



Land & Fire Assessments Pty Ltd

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14 December 2016

TO: Department of Planning and Environment,
Attention: Director, Environment and Building Policy
GPO Box 39,
Sydney NSW 2001

Email: coastal@planning.nsw.gov.au

ATT: Director, Environment and Building Policy

Draft Coastal Management State Environmental Planning Policy (SEPP) - Submission on behalf of South Ballina Group

This submission is written by Land & Fire Assessments Pty Ltd on behalf of the South Ballina Group (SBG). SBG owns land at South Ballina Beach Road, South Ballina. The SBG landholdings (i.e. the Site) at South Ballina comprise Lots 1, 2, 4 & 5 DP813112, Lots 3-6 DP 1202932, Lot 4 DP263643, Lot 1 DP1125339 and Lot 20 DP1150395. The Site covers approximately 194.66 ha in area. SBG had previously lodged in February this year, a submission on the new Coastal Management State Environmental Planning Policy (SEPP) component of the overall Coastal Management Reform proposal.

The Site is zoned RU2 – Rural Landscape and Deferred Matter under Ballina Local Environmental Plan 2012 (BLEP 2012). Approximately 97 ha, which is almost half of the Site, falls under the Deferred Matter, as shown on Fig. 1. The land is affected by State Environmental Planning Policy no. 14 - Coastal Wetlands (SEPP 14). The northern portions of the Site are located immediately next to the Richmond River estuary. In addition, the strip of land between the SBG northern holdings and the estuary is currently mapped SEPP 14.

The new Coastal Management State Environmental Planning Policy (SEPP) will replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection). The Coastal Management SEPP will see the coastal zone divided into the following four coastal management areas:

- Coastal wetlands and littoral rainforests area
- Coastal vulnerability area
- Coastal environment area
- Coastal use area

The full impact of the coastal management SEPP new mapping layers as it affects the SBG holdings is shown on Appendix A.

Based on the interactive map provided (<www.planning.nsw.gov.au/CoastalReform>) the whole of the SBG land is included in the coastal management area defined as *Coastal Use Area*, as shown in Fig. A4-Appendix A. In addition, areas of SBG land, which previously were occupied only by SEPP 14 Coastal Wetland (refer Fig. A1- Appendix A) are now mapped as *Coastal Wetlands and Proximity Area for Coastal Wetlands* (Fig. A2- Appendix A) and areas within the northern lots are now mapped *Proximity Area for Coastal Wetlands* and *Coastal Environment Area* (Fig. A3 - Appendix A). Notably, these northern lots, which were previously unencumbered by SEPP 14 (see Fig. A1) are now affected by the *Proximity Area for Coastal Wetlands* due to new 100m wide buffer provisions to the former SEPP 14 (Fig. A2).

As feared in the previous submission, **the Coastal Management SEPP has ended up in further constraining currently lawful development on the SBG land.**

**LEGEND**

- | | |
|---|---|
| — South Ballina Investments Land Boundary | 1(a2) - RURAL (Coastal Lands Agriculture) |
| — LEP Zone Boundary 1987 (approx) | 1(a) - RURAL (Extractive and Mineral Resources) |
| — Approved Quarry & Access Road | 1(b) - RURAL (Secondary Agricultural Land) |
| — Compensatory Habitat | 7(a) - ENVIRONMENTAL PROTECTION (Wetlands) |
| — LEP Zone Boundary 2012 (approx) | 7(b) - ENVIRONMENTAL PROTECTION (Coastal Lands) |
| | 7(c) - ENVIRONMENTAL PROTECTION (Habitat) |
| | 8(a) - NATIONAL PARKS AND NATURE RESERVES |
| | E1 - NATIONAL PARKS AND NATURE RESERVES |
| | RU1 - PRIMARY PRODUCTION |
| | RU2 - RURAL LANDSCAPE |
| | DM - DEFERRED MATTER |

SOURCE:
BOUNDARY: LANDS DEPT CADASTRAL
IMAGE: GOOGLE EARTH 2009

DISCLAIMER:

This plan was prepared for an application to council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to final survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.

**South Ballina Group Holdings**

SCALE: 1 : 12000 at A3
LGA: Ballina
LOCALITY: South Ballina
SURVEYED: GC
DRAWN: PR
APPROVED: 21.03.2013
DATE: NA
COGO: LFA12005-EV01C
Dwg. No.

