

**Submission to State Environmental Planning Policy  
(Coastal Management) 2016**

Coastal Management SEPP - Part B Policy Questions	General TSC Notes/Response	Initial TSC Position and Items Requiring Clarification	Updated Comment
<p><b>Question 1</b></p> <p>Should councils be able to propose changes to the maps for all or some coastal management areas?</p>	<p>The ability of Council to remap areas and amend through the planning proposal process is supported for the following reasons:</p> <ul style="list-style-type: none"> <li>TSC has prepared fine scaled/refined vegetation mapping that could be used to inform the development of contemporary Littoral Rainforest and Coastal Wetland mapping.</li> <li>Significant errors are apparent in the existing Littoral Rainforest and Coastal Wetland SEPP mapping (since the gazetted SEPP mapping was prepared).</li> <li>The current protocol in requesting a remap of Littoral Rainforest and Coastal Wetland is unclear. Efforts from TSC to seek re-mapping at some sites have been stalled due to uncertainty in SEPP reform.</li> <li>In relation to coastal management areas,</li> </ul>	<p>Further clarification is required in respect to:</p> <p>Littoral Rainforest and Coastal Wetland diagnostic criteria and mapping methodology</p> <p>Timing on the release of Littoral Rainforest and Coastal Wetland mapping</p> <p>Process/protocol required to incorporate locally refined mapping into the final SEPP</p>	<p>Council is in the process of preparing Littoral Rainforest and Coastal Wetland areas mapping to be provided to the Department of Planning and Environment (DoP&amp;E) for consideration. The expectation is that this information will be reflected in the final Coastal SEPP mapping product.</p> <p>Questions are raised however as to whether the final maps following review of the TSC dataset by DoP&amp;E and any subsequent amendments will be required to be again publically exhibited. The process/protocol required to incorporate locally refined mapping into the final SEPP will require confirmation.</p> <p>Where the amendments are not incorporated into the final coastal management areas maps Council have the opportunity to prepare a planning proposal to amend the maps in accordance with Clause 6 of the Draft Local Planning Direction – Coastal Management issued under Section 117(2) of the EP&amp;A Act. The issue with preparing a planning proposal in accordance with Clause 6 is that those amendments need to be supported in a relevant coastal management program. The remapping of coastal wetland, littoral rainforest, coastal environment area and/or coastal areas would not generally form a key element of a coastal management program. Given the timeframes and scheduling of preparing coastal management programs for coastal zones within the shire, Council considers this would result in significant delay in progressing with mapping updates. As such it is recommended that the coastal vulnerability areas</p>

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	Council is well placed to ensure that management area boundaries are accurate and remain up to date/contemporary.		mapping only be required to be amended by way of a planning proposal supported by a coastal management program.  Opportunities to amend all other coastal management areas maps should be provided via a planning proposal where justified by a study or strategy which gives consideration to the objective of each of the respective coastal management areas
<b>Question 2</b>  Should the development controls be included in the proposed Coastal Management SEPP or as mandatory clause in Councils LEP?	It is understood Clause 5.5 is to be repealed from the standard LEP instrument and those matters of consideration are to be reflected in the proposed CM Act and Coastal Management SEPP. This is supported where those matters are appropriately aligned to each of the management areas as generally proposed.	The inclusion of Clause 10(3) of the CM Act relating to situations with overlapping management objectives is acknowledged and supported	No further comment.  The <i>Coastal Management Act 2016</i> was passed on 31 May 2016. The CM Act includes the management objectives for each 'coastal zone' (Part 2). Part 2 of the draft Coastal SEPP includes the development controls for coastal management areas.
<b>Question 3</b>  Do the proposed development controls for mapped coastal wetlands and littoral rainforests remain appropriate for that land?	<u>Coastal Wetland</u>  The inclusion of a 100m buffer is supported to allow for consideration of climate change impacts and opportunities for migration.  The 'additional' development controls for the core coastal wetland area is acknowledged.	<u>Coastal Wetland</u>  Clarification is required as to whether those 'additional' matters for consideration for the core coastal wetland area are in fact 'additional'. That is, will the matters for consideration under the existing SEPP 14 Clause 7 remain? TSC advocates for the retention of those matters currently reflected in Clause 7 of SEPP 14	The listed activities that may be carried out only with development consent within the Coastal Wetland and Littoral Rainforest coastal areas are generally supported. Notwithstanding, the inclusion of 'environmental protection works', which under the LEP standard instrument definition, includes bush regeneration works, This may impose a barrier/impediment to facilitating conservation outcomes. Council is of the opinion that low impact bushland restoration works as an activity of environmental protection works should be allowable

