

The Clarence Valley Branch (CVB) of the National Parks Association of NSW, Inc (NPA) attaches its submission on the Draft Coastal Management Bill 2015 and associated documents for consideration.

The CVB is aware that the NPA is making a detailed submission, and CVB commends the points made in that.

The CVB submission focuses on the need to ensure strong protection of the national parks estate (national parks), particularly the coastal reserves. The CVB is concerned that some of the actions of Clarence Valley Council in relation to national parks could have negative implications state-wide. The making of the Coastal Management SEPP has the potential to clarify and protect the coastal environment.

Peter Morgan
President
National Parks Association of NSW, Inc
Clarence Valley Branch
[REDACTED]
Brooms Head
NSW. 2463

The conservation battle is never finally won; the development battle is.

Coastal Management Bill 2015. Public consultation draft.
Submission by Clarence Valley Branch (CVB) of NPANSW

The overview of the Bill reads positively, aiming "to provide for the integrated management of the coastal environment of NSW, and incorporating the principles of ESD".
The Bill does then contain much that is to be applauded, but within it is the potential to degrade the coastal environment.

This submission emphasises the elements of the Bill that raise concerns, and which the finalisation of the Bill and the associated package need to address to achieve the commendable object obtained in the overview.

Those elements largely relate to the national parks estate, the management thereof, and the retention of the authority of the National Parks and Wildlife Service.

References are made to other Acts that the Bill connects with or that have relevance to it. The National Parks and Wildlife Act is conspicuous in its absence. It is as though the national parks estate is a vacuum, and failure to acknowledge national parks leaves them open to inappropriate pressures.

Name of Bill.

As the Bill goes forward for enactment, the name should be changed to Coastal Protection Act. That would better describe the intent and the object.

Using the word "management" gives signals that give invite programmes or developments or active intervention that would degrade the coastal environment over time.

"Protection" would ensure a higher level of scrutiny of proposed actions and that they are not treated as sufficient unto themselves, but that their impact beyond the immediate is considered.

Example: Clarence Valley Council is currently processing a Development Application for a residential development of 162 lots immediately across the road from the world heritage listed Iluka Nature Reserve. The proximity to the nature reserve and endangered species will inevitably lead to the degrading of the natural environment unless significant changes are made to the proposal to take greater account of the off-site impact.

The overview of the Bill should be changed to read "... to provide for the protection and integrated management of the coastal environment..."

In Part 2. 5. There are four management areas listed comprising the coastal zone. Either a fifth one that specifies national parks, nature reserves and/or other coastal reserves should be added to this section, or in a section of its own. Such an addition to the Bill should make allowance for further additions to these reserve categories.

Clause 16 contains provisions dealing with the consultation that **must** be undertaken before a coastal management program is adopted.

This suggests the Clause makes consultation mandatory. However 16(3) states:

(3) A failure to comply with this section does not invalidate a coastal management program.

That contradicts 16(1) which says a council **must** consult on the draft program.

16(3) also negates 16(1)(c)(iii) which requires the mandated consultation has to be undertaken with other public authorities if the coastal management program *relates to, affects or impacts on any land or assets owned or managed by that public authority.*

So, 16(3) would validate the lack of consultation by CVC with the NPWS on the proposal contained in the Woolli Beach CZMP to extract large volumes of sand from Yuraygir National Park. See Case Study below.

Recommendation: Replace 16(3) with a requirement that specifically mandates consultation and concurrence of the NPWS to ensure a CMP affecting national parks complies with the NP&W Act.

Clause 23 *Other public authorities to have regard to coastal management program and coastal management manual*

(1) Public authorities (other than local councils) are to have regard to coastal management programs to the extent that those programs are relevant to the exercise of their functions.

(2) In particular, those public authorities are to have regard to relevant coastal management programs and the coastal management manual in the preparation, development and review of, and the contents of, any plans of management that those public authorities are required to produce and, in doing so, are to have regard to the objects of the Act.