Figure 1. SBG holdings (red boundary) and applicable zoning



Land & Fire Assessments Pty Ltd

-Environmental Impact Assessments – Project Management –
--Compliance & Monitoring – Bushfire Planning & Design –

The main concern applicable to the SBG holdings relates in particular to the impact of the “Proximity Areas for Coastal Wetlands” maps. These areas occur along the southern shore of the Richmond River in proximity to the SBG land (northern lots) and land near an existing dwelling (refer to Fig. A2). The new provision includes a 100m wide buffer added to the wetlands to allow for ‘natural fluctuations’. Seemingly, there is no change proposed to the permissibility of activities in the proposed new buffer; however, the **Draft State Environmental Planning Policy (Coastal Management) 2016** (Coastal SEPP) states the following:

Part 2 Development controls for coastal management areas

Division 1 Coastal wetlands and littoral rainforests area

(....)

12 Development on land in proximity to coastal wetlands or littoral rainforest land

(1) Development consent must not be granted to development on land wholly or partly identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) the quantity and quality of surface and ground water flows to the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.*

Thus, under these provisions, **the SBG land would be affected not only by the Coastal Wetland SEPP, but also by the buffer, which for the majority of the Site would fall on cleared land used for grazing (zoned RU2-Rural Landscape)**. If any landuse change, including agricultural landuse, is proposed in this cleared land, the new buffer area provisions will be triggered. **Thus, new controls would apply to currently otherwise lawful development (with or without consent) in the RU2 land.**

SBG believes that at the very least small development **such as the erection of a single dwelling within the ‘Proximity Areas for Coastal Wetlands’ zone should be excluded from having to consider the cl 12 (1) provisions**. After all this clause does not apply to urban or village zoning ((by virtue of cl.12 (2) (a)), thus extending the exclusion to the erection of a single dwelling would be consistent with such provision.

The Coastal SEPP will give an additional control measure to the local Ballina Shire Council (BSC) to prevent any development of land in the locality. **SBG are particularly wary of BSC mapping and planning provisions, since BSC has tried to back-zone half of the Site to environmental conservation, which was formally zoned rural land**. A case in point is that approximately 97 ha, which is almost half of the Site, falls under the Deferred Matter, as shown on Fig. 1. **This ‘planning’ exercise has caused the value of the land to be devalued by 50% expressly because of the potential earmarking of large swathes of the SBG land as E2.**

Therefore, the additional planning controls associated with an arbitrary buffer, which falls predominantly on cleared land, is of extreme concern to SBG. This concern is further compounded because the Coastal SEPP states:

19 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.



Given the above and the need to clearly identify which specific provisions apply to which parcel of land, SBG believes that the definition of ***coastal wetlands and littoral rainforest area*** stated in Part 1, cl 6(2) is unclear because of the following notation:

Note. The ***coastal wetlands and littoral rainforests area*** is made up of land identified as “coastal wetlands” or as “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map. The land so identified includes land identified as “coastal wetlands proximity area” and “rainforest proximity area”.

The notation seems to imply that “The land so identified (i.e. ***coastal wetlands and littoral rainforests area***) includes land identified as “coastal wetlands proximity area” and “rainforest proximity area”. However, there are specific provisions in the Coastal SEPP which apply only to the ‘***coastal wetlands and littoral rainforests area***’, that is cl. 11, and others that only apply to ‘***Development on land in proximity to coastal wetlands or littoral rainforest land***’, that is cl. 12. The notation only adds ambiguity to the definition and should be removed.

It is unclear why the **Coastal Use Area** is so wide ranging and distant from the coast given that the controls in the Coastal SEPP for this area (cl.15) are only related to protecting access, overshadowing and loss of amenity to the foreshore, beach headland or rock platform, and not impacting on the surf zone. For instance, any changes in landuse including agricultural practices would need to address the cl.15 provisions even if they do not occur anywhere near the foreshore, beach headland, rock platform, or the surf zone.

It is further noted that impacts on Aboriginal cultural heritage and places is also to be considered in the Coastal Use Zone. Given that the need to address impacts Aboriginal cultural heritage and places is mandatory requirement by virtue of other environmental legislation, it is unclear how adding this provision here would serve any other purpose then adding extra considerations, which are already addressed elsewhere.

