by including clear, mandatory requirements for councils and the Minister in relation to the preparation of coastal management programs.

Recommendation 16: Set clear parameters in legislation about making plans for parts of the coastal zone.

Matters to be dealt with in coastal management program

We make the following comments in relation to clause 15 - Matters to be dealt with in coastal management program:

- It is unclear why specific requirements for coastal vulnerability areas have been singled out (as opposed to other coastal management areas) (see clause 15(a) and (b)). Consideration should be given to identifying in more detail the coastal management issues for each of the four coastal management areas that must be addressed by a coastal management program.
- In relation to the specific requirements for the coastal vulnerability area, the legislation specifically identifies risks to development and human life associated with coastal hazards. We submit that this is too narrow. Coastal hazards also pose a risk to the environment and Aboriginal cultural heritage. These omissions are concerning because of the recognised significance of native coastal vegetation in minimising coastal erosion and the impacts of flooding and the importance of coastal dune systems and other coastal features to Aboriginal communities.

The omission of environment issues and particularly coastal vegetation is inconsistent with the Coastal Vulnerability objective f) (i) to adopt coastal management strategies which emphasises recognition in the first instance of the importance of “restoring or enhancing natural defences including coastal dunes, vegetation, wetlands” in coastal management to reduce exposure to coastal hazards.

- Clause 15.3 states that a Coastal erosion emergency action subplan is a plan that outlines the roles and responsibilities of all public authorities in response to emergencies regarding beach erosion when it occurs through storm activity or an extreme or irregular event. There are no provisions for subplans to address emergencies caused by coastal flooding or inundation.

Recommendation 17: Identify in more detail the coastal management issues for each of the four coastal management areas (not just the coastal vulnerability area) that must be addressed by a coastal management program.

Recommendation 18: Require a coastal management program to identify risks to the environment and Aboriginal cultural heritage from coastal hazards (not just risks to development and human life).

Recommendation 19: Consider how the coastal reform package should deal with emergencies caused by coastal flooding or inundation.

PART 4 - NSW COASTAL COUNCIL

- **Role and functions**

NCC generally supports the establishment of a NSW Coastal Council however the proposed Coastal Council's role and functions are more limited than we had anticipated.

In particular, we are concerned that the major focus of the Coastal Council is local council compliance with the Coastal Management Manual in preparing Coastal Management Programs, rather than integrated approaches to coastal policy and planning, and community engagement.

We note that the Coastal Council is tasked with providing advice to the Minister in relation to his/her functions under the Act, however it is unclear to what extent the Coastal Council will be able to assist in meeting the broad objectives of the Act. On the face of the draft Bill it seems that the Coastal Council will not be involved in providing advice on co-ordination of policies and facilitating strategic integration of management activities except for compliance by local councils with the Coastal Manual in development and implementation of Coastal Management Programs.

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.

We recommend that the role and functions of the new Coastal Council be expanded and clearly outlined as including:

- 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.
- 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 20: The role and functions of the new Coastal Council be expanded and clearly outlined as including:

- 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.
- 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.

- **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.

While this is an extensive range of expertise, in order to meet the broad objectives of the Act (and, as recommended above, an expanded role for the coastal council) consideration should be given to also including people with expertise in areas such as coastal policy, Aboriginal cultural heritage ecosystem function and resilience, climate impacts, community engagement, strategic planning, management and leadership.

We also suggest membership include environment or community group representation.

Recommendation 21: Expand the range of expertise required for the NSW Coastal Council to include expertise in areas such as coastal policy, Aboriginal cultural heritage, ecosystem function and resilience, climate impacts, and strategic planning.

Recommendation 22: Provide environment or community group representation on the NSW Coastal Council.

OTHER COMMENTS ON DRAFT BILL

- **Compliance and enforcement**

We have significant concerns that the coastal reform package lacks adequate provisions for compliance and enforcement. Firstly, the Bill specifically provides that certain provisions, if not followed, will not render an action invalid (e.g. clause 16(3)); secondly, there are no direct offences for breaches of the Bill. Without such ‘teeth’ the Bill is essentially a guide for coastal protection and management.

We recognise that there are a number of mechanisms within the framework for integrated compliance and enforcement. For example:

- Schedule 4 of the draft Bill creates offences under section 121 B the EPA Act in relation to an activity being carried out in breach of the EPA Act (e.g. carrying out an activity on a beach or foreshore)
- Clause 30 of the draft Bill allows the Minister to report any failure by local councils to comply with a direction under clause 13(1) or 14(2) (in relation to the preparation of a coastal management plan) to the Minister administering the *Local Government Act 1993*, who may then choose to take action under the *Local Government Act 1993* (for example performance management or temporary suspension of a council).

