

Submission by RICHARD WADHURST FRY re draft SEPP 2016.

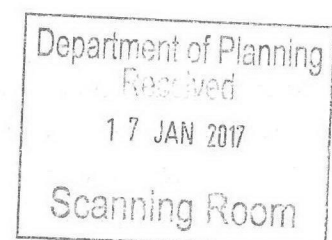
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I agree that the correct way to tackle the difficult issue of Coastal Planning is by State Government establishing a clear Coastal Policy and the provision of funds by the State to enable for Local Government to undertake of the long term research needed to understand the many, complicated and interwoven factors necessary to make fair and effective plans for the future use of coastal lands.

When the issues of Coastal Planning were recognized by State and Local Governments some attempts were made, with mixed success, to address some of these problems. The State attempted to provide guidelines but in some cases these guidelines were not followed by Local Governments. As a result some planning decisions affecting coastal lands have been introduced without the rigorous investigation required to support those decisions. I believe that these doubtful decisions should not be permitted to flow directly into the SEPP.

Should s. 4 (2) Of the draft SEPP be enacted then the land declared to be subject to "Coastal Hazards" in a LEP **WILL** become part of the "coastal vulnerability area" for the purposes of the SEPP 2016. An example of this problem is the decision of Great Lakes Council (GLC) (now Mid Coast Council (MCC)) to create a Coastal Hazard Zone at Boomerang and Blueys Beaches in its LEP 2014. It is alleged that the decision to create these Coastal Hazard Zones relied on evidence that would not be acceptable to the Secretary for inclusion of those lands in a Coastal Vulnerability Area in the SEPP 2016. The MCC CZMP awaiting the Ministers consent makes specific provision for the commencement of a research program clearly designed to provide the evidence upon which this decision should have been based. There is no certainty that the evidence provided by that research will justify the creation of the Coastal Hazard Zone for Boomerang and Blueys Beaches. It appears that there is at present, no evidence to justify these lands being part of a Coastal Vulnerability Area for the purposes of the SEPP 2016.

There does not appear to be any provision in the draft SEPP 2016 to qualify risks from Coastal Hazards. Therefore it is open to assume that land in a coastal wetland or littoral rainforest area is considered at highest risk followed by land in the coastal vulnerability area, coastal environment area and lastly by coastal use area. It is reasonable to assume that coastal wetland and littoral rainforest require special protection from development. Therefore land in the coastal vulnerability area must be assumed to be at high risk. Lands part of the coastal vulnerability area will be subject to s.13 of the draft SEPP 2016. This section directs that Development consent **NOT** be granted for the development of land in that area without considering a wide range of environmental matters including whether temporary or portable improvements or temporary land use only is approved. It is alleged that these requirements are appropriate for land subject to a current threat. It is claimed that the land at Boomerang and Blueys Beaches are not subject to any current threat and such restriction on development is, at this time, not appropriate. It is claimed that such restriction upon development would unreasonably further erode the already eroded value of those properties. I am of the opinion that until evidence sufficient to warrant property being classified in a coastal vulnerability area is available, the restrictions on development applicable to a coastal use area or coastal environment area are appropriate for coastal land.



I believe that to burden property with s13 of the SEPP, while awaiting production of the evidence to either justify or refute such burden, is discriminatory, unfair and unethical and should not be permitted. I submit that there are two ways in which this inequity may be avoided. They are: either:

1. To cause the map attached to GLC LEP 2014 creating a Coastal Hazards Zone affecting properties at Boomerang and Blueys Beaches be deleted from the LEP. or, to amended that map to exclude from the Coastal Hazard Zone that land for which insufficient evidence existed at the time of its creation to justify the inclusion of those lands in that Zone, or
2. To amend s. 4(2) of the draft SEPP by, after the words "or development consent plans" insert words to the effect "prepared on evidence that would satisfy the Secretary as being suitable to support the inclusion of those plans in the Local Government Coastal Hazard Map," Alternately this end could be achieved by a seperate subsection. The Secretary would then be obliged to ensure that every map attached to SEPP 2016 the effect of which was to cause coastal land to be included in a coastal vulnerability area was evidence based.

I believe that one of the concerns of Councils when addressing the difficult subject of Coastal Hazards was that of Council's liability when making decisions on development consents for coastal properties for not making provision for a perceived risk arising from Coastal changes to coastal lands. Where there is clear evidenced that a Council is endeavoring to obtain the evidence necessary to determine what property should be classified as subject to Coastal Hazards, and when that information is available to ensure that lands so identified are Zoned appropriately it is difficult to imagine that a court would determine that a council had been negligent or not acted in good faith in approving a development on land where as yet insufficient evidence exists to justify refusal or the impose of conditions.

I submit that appropriate steps be taken to ensure that the owners of property the subject of Zoning that is not evidence based are not obliged to continue to suffer the inequitable, unjust, unfair and unethical consequences of a premature decision of Council, while research is conducted to determine the efficacy or otherwise of that decision is not yet available.

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