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	<p><u>Littoral Rainforest</u></p> <p>The 'additional' development controls for the core littoral rainforest area is acknowledged.</p> <p>With the exception of terminology (issues noted in adjacent column), Council acknowledge and support the proposed development controls.</p>	<p>TSC recommend that the activity of 'subdivision of land' similar to that required to be considered under the Littoral Rainforest provisions also be applicable to the assessment of Coastal Wetlands. The inclusion of this activity would enable decision makers to consider coordination and long term management arrangements of coastal wetlands where proposed to be subdivided across multiple lots</p> <p>The use of terminology 'destroying or removing native vegetation' is considered inadequate to capture a suite of activities that may have a detrimental impact on coastal wetland values and associated structural elements. Expanded and more robust terminology currently prescribed in SEPP 26 Clause 7 should be adopted being <i>'disturb, change or alter any landform or disturb, remove, damage or destroy any native flora or other element of the landscape'</i></p> <p><u>Littoral Rainforest</u></p> <p>Terminology as discussed for Coastal Wetlands is considered inadequate. Reference to 'destruction or removal of native vegetation' should be replaced with <i>'disturb, change or alter any landform or disturb, remove, damage or destroy any native flora or other element of the landscape'</i></p> <p><u>General</u></p>	<p>without consent where occurring on private, Council or Crown land. This may become a particular issue given that the extent of coastal wetland areas and littoral rainforest areas across the shire is likely to be expanded through contemporary mapping.</p> <p>It is recommended that Clause 11(1)(c)(iv) be amended to read <i>'environmental protection works <b>with the exception of low impact bush regeneration activities</b>'</i></p> <p>The matters for consideration as to whether to grant consent for prescribed development within a Coastal Wetland and Littoral Rainforest coastal areas have been rationalised into a single sub clause 11(4). Council raises concerns regarding the rigour of assessment that would be made under this clause to meet the objectives prescribed in the CM Act.</p> <p>As such it is recommended that the Clause 11(4) be expanded to include wording such as (in bold) <i>'...unless the consent authority is satisfied that sufficient measures have been, or will be made to <b>avoid adverse impact</b> and protect the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest'</i></p> <p>The term residential land has been clarified being land within R1, R2, R3, R4, R5 or RU5. Council are of the opinion that controls be expanded to apply within zones R1, R2, R3, R4, R5 or RU5 where such land is capable of future subdivision.</p>

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		<p>Clarification on the term 'residential land' is required. Council recommend that development controls relating to Littoral Rainforest and Coastal Wetlands be applied on 'residential' or other urban zoned land where such land is capable of future subdivision.</p> <p>Council note that environmental protection works (as defined under the standard instrument) carried out within a Coastal Wetland Management Area shall require development consent. Council are of the opinion that low impact bushland restoration works as an activity of environmental protection works should be allowable without consent where occurring on Council or Crown land. The requirement for a development application for such activity may be seen as a barrier/impediment to facilitating conservation outcomes. This may become a particular issue given that the extent of Coastal Wetland on Council or Crown land is likely to be expanded through contemporary mapping. Notwithstanding, those environmental protection works that involve changes to hydrology or landform, or involve earthworks or result in the disturbance, removal, damage or destruction of any native flora or fauna habitat within a Coastal Wetland should require development consent regardless of tenure/management arrangements.</p>	
<b>Question 4</b>		Yes. See above	The 100 m perimeter area around mapped Coastal

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Do you support the inclusion of a new 100m perimeter area around the mapped wetlands including the additional controls?			<p>Wetland and Littoral Rainforest areas is identified as 'proximity area for coastal wetlands' and 'proximity area for littoral rainforest'. The latest mapping shows the R1, R2, R3, R4, R5 and RU5 land use zone extracted from the 100 m perimeter.</p> <p>Whilst Council support the 100 m perimeter buffer and controls relating to the proximity area for coastal wetlands' and 'proximity area for littoral rainforest' the policy does not make reference to a 100 m perimeter area. For the purposes of mapping verification, transparency and any remapping exercises it should be made clear in the policy that the proximity areas are based on a 100 m perimeter area around those high value Coastal Wetlands and Littoral Rainforest areas.</p> <p>Furthermore consideration for the inclusion of land that is capable of further subdivision and zoned R1, R2, R3, R4, R5 and RU5 within the proximity zones should be provided.</p>
<p><b>Question 5</b></p> <p>Are the proposed development controls for mapped coastal vulnerability areas appropriate for that land?</p>	Council acknowledge and support the proposed development controls.	It is considered that the NSW Coastal Council may have a role in providing expert advice to the JRPP on new coastal protection works where no coastal management program applies.	Does not reference the option to adopt a 'retreat' strategy where considered appropriate.
<p><b>Question 6</b></p> <p>Are the proposed development</p>		Council acknowledge and support the proposed development controls.	Council is of the opinion that those Coastal Lakes identified in Schedule 2 be included for consideration under Clause 14(1)(c). It is noted that reference to coastal lakes is made under the LEP standard