Our concern is that these provisions rely on other legislation, Ministers, and agencies to enforce the coastal management framework, and there is no direct offence for breaches of the Coastal Management Act.

We also note that there are gaps in relation to how other provisions of the draft Bill will be enforced, including, for example:

- The requirement for councils to review a coastal management plan every 10 years (clause 18);
- The requirements for councils to comply with a notice given under clause 20;
- The requirement for a local council to give effect to its coastal management program (clause 22);
- The requirement for public authorities to have regard to coastal management programs and the coastal management manual (clause 23).

Our understanding is that the provisions for enforcement have not been included in the draft Coastal Management Bill in order to reduce regulatory overlap.

This is significantly different to sections 57 and 58 current Act, which establish offences and penalties for breaches of the *Coastal Protection Act 1979*

57 Offences against this Act and the regulations

- (1) *Where any matter or thing is by or under this Act, other than by or under the regulations, directed or forbidden to be done, or where a Minister or other person or body is authorised by or under this Act, other than by or under the regulations, to direct any matter or thing to be done, or to forbid any matter or thing to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an offence against this Act.*
- (2) *Where any matter or thing is by or under the regulations directed or forbidden to be done, or where a Minister or any other person or body is authorised by the regulations to direct any matter or thing to be done, or to forbid any matter or thing to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an offence against the regulations.*

58 Penalties

- (1) *A person guilty of an offence against this Act for which a specific penalty is not provided shall be liable to a penalty not exceeding 4,500 penalty units (in the case of a corporation) or 2,250 penalty units (in any other case).*
- (2) *A person guilty of an offence against the regulations shall be liable to a penalty not exceeding 400 penalty units (in the case of a corporation) or 200 penalty units (in any other case).*

In order to strengthen compliance and enforcement of the draft Bill, a general offence for breaches of the legislation should be included in the Bill.

Recommendation 23: Create offences for breaches of the new Coastal Management Bill similar to those existing under the *Coastal Protection Act 1979*.

- **Minister administering the Act**

At this stage it is unclear which Ministerial portfolio will have carriage of the new Coastal Management Act. We note that immediately prior to May 2015 the Minister for the Environment had carriage of the *Coastal Protection Act 1979*. Carriage of the Act was given to the Minister for Planning in May 2015, which we expect was due to the Minister Stokes moving from the Environment to Planning portfolio and his personal interest in continuing to have carriage of the reform process.

We also note that historically a number of different portfolios have had carriage of the Coastal Protection Act, including the Minister for Planning, Minister for the Environment, Minister for Natural Resources, and Minister for Climate Change and the Environment.

When considering which Minister should have carriage of the new Act, the following matters should be taken into consideration:

- The aim and objects of the Act, including the strong emphasis on ecologically sustainable development, protecting and enhancing natural coastal processes and coastal environmental values, and supporting the social and cultural values of the coast, including Aboriginal heritage.
- The specific functions required of the Minister under the Act, including preparing the coastal manual, certifying catchment management programs and appointing the members of the NSW Coastal Council.
- The Departmental agency with the relevant expertise and staff in coastal protection and management.
- The interaction with legislation and Ministerial responsibilities.

We note the *Coastal Protection Act 1979* contains a concurrence role for the relevant Minister, and that existing concurrence roles under SEPPs 14, 26 and 71 sit with the Minister for Planning (as SEPPs are planning instruments under the EPA Act administered by the Planning Minister).

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

- **Overarching comments**

While we do not necessarily oppose the consolidation of three existing SEPPs into a new Coastal Management SEPP, there is a real risk that consolidation of the three SEPPs will lead to weakening of environmental protections.

It has been impossible to properly evaluate how the proposed SEPP will operate without seeing draft text or draft mapping. We note that the Government has committed to releasing the full text of the draft SEPP and maps of the coastal zone for public consultation prior to the reform package being finalised.

To that end, we have not provided any specific recommendations on the SEPP EIE but rather address the thirteen questions outlined in the EIE and made specific comments on the following key issues:

- Proposed development controls for coastal management areas
- Mapping of Coastal Management Areas
- Concurrences

We also reiterate our concerns that separation of the coastal zone into four distinct areas, as proposed, will result in inconsistent, and particularly in the case of coastal use areas, weaker provisions.

We would be happy to further discuss the details of the SEPP and our concerns with government as the reform process continues.

