



13 December 2016

Director Environment and Building Policy
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Coastal Reforms Team

Subject: Lake Macquarie City Council Submission on NSW Coastal Management Reforms

At its meeting of 12 December 2016, Lake Macquarie City Council resolved to make this submission to the NSW Government on the recently exhibited components of the NSW coastal management reforms. The format of Council's submission includes comments and recommendations on the public consultation drafts of the: *State Environmental Planning Policy (Coastal Management) 2016* and associated mapping, *Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006* and *Local Planning Direction – Coastal Management (Section 117(2) of the Environmental Planning and Assessment Act 1979)*.

Council wishes to commend the coastal reforms team on the preparation of the coastal reforms package. Council acknowledges the importance of these reforms, and considers the reform package to be comprehensive and well-conceived; the reforms package provides a significant step forward in the effective management of the NSW coastline.

Note that the detail contained in the documents includes a number of aspects that could be improved to better provide for the future preservation of NSW's important coastal environments. Council's comments and recommendations described below aim to highlight areas for improvements to the exhibited documents. I also offer Council's assistance in further refining and improving the NSW Government's comprehensive coastal reforms program.

Should you require further information, please contact Council's Ecosystem Enhancement Coordinator, Symon Walpole, on 4921 0393.

Yours sincerely

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"Quality Lifestyle"

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Draft State Environmental Planning Policy (Coastal Management) 2016

Part 1 Preliminary

No comment

Part 2 Development controls for coastal management areas

Comment:

Council previously provided comment on the *Coastal Management Act (2016)*, and noted its support for the 'objects' of the act. Council believes that these 'objects' provide a positive description of effective coastal management for NSW.

Council believes that the implementation of these 'objects' for coastal development projects is most effectively achieved through the proposed SEPP. Council is concerned that the draft SEPP does not refer to the 'objects' of the act and does not have development controls that directly relate to these 'objects'.

Recommendation:

Council requests an additional clause be included in Part 2 of the SEPP, which requires that all developments within the coastal zone consider 'objects' of the *Coastal Management Act (2106)*.

A proposed clause for inclusion within the SEPP is provided below:

Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the objects of the Coastal Management Act, being:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*

- (h) *to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) *to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) *to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) *to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) *to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) *to support the objects of the Marine Estate Management Act 2014.*

Division 1 Coastal Wetlands and Littoral Rainforest area

Comment:

Council supports the inclusion of coastal wetlands and littoral rainforests within the SEPP.

We note that proposed development controls in the SEPP do not address all of the management objectives for coastal wetlands and littoral rainforest area as identified in the *Coastal Management Act (2016)*. In particular, development controls related to management objective B (rehabilitation and restoration), C (resilience to climate change) and D (social and cultural values) are absent for the draft instrument.

Recommendation:

Council requests that additional development controls be added to deliver upon management objectives for B, C and D for coastal wetlands and littoral rainforest area, as described in the *Coastal Management Act (2016)*.

Comment:

Clause 11 - In using the definition of the *Native Vegetation Act (2003)* to describe native vegetation removal/damage, Council is concerned that the exemptions for 'routine agricultural management activities' (RAMAs) as exempted in the *Native Vegetation Act (2003)* may be utilised to allow for clearing in coastal wetlands and littoral rainforests, contrary to the intent of the SEPP.

Recommendation:

Council requests that a note be added to clause 11 to clarify that 'routine agricultural management activities' (RAMAs) as described in the *Native Vegetation Act (2003)* do not apply in coastal wetlands and littoral rainforest areas.

Comment

Clause 11 - There is no facility within Clause 11 of the draft SEPP to allow for restoration works that rectify a breach of the policy or damage after a natural hazard event in accordance with a rehabilitation plan. This is currently a provision in SEPP 14 that has proved useful in achieving restoration after some prosecutions.

Recommendation

Council request the inclusion of a clause similar to existing SEPP No 14 to facilitate restoration works after damage within coastal wetlands and littoral rainforests.

Comments/Recommendations on Mapping

Coastal Wetlands - Council staff worked closely with Department of Planning and Environment (DoPE) staff during their review of SEPP14 mapping undertaken in 2011. Our involvement included the provision of data to DoPE staff, (including polygons of wetland boundaries), ground truthing of wetland areas and review of mapping layers. We note that the draft 'coastal wetland' mapping layer for our Local Government Area (LGA) provided on the webmap link does not align with Council's version of the mapping undertaken with DoPE staff. In particular, a number of wetland areas have not been included in the webmap link version and other wetland areas are smaller than originally mapped.