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controls for coastal environment areas appropriate for that land?			<p>instrument Clause 3.3 when reference is given to the exempt or complying development exclusions for environmentally sensitive areas</p> <p>Clause 14(1)(d) is considered to lack rigour given the repeal of Clause 5.5 that included the implementation of principles to <i>'protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality'</i> and <i>'protect and preserve native coastal vegetation'</i> It is recommended that the word 'protects' is inserted to read (in bold) <b>'protects'</b> and is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms'.</p>
<p><b>Question 7</b></p> <p>Is the inclusion of the catchments of the 15 sensitive lakes (listed in schedule1) within the coastal environment area appropriate?</p>	None of the listed sensitive lakes occur within the Tweed Shire (requiring comprehensive protection in <i>Coastal Lakes Final Report 2002</i> ).	It is noted that significant lake systems such as Cobaki, Terranora, Cudgen, Wommin Lake and Wommin Lagoon (the latter two waterbodies not included in the inquiry) have not been identified. Notwithstanding, the mapping criteria for the Coastal Use Area would involve applying a minimum 500 m buffer measured from the mean high water mark from such features.	Council is of the opinion that coastal lakes identified in Schedule 2 be afforded a level of protection under the Coastal SEPP 'coastal environment area'.
<p><b>Question 8</b></p> <p>Which is the best option for mapping the coastal use area?</p>		Option 3 as detailed in Schedule 2 – 'Boundary generally one kilometre inland which can be increased without limit but only decreased to 500 metres' may be preferred to allow Council to capture local values extending beyond the 1 km boundary. Further mapping analysis would be required to evaluate the effect of adopting this methodology.	The mapping methodology adopted to identify coastal use areas is supported.
<b>Question 9</b>		Yes	Yes, however the ability of Councils to undertake

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Should councils be able to propose variations to the Coastal Use Area maps over time to take into account local characteristics?			variations appears to be onerous.
<b>Question 10</b>  Are the proposed development controls for mapped coastal use areas appropriate for that land?	Council notes that the Coastal Management Area 4 - Coastal Use Area, proposed development controls identifies ecological values as matters for consideration (see pp. 20 of the SEPP Explanation of Intended Effect 2015). However, from review of the <i>Coastal Management Bill 2015</i> - Clause 9 (2) related to Coastal Use Area objectives, the clause fails to include/make reference to the protection and enhancement of ecological/biodiversity values.	In order to be consistent with the Coastal Management SEPP the protection and enhancement of ecological/biodiversity values should be included within Clause 9 of the CM Act.	The CM Act has been passed and would appear consistent with the SEPP management controls.  Amendments to the CM Bill as suggested by Council were not made.
<b>Question 11</b>  Should the current exempt and complying development provisions be retained for coastal management areas	Council acknowledge that no change is to occur to the current SEPP (Exempt and Complying Development Codes) 2008 and support retaining existing provisions pursuant to comments below.		These provisions appear to have been maintained.

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<p><b>Question 12</b></p> <p>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 wetland and littoral rainforests or in the catchments of sensitive coastal lakes and lagoons</p>	<p>It is understood provisions relating to 'environmentally sensitive land' for the purposes of the SEPP (Exempt and Complying Development Codes) 2008 are to remain unchanged.</p> <p>Mandatory LEP Standard Instrument Clause 3.3 titled <i>Environmentally sensitive areas excluded</i>, prevents exempt and complying development being carried out in areas of (but not limited to):</p> <ul style="list-style-type: none"> <li>• Coastal waters of the state</li> <li>• A coastal lake</li> <li>• Land to which SEPP 14 Coastal Wetland and SEPP 26 Littoral Rainforest applies</li> <li>• Within 100m of SEPP 14 Coastal Wetland and SEPP 26</li> </ul>	<p>Council supports maintaining exclusions for exempt and complying development within environmental sensitive land and associated buffers. However, Council suggest that certain low impact type activities/uses may be allowable as exempt and complying development within the respective 100 m buffer zones. A risk analysis would be required to be undertaken to determine which activities/uses may be appropriate for inclusion.</p>	<p>The provision remains unchanged. For the purposes of the LEP standard instrument 3.3 environmentally sensitive land will include (but not be limited to) coastal wetland, littoral rainforest areas and coastal lakes (Schedule 1 and 2 of the SEPP). As prescribed in the Coastal SEPP coastal wetland, littoral rainforest areas include respective proximity areas being the 100 m perimeter as noted in the SEPP (Clause 6(2))</p> <p>Council supports maintaining exclusions for exempt and complying development within environmental sensitive land and associated buffers. However, Council suggest that certain low impact type activities/uses may be allowable as exempt and complying development within the respective 100 m buffer zones. A risk analysis would be required to be undertaken to determine which activities/uses may be appropriate for inclusion.</p>