- **Proposed development controls for coastal management areas**

There has been no detailed explanation of how the existing matters for consideration under clause 8 of SEPP 71 or clause 5.5 of the standard instrument have informed the proposed new management objectives or development controls in the draft Bill or Explanation of Intended Effects. Rather than simply 'consolidating' the existing SEPPs, entirely new management objectives and development controls have been proposed. While the reform process is an opportunity to revise and improve the current provisions, there has been no adequate explanation or justification for the changes.

It is unclear exactly how specific matters identified in existing provisions will be required to be considered under the new framework, including for example:

- measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats (SEPP 71, clause (8)(g);
- measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats (SEPP 71, clause (8)(h);

- existing wildlife corridors and the impact of development on these corridors (SEPP 71, clause (8)(i));
- measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals (SEPP 71, clause (8)(l));
- the cumulative impacts of the proposed development on the environment (SEPP 71, clause (8)(p)(i); and
- measures to ensure that water and energy usage by the proposed development is efficient (SEPP 71, clause (8)(p)(ii).

Further it is unclear how recognised flaws of the current provisions have been addressed, if at all (e.g. SEPP 14 and 26 contain limited definitions, only relate to land use control measures with no management or restoration component, and rely on outdated mapping).

Without such an explanation, or a detailed understanding of how the new management objectives and development controls will operate in practice, there is concern that existing protections are not being carried through into the new system, and will be weakened.

- **Mapping of the Coastal Management Areas**

As noted above, we are concerned that mapping of the coastal zone is not available as part of the reform package currently on exhibition. 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.

Our initial comments are:

- For the public to have a proper understanding of what is proposed it is essential that draft mapping be made publically available for comment prior to the Coastal Management SEPP being finalised.
- Mapping must be based on the best available evidence and ground-truthed.
- It is noted that it is proposed for coastal environment areas, identification/mapping of coastal lakes, rivers, estuaries, lagoons and coastal waters and submerged lands, headlands and rock platforms will be based on the current coastal zone, with some modification to include land around coastal lakes.
- We welcome the proposal to adopt revised mapping for SEPP 14 coastal wetlands to include wetlands not currently covered by SEPP. It is important that the public has the opportunity to recommend wetlands not currently recognised as SEPP 14 wetland for inclusion in the new maps.

- We strongly support making the maps available digitally via the Department's e-planning system.

- **Concurrences**

We strongly oppose the proposal to remove important concurrence and referral provisions (currently in SEPP 14, SEPP 26 and SEPP 71). The reasons given for removing concurrences are inadequate – no new oversight has been introduced, the proposal simply references existing provisions (e.g. designated development, EIS and third party appeal rights) that have historically existed together with concurrence provisions. That is, there has been no additional requirement introduced to replace the concurrence provisions, so their removal is a backwards step.

While we recognise the desire to improve the efficiency of the concurrence and referral process, the removal of concurrence provisions will remove important oversight and lead to poorer outcomes for the environment. Councils may not have the relevant expertise or capacity to undertake a robust assessment of all the key issues, whereas the Minister can rely on expert Departmental staff.

Providing the Minister with a concurrence role will provide important oversight and accountability.

Recommendation 24: The concurrence of the Minister must be required for all development proposals within the coastal wetland and littoral rain forest areas and coastal environment area.

- **Response to Questions**

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

Given the substantial work being undertaken by OEH and Government to prepare the initial maps, there should be limited need for councils to change the maps, and therefore any such provisions should be strictly limited. In commenting on the Bill we noted our concern that allowing councils significant scope to change maps will lead to ad hoc 're-categorisation', and undermine the certainty and evidence base of the original maps.

We suggest the following requirements would make the process for changing maps more transparent and accountable:

- All changes must be underpinned by substantial, scientific evidence, and ground-truthed with on-ground surveys;
- Proposals to reduce the boundaries of coastal wetland and littoral rainforest areas and coastal environment areas should not be permitted;

- Any future Planning Proposals for changes to maps and boundaries have the concurrence of the Office of Environment and Heritage prior to consideration by the Department of Planning and Environment.
- 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?

Including development controls in the SEPP is more likely to ensure they are consistent with the objects of the proposed new legislation, however as long as development controls are robust, applied consistently and enforceable it does not particularly matter whether they are included in the proposed SEPP or as a mandatory clause in LEPs.

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

We are concerned that existing and proposed development controls for mapped coastal wetlands and littoral rainforests permit a wide range of development in Coastal Wetlands and Littoral Rainforests. These uses are not ecologically sustainable in these fragile environments. We suggest the controls for these areas should be strengthened by restricting or prohibiting new development in these areas. The controls should clearly allow for conservation and restoration of the environmental values of the land such as weed control and native vegetation restoration works, including in buffer areas.