Hence, Council requests that this data (as previously provided) be included in the SEPP maps for the 'coastal wetlands' map layer.

Littoral Rainforests - Council has maintained a long-term view that areas mapped as 'littoral rainforest' in the current SEPP26 do not include all 'littoral rainforest' communities in the Lake Macquarie LGA. Over the last 18 years, we have made numerous requests to have the SEPP26 mapping amended, but have been unsuccessful in having the maps updated.

We request that the 'littoral rainforest' mapping be amended to include the areas mapped by Council during our high resolution vegetation community mapping project. We have a high level of confidence in this mapping data.

This mapping data has been previously provided to the Department, but we can again provide these data sets if required.

Division 2 Coastal Vulnerability area

Comment

The concept of the provision of a coastal vulnerability map that is based on all seven coastal hazards as defined by the *Coastal Management Act* and sourced from Council's risk assessments within the CZMP, is a positive improvement to planning and is strongly supported.

It is noted, that the draft coastal vulnerability maps currently being exhibited do not reflect the most recent and up to date information included within the LMCC CZMP relevant to the coastal vulnerability map and will need to be amended in the final

SEPP. This mapping data has been previously provided to the Department, but we can again provide these data sets if required.

Recommendation

That the Local Government Coastal Hazard Map for Lake Macquarie be updated to reflect the mapping contained in the recently gazetted Lake Macquarie Coastal Zone Management Plan.

Comment

The proposed review periods for the SEPP maps of 1 year followed by regular subsequent 5 yearly reviews is appropriate for the type of information described (ie coastal hazards and risks) which is dynamic and rapidly changing in response to climate change. This concept is supported by Council.

It is important to recognise that there are few, if any, Councils within NSW that have the internal technical capability to model coastal hazards and risks. Most councils outsource this work to consultants in a fee for service arrangement, that is commonly co-funded through either the NSW Coastal, Estuary or Flood Programs and Councils. The frequency in which this hazard and risk assessment information is re-assessed has historically occurred around a 10 year cycle. If this changes to a 5 year cycle, then it would need to be supported by a funding program recognising the increased frequency.

Recommendation

That a funding program be identified to support a regular five yearly review of coastal hazard and risk re-assessment information to inform the Coastal Vulnerability Area map.

Comment

Clause 13 - The proposed development controls do not prohibit any development, and strengthen Council's ability to determine development applications in an evidence based environment through the introduction of the notion of "satisfied" rather than "give consideration to". This is a positive improvement to decision-making processes allowing councils to request additional information to support development applications, when necessary, to allow for a "satisfied" determination. This concept is supported by Council.

It is noted that the coastal reforms have not included any tools to guide councils in determining the life of assets. This type of guidance would provide a robust defensible development consent of this type. In particular, consideration of 'time limited development consent' that link to either an asset life or a threshold and trigger is important content to include in the controls.

Recommendation

Council requests that the proposed development controls introduce the concept of 'time limited development consent' that could be linked to either an asset life or a threshold and trigger. This is a positive improvement allowing councils to defend these types of decisions and is supported by Council.

Council also requests that additional guidance be provided to councils to support development consent associated with temporary buildings or works that helps determine asset life and/or thresholds and triggers.

Division 3 Coastal Environment Area

Comment:

Council supports the inclusion of the coastal environment area within the SEPP.

We note that proposed development controls in the SEPP do not address all of the management objectives for coastal environment area as identified in the *Coastal Management Act 2016*. In particular, development controls related to management objective A (enhancing the natural character, scenic value, biological diversity and ecosystem integrity), B (resilience to climate change) and F (improved public access, amenity and use of beaches foreshores, headlands and rock platforms) are absent from the draft instrument.

Recommendation:

Council requests that additional development controls be added to deliver upon management objectives for A, B and F for the coastal environment area, as described in the Coastal Management Act 2016.

Comment

Clause 14(1) (b) - Council has concerns over the wording of Clause 14(1) (b), given the difficulty in defining a “significant” impact. Wording within clause 14(1) (b) should be consistent with wording provided in Clause 14(1) (a) and clauses 14 (1) (c) through to (g) in that the term ‘adverse impact’ is used in-place of ‘significant impact’.

The Coastal environment area is variable and covers more than the surf zone. Clause 14(1) (g) should acknowledge this to be consistent with the Act.

