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**KEMPSEY**  
Shire Council



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Department of Planning  
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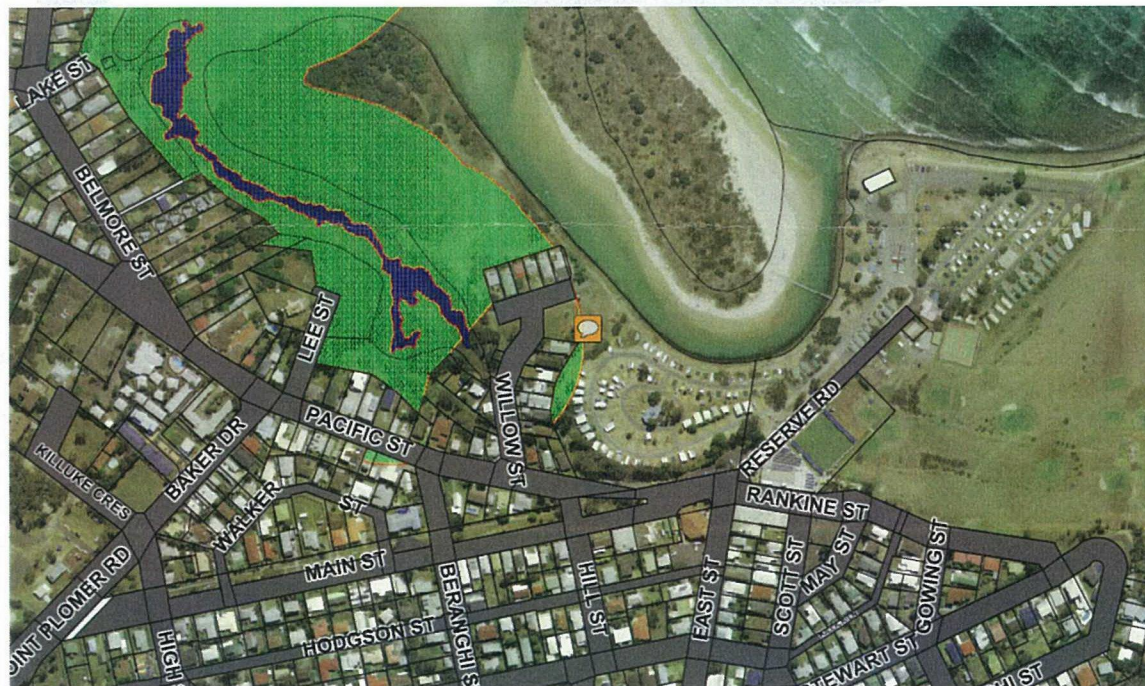
## **SUBMISSION TO DRAFT COASTAL MANAGEMENT STATE ENVIRONMENTAL PLANNING POLICY**

Kempsey Shire Council makes the following submission to the Draft Coastal Management SEPP;

### **1. Mapping errors**

Several errors have been identified in the Coastal Wetland mapping as issued to Council. These are detailed on maps below.

- (a) Land at Crescent Head included in the Wetland Proximity map however not in proximity to a mapped Wetland?





- (b) Land north of Crescent Head on Loftus Road appears to be missing the Wetland Proximity mapping as indicated on map below.



- (c) Land currently mapped as SEPP 14 north of Frederickton not included in Wetland Maps as indicated on red hatched area on map below.





## **2. The coastal vulnerability area**

### **Submission:**

Written clarity is required on what Councils with existing Coastal Zone Management Plans (CZMPs) which are not yet in an LEP or DCP are required to do to be incorporated into the SEPP CVA Mapping.

### **Justification:**

Council has prepared and adopted a CZMP for Kempsey, and that plan is in the process of being certified. That plan contains erosion and inundation maps for 2010, 2050 and 2100 across 3 scenarios (almost certain, unlikely and rare).

Council has not yet incorporated it into the LEP or DCPs, however implementation of actions from the CZMP are in Council's 10 year strategic works program and Delivery and Operational Plans.

Various telephone discussions have been held with Department of Planning and Office of Environment and Heritage (OEH) and Council Officers, however we have not received specific official written advice from either Agency on what Council is required to do with maps from the CZMP.

The Fact Sheet for the CVA dated November 2016 on page 2 notes that the NSW Government will be working with Council's and communities over the next 12 months to include relevant coastal hazard mapping from adopted studies into the CVA.

We seek written advice from the Department of Planning whether you require Council's Coastal Zone Management Plan (CZMP) maps for incorporation into the SEPP.

## **3. The coastal environment area**

### **Submission:**

- The coastal environment area (CEA) needs to be more responsive to the existing pattern of development and its distance from the actual Coast/Ocean.
- The considerations applicable to development within the CEA not duplicate existing considerations under s79 C of the Environmental Planning & Assessment Act 1979.

### **Justification:**

The coastal environment area maps extend inland and upriver well beyond what is currently mapped as part of the SEPP 71 Coastal Zone. These new mapped areas include extensive urban and rural areas around Kempsey, and other inland villages. While these areas are subject to a Coastal Zone Management Plan, they are within a river/estuary system, and are not truly coastal.