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

We generally support the proposal to establish a new 100 perimeter area around mapped wetlands. It is unclear, however, whether it is the new perimeter or the new matter for consideration that will not apply to land zoned for residential use. The perimeter area should apply to residential development, including in adjacent areas, because it can have significant and unacceptable impacts on coastal wetlands.

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

The proposed controls are generally appropriate but can be strengthened by:

- Prohibiting, not encouraging further development in coastal vulnerability areas;
- Specify that development consent is required for any damage or removal of coastal dunes, foreshores, vegetation and wetlands and that such consent must also require that any damage be rehabilitated and restored; and

- Ensuring development controls reflect management objective 2 e) for the Coastal Vulnerability Area, i.e. “that in adopting coastal management strategies that reduce exposure to coastal hazards, i) in the first instance and wherever possible, by restoring or enhancing natural defences including coastal dunes, vegetation and wetlands, etc”.

We also submit that a consent authority must not approve a development proposal unless it meets the development controls for this area, rather than simply ‘consider’ the controls.

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

No. Greater protection should be afforded to such areas with similar restrictions on development as are proposed for wetlands and littoral rainforests.

We generally support the list of lands and water bodies on pages 17 and 18 of the SEPP EIE that will be identified as part of the coastal environment area, including:

- State Waters and submerged lands plus a 100 metre landward perimeter area.
- Estuaries plus a 100 metre landward perimeter area.
- Coastal lakes and lagoons, and the land comprising the catchment of those lakes and lagoons, if the lake or lagoon is identified as requiring comprehensive protection (refer to schedule 1.)
- Other coastal lakes and lagoons, plus a 500 metre landward perimeter area.
- Headlands and rock platforms.

Question 7 - Is the inclusion of the catchments of the 15 sensitive coastal lakes (listed in Schedule 1) with in 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. We suggest these areas be identified in the body of the SEPP, not as a Schedule.

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

The SEPP EIE advises that Coastal Use Areas will have similar boundaries to the existing coastal zone, however sets out three options to be considered for initially mapping the coastal use area. There is no clear explanation of why three alternative options have been proposed.

In our view, 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 (i.e. cannot be reduced).

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. It is unclear how such changes would be possible, without adverse impacts on other coastal management areas. If Councils wish to expand the development footprint in parts of their Region, this should be done via a regular, transparent review of coastal management area boundaries.

Question 10 - Are the proposed development controls for the mapped coastal use/development areas appropriate?

No, we do not consider the proposed development controls for the mapped coastal use areas to be appropriate. As outlined elsewhere in this submission, we do not see any justification in separating the coastal zone into four separate areas, with weaker controls for the coastal use area. We see this as facilitating development in areas that would have otherwise been protected via SEPP 71.

We also submit that a consent authority must not approve a development proposal unless it meets the development controls for this area, rather than simply 'consider' the controls.

Question 11 - Should the current exempt development and complying development provisions be retained for coastal management areas?

The current exempt development and complying development provisions should be reviewed to determine whether they are consistent with the objects of the draft Bill

Question 12 - Should consideration be given to applying other controls for these areas? For example, what types of exempt and complying development might be appropriate in coastal wetlands and littoral rainforests or in the catchments of sensitive coastal lakes and lagoons?

We **strongly oppose** allowing exempt and complying development in coastal wetlands and littoral rainforests or in the catchments of sensitive coastal lakes and lagoons.

Question 13 - Should any provisions be retained to allow the use of emergency coastal protection works in emergency situations? What limitations should be put on such works being undertaken by private individual or public authorities?

No provisions should be retained for emergency coastal protection works in emergency situations. Such provisions have the potential to undermine effective strategic planning and the objects of the Act. With proper strategic planning, based on robust science, the new coastal management framework should reduce emergency situations. All coastal protection works should be carried out in accordance with robust assessment and determination processes.

5. COMMENTS ON THE DRAFT COASTAL MANAGEMENT MANUAL

We recognise that a substantial amount of work has gone into developing the draft Coastal Management Manual and acknowledge that, if properly implemented and enforced, it should support effective strategic management and protection of the NSW coast.

That said, we suggest that a number of improvements can be made to the draft Manual:

Application of Manual

It is of great 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.

Climate change issues

The draft Manual does not adequately deal with global climate issues, such as sea level rise and increased storm events. This is inconsistent with a forward looking 21st century approach to coastal management.