Recommendation

Council requests the following changes to Clause 14 (1) (Changes in red)

14 Development on land within the coastal environment area.

(1) Development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority is satisfied that the proposed development:

- (a) is not likely to cause adverse impacts on the biophysical, hydrological (surface and groundwater) and ecological environment, and*
- (b) is not likely to ~~significantly adversely~~ impact on geological and geomorphological coastal processes and features or be significantly impacted by those processes and features, and*
- (c) is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes, and*
- (d) is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and*

- (e) *will not adversely impact Aboriginal cultural heritage and places, and*
- (f) *incorporates water sensitive design, including consideration of effluent and stormwater management, and*
- (g) *will not adversely impact on the use of the **estuarine, foreshore, dune system, beach, or surf zone***

Comment/Recommendation on Mapping

Buffer Distance from Ocean:

It appears inconsistent that the coastal environment area is defined as being a distance of 500 metres from Lake Macquarie shores however, only 100 meters from the open coast. In some areas of Lake Macquarie coast, a 100-metre buffer is insufficient to reach beach hind-dunes.

Council requests the mapping for the coastal environment area be amended to include a distance of 500 metres from the Ocean (increase from the current 100m).

In the event that this increased buffer is unable to be accommodated, Council requests that all 'dunes' be included in the Coastal Environment Area mapping.

Headlands and Rock Platforms

Council requests that coastal headlands and rock platforms are included in the Coastal Environment Area mapping (noting that headlands rock platforms are specifically included in the *Coastal Management Act* as being part of the Coastal Environment Area). We understand that no state-wide mapping data for headlands or rock platforms currently exists, however, we offer to provide mapping data for these features for the Lake Macquarie LGA.

Division 4 Coastal Use Area

Comment

Clause 15 - All development along the coast should improve public access where safe and appropriate as well as conserve biodiversity and ecosystems. Many of the dune systems and substantial areas of headlands in Lake Macquarie LGA are not covered by the other three coastal area map layers. Hence, the Coastal Use area should be modified to incorporate more measures to protect and conserve these and retain and enhance public access regardless of whether it is a foreshore, beach headland or rock platform.

Council is also concerned that clause 15 provides insufficient emphasis on coastal ecosystems, water quality and amenity.

Recommendation

Council requests the draft SEPP be amended to include the following changes to Clause 15 (Changes in **red**):

15 Development on land within the coastal use area.

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) is satisfied that the proposed development:

- (i) ~~if near a foreshore, beach, headland or rock platform—~~ maintains or, ~~where practicable,~~ improves existing, safe public access to and along the foreshore, beach, headland or rock platform, ~~and provides opportunities for future access~~ and
- (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and
- (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and
- (iv) will not adversely impact on Aboriginal cultural heritage and places, and
- (v) will not adversely impact on use of ~~the beach~~ and surf zone,
- (vi) ~~will not adversely impact on the amenity of the coastal foreshore and~~
- (vii) ~~will not adversely impact on biodiversity and ecosystems, including:~~
 - (i) ~~native coastal vegetation and existing wildlife corridors, and~~
 - (ii) ~~rock platforms, and~~
 - (iii) ~~water quality of coastal water-bodies, and~~
 - (iv) ~~native fauna and native flora, and their habitats,~~
- (viii) ~~will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform,~~
- (ix) ~~Sufficiently treats effluent such that its disposal will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.~~
- x) ~~will be compatible with other land-based and water-based coastal activities~~

Comment/Recommendation on Mapping

Council notes that the mapping methodology used results in a thin strip down the centre of for the Wallarah Peninsular. Council requests that the mapping for this area be modified to include the whole of the Wallarah Peninsular to avoid planning anomalies in the area, and to provide for a consistent mapping approach for this locality as was previously applied in SEPP 71 mapping.

Part 3 Miscellaneous

Coastal Protection Works

Comment

Clause 2 - Council is generally supportive of the proposed approval pathway for coastal protection works as they apply to major works and works on the open coast. However, Council currently receives a large number of development applications each year for foreshore stabilisation works around the Lake Macquarie estuary. These works, typically comprise of a rock revetment, or 'cobble beach (as per Council's current development controls, noting that these controls do not support concrete seawalls or other 'hard' stabilisation techniques). It is noted that these foreshore stabilisation works meet the definition of 'coastal protection works' (as

defined in the Act) and hence would need to be considered under clause 21 of the SEPP.