In summary, SBG recommends the following:

- **Erection of a single dwelling within the ‘Proximity Areas for Coastal Wetlands’ zone should be excluded from having to consider the cl 12 (1) provisions**
- Remove ‘**Note**’ in definition of ***coastal wetlands and littoral rainforest area*** stated in Part 1, cl 6(2)
- Consider redefining the extent of the Coastal Use Area
- **Remove requirement to address impacts on Aboriginal cultural heritage and places** given that those considerations are already mandatory requirement by virtue of other environmental legislation

In conclusion, SBG welcomes the review of legislation **but only if it leads to streamlining of controls**. **SBG is concerned that the Coastal Management SEPP has instead end up in further constraining currently lawful development on their land.**

Regards,



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Paola Rickard

Senior Environmental Planner/ Project Manager

LFA Managing Partner

Appendix A - Impact of Draft Coastal SEPP Maps on South Ballina Group Holdings



Appendix A - Impact of Draft Coastal SEPP Maps on South Ballina Group Holdings

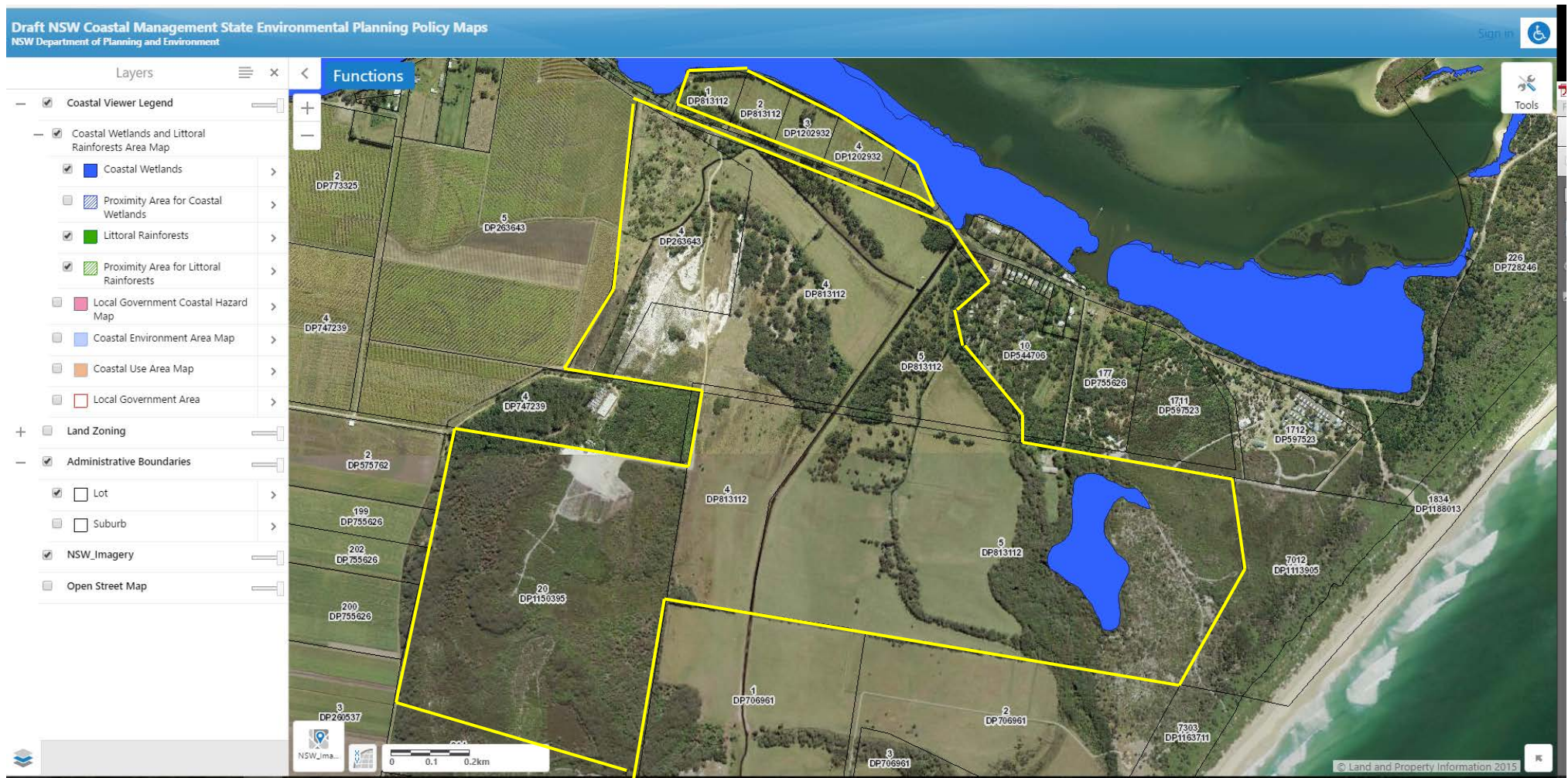


Figure A1. Coastal Wetlands as it applies to the SBG Holdings (yellow boundary)