In particular, we note that:

- Part B, stage 2 (Detailed Consideration of Vulnerabilities and Opportunities) provides a useful overview of issues to be considered in CMPs, and outlines the important implications of climate change and sea level for NSW coastal management. It is anomalous that this high level of significance is not reflected in other components of the manual (particularly the scoping stage).
- Part A of the manual gives only fleeting recognition to relevant climate issues, with “sea level” mentioned just once and “climate change” twice in 19 pages of text.
- The scoping component of the manual (Part B, stage 1) fails to mention sea level rise anywhere in its 21 pages. While Part B, stage 1 does include four references to climate change, it needs specify in detail requirements and considerations for carrying out the scoping study (for example, what criteria should be used for determining whether existing policies can be used)
- Part B Stage 3 is a useful overview of response identification and clarification issues, with some acknowledgement of potential climate change impacts, although it mentions sea level rise only once in its 38 pages. The issues canvassed are complex and wide reaching, and this section provides only a basic analysis which will need to be supplemented by material from the Toolkit.

Community engagement

We have a number of concerns regarding community engagement in relation to the preparation of coastal management programs:

- It is disappointing that the manual only provides for community consultation towards the end of the process of preparing a draft coastal management program (Part B, stage 4). Engaging the community earlier in the process should be mandatory as to provide local input into the initial preparation of a draft program and improve community 'buy-in'.
- In addition to a submission report being prepared, all submissions should be made publically available. This will improve transparency in the process (submission reports may be biased and therefore, misleading) and improve community understanding of stakeholder concerns.
- The provisions relating to community consultation should be mandatory.

Monitoring and enforcement

- Part B, Stage 5 deals with implementing, monitoring, evaluating and reporting issues, and provides a brief overview of these important aspects. It is disappointing that compliance and enforcement issues are only given 2 brief paragraphs in the entire volume.
- It is also unfortunate that the manual does not specify parameters or indicators which should be used in CMPs, leaving their choice up to each Council. This is a recipe for inconsistency in quality and recommendations between CMPs. It is recommended that a set of relevant core parameters and indicators be specified for CMPs, with Councils having the discretion to add extra parameters and indicators if required by particular local circumstances.
- Key components of the Manual must be mandatory for councils and enforceable via the legislation.

6. OTHER MATTERS

- **Coastal Lands Protection Scheme**

The coastal reform package does not indicate what is to become of the Coastal Lands Protection Scheme.

There are many areas of the coast that possess significant environmental, social and scenic values that may not qualify for National Park status because of their relatively small size and lack of connectivity to existing protected areas, yet should be acquired for environment conservation.

Moreover, as climate change impacts are already influencing southern movement of coastal species, it is important that north-south habitat corridors along the coast are maintained and conserved, thus adding further justification for a funding program for conservation of coastal lands which provide significant habitat for coastal species, such as shorebirds.

Recommendation 25: That the coastal reform package provide for an acquisition scheme for coastal lands of high environmental, social and cultural significance.

- **Interaction with National Parks Management**

The National Parks and Wildlife Service administers large areas of the NSW Coast under *the National Parks and Wildlife Act 1974*. That Act provides detailed requirements for the preparation of National Park Plans of Management.

Confusion can arise when areas of the coast (in particular parts of coastal lake catchments) are managed in part by the local council and in part by the NPWS. There can be overlap between National Park Plans of Management and council strategies, such as Estuary Management Plans. The coastal reform package needs to resolve potential conflict between the different authorities.

Further, clarification is also required in relation to any conflict between the draft Bill and the NP&W Act, particularly in light of clause 23 which requires a public authority to have regard to relevant coastal management programs, the coastal management manual and the objects of the Act in preparing any plans of management.

It is also unclear what has become of the provisions of SEPP 14 and SEPP 26 which require copies of development applications to be sent to the Director of the National Parks and Wildlife Service.

Recommendation 26: Clarify the interaction between the draft Bill, draft SEPP and the *National Parks and Wildlife Act 1974*.

Recommendation 27: The concurrence of the Minister for the Environment be required to approve provisions of coastal management plans which apply to land reserved under the NPW Act.

- **Interaction with the Marine Estate Management Act 2014**

We note that there is overlap between the *Marine Estate Management Act 2014* and the draft Coastal Management Bill, however there is no explanation of how these two pieces of legislation interact. The “*Our Future on the Coast – Overview of the coastal management reforms*” document states that the “coastal zone forms part of the marine estate” and this suggests that the two pieces of legislation will overlap significantly. The ‘marine estate’ under the *Marine Estate Management Act 2014* is not mapped and the definition does not precisely define it. Maps of the ‘coastal zone’ under the draft Coastal Management Bill are not yet available. For these reasons it is not possible to confirm the extent to which the “coastal zone” is a subset of the “marine estate” and to fully consider how the two frameworks would interact in areas subject to overlap.