While the Coastal Zone Management Plan for the Macleay River extends past Kempsey and is subject to tidal influence, many of the considerations for development as proposed within Clause 11 are not applicable due to them being Ocean oriented rather than Estuarine oriented.

The provisions and resulting assessment required in some locations will be repetitious with existing assessment provisions under s79C of the Environmental Planning and Assessment Act (EP&A Act) 1979 and other legislation. For example Clause 14 (e) requires consideration of impacts on Aboriginal Heritage. This is already a requirement under the Kempsey LEP 2013, s79(c) as well as other legislation administered by OEH.

#### **4. The coastal use area**

##### **Submission:**

- That the extent of the coastal use area (CUA) be reduced from what appears to be 1 kilometre from tidal waterways to 100m.
- The extent of the coastal use area (CUA) should not mimic the upriver extent of the Kempsey Coastal Zone Plan. The CUA needs to be more responsive to the existing pattern of development and its distance from the actual Coast/Ocean
- The considerations applicable to development within the CUA should not duplicate existing considerations under s79 C of the Environmental Planning & Assessment Act 1979.

##### **Justification:**

The coastal use areas comprise extensive urban areas which are adjacent to tidal waterways, and covered by a Coastal Zone Management Plan (CZMP) (formerly known as Estuary Management Plans). In the Kempsey Shire the Macleay River is tidal but the adjacent development and tenure is not that of a public foreshore area. Rather it is privately owned agricultural land or developed urban areas.

The mapped towns of Kempsey and Frederickton demonstrate that much of the considerations in Clause 15 are irrelevant for the majority of the mapped area. In particular the area mapped around Frederickton includes an Abattoir, Aged Care Facility and the entire village of Frederickton.

The provisions and resulting assessment required in some locations will be repetitious with existing assessment provisions under s79C of the Environmental Planning and Assessment Act (EP&A Act) 1979. For example Clause 15(a)(iv) requires consideration of impacts on Aboriginal Heritage. This is already a requirement under the Kempsey LEP 2013, s79(c) as well as other legislation administered by OEH.

While the CZMP for the Macleay River extends past Kempsey and is subject to tidal influence, many of the considerations for development as proposed within Clause 12 are irrelevant due to them being Ocean oriented rather than Estuarine oriented.



## **5. Coastal protection works**

### **Submission:**

- Works within any Coastal Zone Management Plan (CZMP) or Estuary Management Plan (EMP) adopted by Council, whether Certified by the Minister or not, should be included in works which may be undertaken without consent by a public authority.
- Proposed provisions in Clause 21 and 22 will result in a reduction in the number of riverbank and foreshore works, such as walkways and boat ramp upgrades undertaken by Council due to the increased complexity of the approval process.
- Proposed provisions in Clause 21 and 22 will result in a reduction in the number of private landowners undertaking beneficial riverbank projects on their properties due to the increased complexity of the approval process.

### **Justification:**

Council has five (5) Estuary Management Plans (EMPs) (now known as Coastal Zone Management Plans (CZMPs)) and a Kempsey Coastal Zone Management Plan adopted by Council but not certified by the Minister. All of these contain actions incorporated into Council's Delivery and Operational Plan, delivering on ground actions for the environment. Converting existing plans into the new format and obtaining certification is extensive, costly and will take approximately 5 years to complete.

The requirement for Council to seek consent from the JRPP for all works in uncertified plans, will increase an already onerous process required to undertake any works in the Coastal Zone. As noted this now includes extensive non ocean riverbank areas within the developed Urban Areas of Kempsey and other inland villages.

The increasing costs and time of having to seek JRPP approval for any foreshore improvement along the Macleay River is considered to be an unreasonable burden upon Council. This is also in addition to the existing approval framework from other Government Agencies such as Crown Lands, DPI Fisheries, etc.

The requirement for private individuals to seek JRPP approval rather than Council approval, if uncertified CZMPs are not accepted, is also considered onerous.

These proposed approval requirements will see a reduction in on-ground works from both Public Authorities and Private Landowners. It will also see an associated reduction in environmental benefits from on-ground works, such as a potential increase in riverbank erosion.

## 6. Schedules 1 and 2 – potential error

Schedule 1 refers to 'Saltwater Lake' and Schedule 2 refers to 'Saltwater Lagoon'. It is noted that Kempsey Shire Council has 'Saltwater Lagoon' which is located in South West Rocks. We are wondering if there is also a 'Saltwater Lake' located in another LGA or if the reference in Schedule 1 is an error.

Yours faithfully



Georgia Rayner  
COORDINATOR STRATEGIC PLANNING AND NATURAL RESOURCES

*As part of Council's initiative to reduce paper use we encourage as much correspondence to be sent via email as possible. If you believe this is an option that you would like to use, please send your letters to [ksc@kempsey.nsw.gov.au](mailto:ksc@kempsey.nsw.gov.au)*