Source http://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=Coastal_SEPP_Viewer

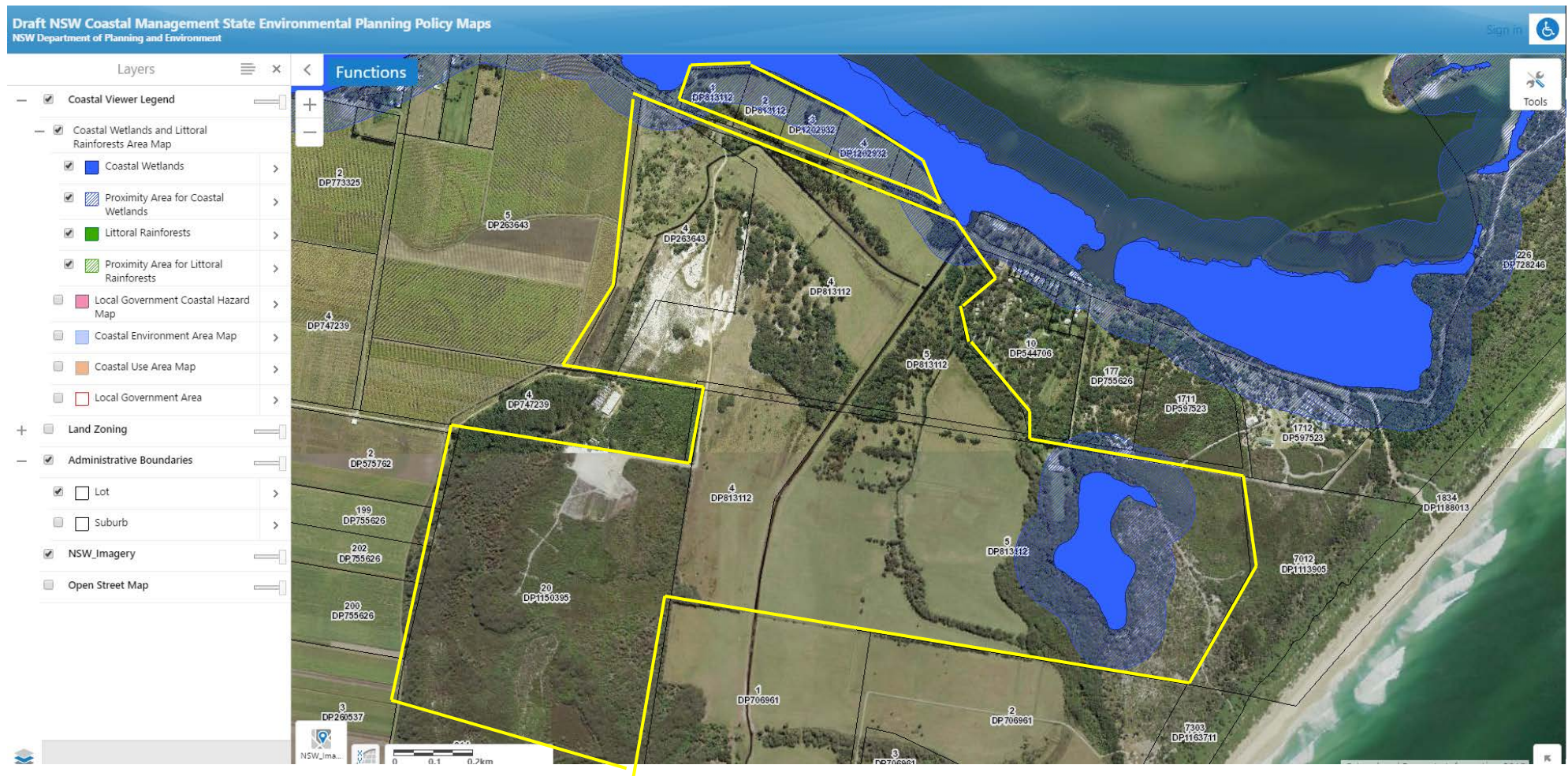
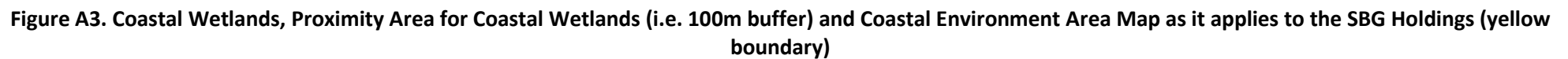