We also note that there is inconsistency between the objects of the two Acts, which may lead to some conflict, particularly as the draft Coastal Management Bill includes an objective to support the objects of the *Marine Estate Management Act 2014* (proposed object (3)(l)). This may conflict with the overarching objective of the draft Coastal Management Bill to manage the coastal zone in accordance with the principles of ecologically sustainable development (ESD) because:

- Although the objects of the *Marine Estate Management Act 2014* also provide for management consistent ESD principles, the definition of ESD in the Act is a “stripped down” one which gives a decision-maker no guidance as to how the principles ESD should be applied.
- Further, one of the objects of the *Marine Estate Management Act 2014* is to facilitate “economic opportunities for the people of New South Wales, including opportunities for regional communities”. Facilitating economic opportunities without the full checks and balances under the principles of ESD is simply prioritising the economic use of the marine and coastal environment over social and environmental considerations.

We note that earlier in our submission we recommend removing clause 3(l) of the Bill to overcome any inconsistencies between the objects of the two Acts.

Further clarification is needed from Government as to how these two pieces of legislation will interact, including any overlap or inconsistencies between Coastal Management Programs and the Threat and Risk Assessment Report and the Marine Estate Strategy, and what role the Marine Estate Management Authority will have in relation to the Coastal Zone.

Recommendation 28: Provide further clarification, and if necessary resolve conflicts, on the interaction between the *Marine Estate Management Act 2014* and the draft Coastal Management Bill, including any overlap or inconsistencies between Coastal Management Programs and the Marine Estate Strategy and Threat and Risk Assessment Report.

Recommendation 29: Clarify the role the Marine Estate Management Authority will have in relation to the Coastal Zone, including whether the Marine Estate Management Strategy and the Threat and Risk Assessment Report will apply to the coastal zone and how they will interact with Coastal Management Programs made under the Bill.

- **Interaction with proposed Biodiversity Conservation Act**

We note that significant changes are proposed for the State’s biodiversity and conservation laws. New biodiversity assessment requirements will be introduced under that new Act. Consideration should be given to how the new biodiversity laws and the new coastal laws will interact.

Recommendation 30: Consider the interaction, and potential conflict, between the coastal reform package and proposed new biodiversity conservation laws.

7. CONCLUSION

NCC recognises 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, 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.

ATTACHMENT – CASE STUDIES

The following case studies highlight the failure of current coastal protection laws to adequately protect environmentally sensitive coastal areas. They also highlight challenges that the new coastal laws must seek to overcome.

CASE STUDY 1 - LAKE WOLLUMBOOLA

- **Environmental values and significance**

Lake Wollumboola and its catchment are of outstanding natural and cultural conservation value. The Lake bed and sand bar and the south-west Lake catchment are part of Jervis Bay National Park, whereas the north-west catchment is zoned for urban development

The Lake is recognised as internationally significant habitat for over 40 migratory bird species and for significant numbers of Black Swan and Chestnut Teal. Over 100 bird species including 20 NSW-listed threatened species and 2 nationally listed Critically Endangered species depend on it. On occasions at least 20,000 birds have been observed.

The Lake catchment contains SEPP 14 Wetlands, Endangered Ecological Communities and Threatened Species habitat. The NSW National Parks and Wildlife Service has assessed the Lake as meeting 4-5 criteria for listing as a Wetland of International Importance under the Ramsar Convention. The Healthy Rivers Commission (2002) identified the lake as one of fifteen lakes in NSW requiring comprehensive protection.

- **Threats**

Lake Wollumboola and its catchment are at significant risk of impacts from increasing development and use in the area. Despite the high conservation values of the area, the north-west catchment was rezoned for urban development in 1992.

The New South Wales Office of Environment and Heritage Report titled "*Environmental Sensitivity of Lake Wollumboola: input into considerations of development applications at Long Bow Point, Culburra,*" (Scanes P et al 2013) advises that Lake water quality is natural, but given the strong control that a specific algae species exerts on lake ecology and water quality, "we consider that the lake is vulnerable to a catastrophic state change if key processes are disrupted by nutrient enrichment and there is significant loss of charophytes and macrophytes." "The Lake would never recover from the loss of charophytes and macrophytes and the ecosystem services they provide....resulting in loss of swans and other fauna."