Recommendation : insert a subsection (3) to effect that no CMP can contain provisions that are inconsistent with the NP&W Act, or Plans of Management.

~~~~~  
**Case study:**

**Clarence Valley Council;  
Draft Woolli Beach Coastal Zone Management Plan;  
Yuraygir National Park.**

The Draft Woolli CZMP was produced by Clarence Valley Council (CVC) and proposed the extraction of sand from within Yuraygir National Park for beach nourishment at Woolli. The proposal was for 60000 cubic metres of sand to be taken at 5-year intervals for 20 years. This was despite a number of impediments, not the least being that the proposal did not recognise the objectives of national park management, nor that a Plan of Management was in place. The NPWS was not consulted, and only became aware of the proposal in the last few days of the period for public submissions. A submission was made, but was not included in the papers for the meeting at which Council considered the CZMP. A set of notes that did not address the substance of the draft CZMP, were included as a submission from OEH.

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

Failure to ensure the Coastal Management Bill 2015, when enacted, to firm up the environmental protection of the national park estate, and the role of the National Parks and Wildlife Service as the managers will be a retrograde step. It would have adverse consequences for environmental management across the state by, in effect, giving local government an overarching role in the management of national parks, and reducing the authority and power of the NPWS to meet the principles and objectives under the *National Parks and Wildlife Act 1974*.

There is a suggestion that CVC considers the Minister has, or should have, the power to over-ride legislative impediments. (3. and 7. of council motions.) This would amount to ad hoc discarding of legislation, and open up all decision-making to the whim of the Minister.

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

Copies of Council resolutions with points relevant to this discussion ::.

**COUNCIL RESOLUTION – 07.013/15** June 2015.

*That Council:*

*1. Endorse the Woolli Beach Draft Coastal Zone Management Plan, subject to amendments specified in Schedule 1.*

*2. Submit the unedited version of the Woolli Beach Draft Coastal Zone Management Plan, together with the Interim Report and the Supplementary Report (including attachments) and details of Council's resolution to the Minister for the Environment prior to 30 June 2015, with an edited version consistent with the amendments as identified in 1 above submitted as soon as practicable thereafter, and request the Minister's consideration and certification under the Coastal Protection Act 1979.*

*3. Request the Minister for the Environment to allow implementation of the Woolli Beach CZMP despite the inconsistency with Strategic Action 5.2.9 of the NSW Coastal Policy 1997, on the basis that CVC considers that the inconsistency, being the proposed sourcing of sand from Yuraygir National Park for the beach nourishment scheme, is justified in the circumstances of the case.*

*4. Request OEHL to undertake and/or coordinate research to document the benefits of beach scraping as a form of coastal management, particularly on the NSW coastline.*

-----

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

**COUNCIL RESOLUTION – 13.166/15.** November 2015. Points 6, 7, 8

*That Council:*

*6. Request the Minister to review the merit of sand extraction from the NSW national park estate for coastal management purposes in special circumstances as well as the potential for public land estate to contribute to future management and adaptation of local communities that are expected to be directly impacted by coastal hazards and processes.*

*7. Request provisions be added to the Draft Coastal Management Bill 2015 that enable the Minister to certify a CZMP/CMP despite a public authority not agreeing to a draft CZMP/CMP, especially where actions are likely to provide an environmental or community benefit, for example, as provided for in the Marine Estate Management Act 2014 (NSW) with regards to sand extraction in a marine park.*

8. *Consider the potential for management actions seeking to extract sand from national park estate and investigation of asset relocation and land swap (or similar) in future draft CZMPs or Coastal Management Programs prepared for coastal zones within the Clarence Valley LGA.*


~~~~~

Part 4. NSW Coastal Council

At the Coffs Harbour information session, concerns were raised about the independent capacity of the Coastal Council to deal with matters other than those referred by the Minister. That part of the Bill should include a section that ensures the Coastal Council has this degree of independence.

The CVB understands that there will be further consultation on the SEPP and maps, and looks forward to ongoing involvement.

Peter Morgan
President
Clarence Valley Branch
National Parks Association of NSW


Brooms Head
NSW. 2463