Figure A2. Coastal Wetlands and Proximity Area for Coastal Wetland (i.e. 100m buffer) as it applies to the SBG Holdings (yellow boundary)





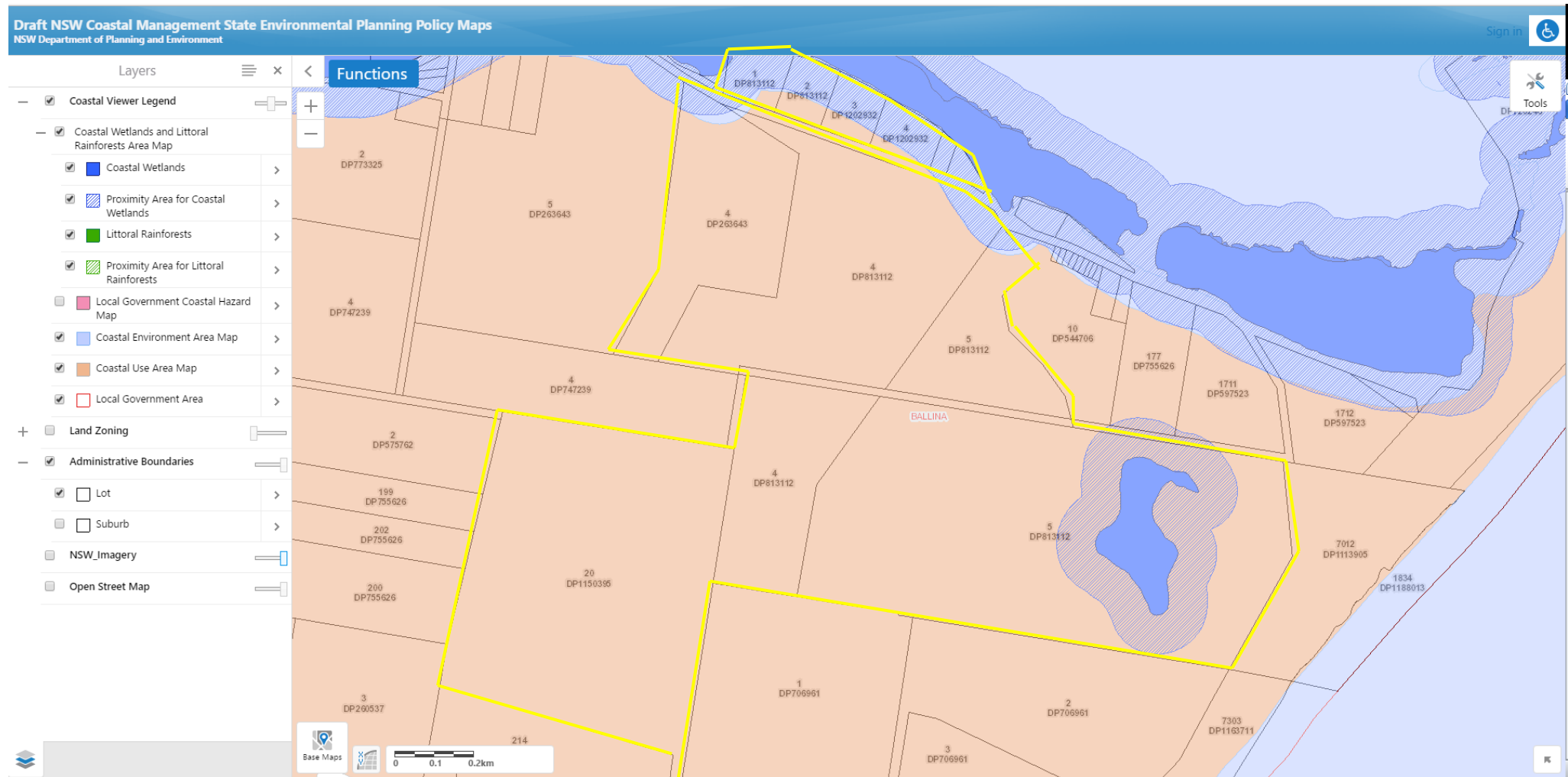


Figure A4. Coastal Wetlands, Proximity Area for Coastal Wetlands (i.e. 100m buffer), Coastal Environment Area Map and Coastal Use Area map as it applies to the SBG Holdings (yellow boundary)