The recently gazetted CZMP for the Lake Macquarie estuary discusses foreshore stabilisation in general terms, but does not identify any specific locations for foreshore stabilisation works on private property, focussing primarily on proposed major works for 'public' areas instead. Hence, these private development applications may not be considered to meet the conditions of clause 21(1) (a) being: *the coastal protection works are identified in the relevant coastal management program (or coastal zone management plan)*. This is largely dependent on whether this clause is interpreted to require the specific location to be identified in the CMP/CZMP, or whether the type of works (eg, cobble beach) are generally consistent with the principles in the CMP/CZMP.

Therefore, if the SEPP were to be assented in its current form, the coastal Joint Regional Planning Panel (JRPP) may become the consent authority for a large number of applications for relatively minor works.

Recommendation

Council requests that clause 21 (1) for private works and clause 21 (2) for public works of the draft SEPP be modified so that:

- The term *identified in the relevant coastal management program (or coastal zone management plan)* is amended to clarify whether the specific location for the works must be identified in the CMP/CZMP, or whether the type of works (eg, cobble beach) are generally consistent with the principles in the CMP/CZMP, or
- Minor coastal protection works, such as foreshore stabilisation works that utilise 'soft' construction techniques (such as a cobble beach or sloping rock revetment) are approved by local councils, regardless of where the works are identified in a CMP/CZMP. Note: for works comprising 'hard' construction techniques (such as a concrete seawall), the existing provisions appear appropriate. That is, all development applications for 'hard' construction techniques will be referred to the JRPP.

Council also requests that clause 21 (2) of the draft SEPP be modified so that:

- The term *identified in the relevant coastal management program (or coastal zone management plan)* is amended to clarify whether the specific location for the works must identified in the CMP/CZMP, or whether the type of works (eg, cobble beach) are generally consistent with the principles in the CMP/CZMP, or
- Minor coastal protection works, such as foreshore stabilisation works that utilise 'soft' construction techniques (such as a cobble beach or sloping rock revetment) are approved via a part 5 assessment, regardless of where the works are identified in a CMP/CZMP. Note: for works comprising 'hard' construction techniques (such as a concrete seawall), the existing provisions appear appropriate. That is, all development applications for 'hard' construction techniques will be referred to the JRPP where they are not identified in a CMP/CZMP.

Compliance Provisions

Comment

Lake Macquarie City Council strongly supports the need for effective compliance and enforcement provisions to accompany the SEPP. However, Council believes that additional amendments to the *Environmental Planning & Assessment Act* and *Local Government Act (1993)* are required to enable effective compliance/enforcement to occur. The existing legislative framework prevents councils from issuing 'orders' for illegal, or unapproved works (such as seawall structures) on reserves or crown land, which comprise a large proportion of the NSW coast.

Section 126 of the *Local Government Act*, and section 121C of the *Environmental Planning & Assessment Act* (both titled "Giving orders to public authorities") require that prior to the issuing of 'orders', written consent of the Minister is required. While Council believes that the intent of these provisions was to require the Minister's consent when issuing orders to 'public authorities', the legal interpretation of these clauses applies to the issuing of 'orders' to any party. This is due to section 35(2)(a) of the *Interpretation Act 1987* (which provides that a heading to a provision of an Act is not part of the Act), and the only references to 'public authorities' within section 126 of the *Local Government Act 1993*, and section 121C of the *Environmental Planning & Assessment Act* are contained within the headings.

Two Land and Environment Court of NSW decisions concerning this issue (Anderson v Lake Macquarie City Council) are available at <http://www.austlii.edu.au/au/cases/nsw/NSWLEC/2013/1038.html> and <http://www.austlii.edu.au/au/cases/nsw/NSWLEC/2013/96.html>.

These decisions relate to Council's unsuccessful attempts to 'order' the removal of an unapproved seawall on a Crown reserve.

In the absence of any changes, Council believes that the ability to undertake compliance actions on crown land will be significantly impeded, thus diminishing the effectiveness of the SEPP.

Recommendation

Council requests that amendments to section 126 of the *Local Government Act*, and section 121C of the *Environmental Planning & Assessment Act* be considered for inclusion in the coastal reforms program. These amendments should include reference to 'public authorities' within the text of the section (rather than the reference to 'public authorities' currently only being contained in the heading, (which according to section 35(2)(a) of the *Interpretation Act* are not part of those Acts).

These requested amendments are below in red.