The future zoning and management of the Lake catchment has been under review since 1996 when the Long Bow Point Commission of Inquiry commenced into a 837 lot subdivision the first of 6 development stages, mainly in the Lake catchment. The NSW Government refused this application in 2000. The South Coast Regional Strategy 2007 adopted the outcomes of this Inquiry together with two other expert public inquiries that the Lake catchment should be zoned for conservation as National Park in the Shoalhaven LEP.

However, the landowner did not accept the then NSW Government's decisions and lodged two large-scale development applications in the Lake and neighbouring Crookhaven River catchment- one for a Part 3 A mixed-use urban development and the other for a golf course at Long Bow Point, considered to be the most sensitive part of private land in the catchment. These applications are still to be decided.

Zoning of the areas under the Shoalhaven LEP was deferred to enable the representatives of the landowner to lodge a planning proposal for all land holdings in the area. In December 2015 the Department of Planning and Environment issued a Determination to approve with strict conditions, the Halloran Planning Proposal, which include:

- offering land in the Lake catchment for dedication to Jervis Bay National Park as well as investigation of residential and other urban uses in the Lake and Crookhaven River catchment, which is a significant wetland and open estuary environment.
- Council to zone Long Bow Point for environment protection due to the recognised high environmental sensitivity of Lake Wollumboola dependent on the outcomes of a biodiversity offset strategy.
- Land within the surface and ground water catchment of the Lake to also be zoned for environment protection, unless the water quality strategy identifies that an alternate zoning can achieve a neutral or beneficial effect on the Lake.

- **Lessons learnt**

Despite long-term recognition of the environmental and cultural values of Lake Wollumboola and its catchment, local community and environment groups have spent many years fighting for proper protection of the area as NSW planning and coastal protection laws have failed to provide adequate absolute protection for the area.

Although there have been numerous studies, inquiries, reports and recommendations made in relation to the lake and its catchment, no firm action has been taken to avoid the inevitable impacts from urban expansion, such as acquisition of additional parts of the areas for the Jervis Bay National Park, or appropriate environmental zoning under the Shoalhaven LEP.

Whilst the 2015 determination provides hope that the most sensitive privately owned parts of the Lake catchment may be protected and included in Jervis Bay National Park, there is still concern about the potential extent of development expansion. Not only does development expansion present adverse impacts on the Lake and River and catchments affecting water quality and ecology, population increase would also degrade these sensitive environments.

The new coastal reform package must include the necessary mechanisms (e.g. mandatory acquisition or environmental zoning) for ensuring that areas of high conservation value are adequately protected, and not at risk from inappropriate impacts.

CASE STUDY 2 – SALTWATER DEVELOPMENT, SOUTH WEST ROCKS

- **Environmental values and significance**

Saltwater Creek and Lagoon is a small estuary on the mid north coast of NSW within Hat Head National Park, adjacent to the township of South West Rocks. The estuary is an Intermittently Closed and Open Lake or Lagoon (ICOLL), which is not permanently connected to the ocean. It is at significant risk of flooding and future coastal hazards, such as sea level rise.

The site is identified as a regional wildlife corridor and contains habitat for threatened species such as the Wallum Froglet. The lagoon is highly sensitive with increased nutrients associated with urban development likely to cause a reduction in biodiversity in the wetlands and an increase of weed species.” (Saltwater Creek Catchment Flora & Fauna Study South West Rocks, Kendall & Kendall 2003)

The Coastal Lakes Strategy (Healthy Rivers Commission, 2002) identified that the natural sensitivity risk of Saltwater Lagoon is extreme, with catchment that has been ‘severely modified’ and a moderately affected lake condition’.

- **Threats**

In 2009 Kempsey Shire Council was successful in rezoning the land from Zone 1(c) Rural Small Holdings and Zone 1(d) Rural Investigation to Zone No 2 (a) (Residential “A” Zone) (and other parts Zone No 7 (a) (Wetlands Protection Zone) and Zone No 7 (b) (Environmental Protection (Habitat) Zone)).

For many years sections of the community had fought against the residential zoning and attempts to develop the site. There is significant community concern that the decision to rezone the land for residential use was based on erroneous information and that if the development proceeds, there is a significant risk of flooding on the land, including from future sea level rise. It has been recognised that “future development in the Saltwater Creek and Lagoon catchment has the potential to impact significantly on the ecological health of the existing water ways. Without mitigation, the additional stormwater runoff and associated pollutant loads are likely to have a detrimental impact the water quality and ecology within the lagoon and creek” (WBM Oceanic Australia Draft Saltwater Lagoon and Saltwater Creek Catchment Stormwater Management Strategy (November 2006)

A residential subdivision proposal known as the Saltwater Estate Development was recently refused by the Northern Joint Regional Planning Panel. Amongst other things the Panel gave the following reasons for refusal:

- potential direct, indirect and cumulative environmental impacts, particularly on the Wallum Froglet, Saltwater Lagoon and the E2 zoned land
- the development will be prone to inundation given the high groundwater levels across the site and future sea level rises (and the community will bear the cost of allowing this).