Schedule 4

4.1 Environmental Planning and Assessment Act 1972 no 203

Section 121C Giving orders to public authorities

Insert "(to a public authority)" after "may not be given"

4.5 Local government Act 1993 No 30

Section 126 Giving orders to public authorities

Insert "(to a public authority)" after "may not be given"

The resultant wording in the relevant clauses are provided below:

Environmental Planning and Assessment Act 1979 No 203

121C Giving orders to public authorities

- (1) An order under this Division may not be given **to a public authority** in respect of the following land without the prior written consent of the Minister:
 - (a) vacant Crown land,
 - (b) a reserve within the meaning of Part 5 of the Crown Lands Act 1989,
 - (c) a common within the meaning of the Commons Management Act 1989.
- (2) The Minister must not give consent in respect of vacant Crown land or a reserve within the meaning of Part 5 of the Crown Lands Act 1989 until after the Minister has consulted the Minister administering the Crown Lands Act 1989.

Local Government Act 1993 No 30

126 Giving orders to public authorities

- (1) An order under this Division may not be given **to a public authority** in respect of the following land without the prior written consent of the Minister:
 - vacant Crown land
 - a reserve within the meaning of Part 5 of the Crown Lands Act 1989
 - a common.
- (2) The Minister must not give consent in respect of vacant Crown lands or a reserve within the meaning of Part 5 of the Crown Lands Act 1989 until after the Minister has consulted the Minister administering the Crown Lands Act 1989.

Draft Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006.

Comment

Council has reviewed the public consultation draft of the *Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006*.

Council objects to part [2] of this draft amendment, being to omit clause 5.5 (Development in the coastal zone) from the LEP standard instrument. Whilst we recognise the principle of not duplicating the content in LEPs and SEPPs, Council believes that clause 5.5 provides an important mechanism to protect important coastal environments in NSW. We also believe that clause 5.5 provides for additional controls which are not included in the draft SEPP, and the effect of removing this clause would be to reduce the level of protection provided to important features of the NSW coast.

Recommendation

Council request that part [2] of the *Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006* be amended and the proposal to omit clause 5.5 be removed so that clause 5.5 is retained in the LEP standard instrument in its current form.

Alternatively, if maintaining the clause in its current form is not achievable, for example due to potential inconsistencies with the *Coastal Management Act (2016)*, we request that the clause be amended (rather than removed) to provide consistency between this clause and the Act. A draft clause is provided below to assist:

5.5 Development within the coastal zone

(1) The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the *NSW Coastal Management Act*, being to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular:
 - (i) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and
 - (ii) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and
 - (iii) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and
 - (iv) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and
 - (v) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and
 - (vi) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and
 - (vii) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and
 - (viii) to promote integrated and co-ordinated coastal planning, management and reporting, and
 - (ix) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and
 - (x) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and
 - (xi) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and
 - (xii) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and
 - (xiii) to support the objects of the *Marine Estate Management Act 2014*.

- (2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and
 - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
 - (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal waterbodies, and
 - (iv) native fauna and native flora, and their habitats, can be conserved, and
 - (f) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (d) the proposed development will not:
 - (i) be significantly affected by coastal hazards, or

- (ii) have a significant impact on coastal hazards, or
- (iii) increase the risk of coastal hazards in relation to any other land.

Draft Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Comment

Clause 4 requires that a *'planning proposal must not rezone land which would enable increased development or more intensive land-use on land... (b) identified as land affected by a coastal hazard...'* unless the proposal is justified by a study or strategy.

Council supports this approach, but has concerns that limited detail is provided on what form of justification is required to vary from this direction. In particular, Council believes that where an assessment has been undertaken in a relevant CMP/CZMP, 'local adaptation plan' (which links to a CMP/CZMP), or risk management plan prepared in response to a coastal hazard, this should be considered adequate justification to vary from the direction.

Recommendation

Council requests clause 7(a) be amended to specify: *'justified by a study or strategy prepared in support of a planning proposal or as a result of a coastal management program, local adaptation plan, risk management plan prepared in response to a coastal hazard which gives consideration to the objective of this direction.'*

Conclusion

Council wishes to commend the coastal reforms team on the preparation of the coastal reforms package. Council acknowledges the importance of these reforms, and considers the reform package to be comprehensive and well-conceived; the reforms package provides a significant step forward in the effective management of the NSW coastline.

Council notes that the detail contained in the documents includes a number of aspects that could be improved to better provide for the future preservation of NSW's important coastal environments. Council's comments and recommendations described above aim to highlight areas for improvements to the exhibited documents. We also offer Council's assistance in further refining and improving the NSW Government's comprehensive coastal reforms program