- **Lessons learnt**

Coastal environments including lagoons and estuaries are going to become more at risk from the impacts of climate change, including sea level rise.

Early avoidance and mitigation must occur, with evidence-based decisions made during strategic planning so that appropriate zoning is put in place for areas at risk of sea level rise. Ad hoc rezoning should be avoided as it undermines important strategic planning along the coast.

CASE STUDY 3 – WOOLI BEACH DRAFT COASTAL ZONE MANAGEMENT PLAN

- **Environmental values and significance**

Yuraygir National Park is located between Yamba and Coffs Harbour on the NSW north coast. It is home to a number of threatened species including squirrel gliders, eastern grass owls, green and golden bell frog and the coastal emu (of which there are fewer than 100 left in the park). The area contains age-old coastal landforms, littoral rainforest, eucalypt forest, woodland and wetlands and is of strong spiritual significance to the local Aboriginal community

- **Threats**

The Draft Wooli Coastal Zone Management Plan prepared by Clarence Valley Council proposed the extraction of sand from within Yuraygir National Park for beach nourishment at Wooli. This was despite such a proposal being inconsistent with the objectives of national park management, or the Plan of Management that was in place.

The National Parks and Wildlife Service 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.

Further the Council sought to rely on the *Marine Estate Management Act 2014*, which enables sand extraction within a marine park for conservation purposes or for the purposes of preventing the risk of serious injury to a person or harm to the environment

The NSW Government refused to certify the draft CZMP until, amongst other things, the council modified the plan to remove actions seeking to extract sand from the National Park.

Despite the fact that agency staff have indicated that the Government is not likely to be revising its policy position on sand extraction from the national park estate, Clarence Valley Council is considering requesting the NSW Government to remove such constraints from the new coastal management legislation.

This 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.

- **Lessons learnt**

It is clear that there is inconsistency and confusion in relation to the protection and management of the NSW coastal zone when different agencies and legislation apply, including *the National Parks and Wildlife Act 1974* and *Marine Estate Management Act 2014*. As noted in our submission, the coastal reform package does not adequately respond to those inconsistencies.

There is a real risk that important protections for National Parks may be weakened if these inconsistencies are not resolved, or if lower standards are allowed to apply to National Parks within the coastal zone.

These issues must be resolved before the coastal reform package is finalised.

CASE STUDY 4 - ROCK WALL AT BELONGIL BEACH

- **Environmental values and significance**

Belongil Beach, close to Byron Bay on the north NSW coast, is a sensitive coastal environment that is subject to coastal erosion. The Belongil spit is a dynamic system. Over time surveys around the estuary have recorded eighty species of seabirds, shorebirds, waterbirds and other wetland associated birds, many threatened with extinction.

- **Threats**

Byron Shire Council proposed to build 'beach access stabilisation works' (rock wall) at Belongil Beach in Byron Bay. There has been ongoing community concern regarding the impacts of the activity including coastal geomorphology and engineering, increased erosion, removal of sand diminishing beach, effects on coastal line north and south of rock wall, safety and public access impacts.

The NSW Coastal Panel recognised that there could be long term impacts on the beach at Belongil, indicating the Panel has significant reservations about the project, including the use of temporary walls, which can dislodge during large storm events (see www.echo.net.au/2015/07/coastal-expert-warns-of-rock-wall-dangers/).

A local group, Positive Change for Marine Life Inc, commenced proceedings in the Land and Environment Court seeking an urgent interlocutory injunction to stop Council from constructing the rock wall without first preparing a full EIS. An EIS is required if the rock wall was likely to significantly affect the environment.

The application was unsuccessful, with the court finding that ‘the environmental harm that may occur by construction of the wall is outweighed by the potential environmental harm to the public and private domain that may occur if the injunction is granted and a major storm occurs causing further beach erosion’.

- **Lessons learnt**

It is disconcerting that the advice of the Coastal Panel was readily dismissed. The coastal reform package relies heavily on the new Coastal Council providing advice to local councils in relation to the preparation and implementation of their coastal management program. Mechanisms must be put in place to ensure that councils cannot act in contradiction to the advice of the NSW Coastal Council

The coastal reform package should also provide clearer guidance in relation to identifying and preventing impacts from coastal hazard management activities.