



Coastwatchers

Eurobodalla's environment group

12 January 2017

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

Dear Sir/Madam,

Draft Coastal Management State Environmental Planning Policy

Attached is a submission regarding the draft Coastal Management State Environmental Planning Policy.

Richard Roberts
Secretary

The Coastwatchers Association Inc.
PO Box 521,
Batemans Bay NSW 2536

coastwatchers.committee@gmail.com

January 2017 SUBMISSION

FROM

THE COASTWATCHERS ASSOCIATION INC

REGARDING THE

**DRAFT COASTAL MANAGEMENT STATE ENVIRONMENTAL
PLANNING POLICY**

SUMMARY OF COASTWATCHERS RECOMMENDATIONS

The Coastwatchers Association Inc:

1. supports the proposed Coastal Management SEPP policy. The Association notes and supports the fact that in the event of any inconsistency, the CM SEPP will prevail over other environmental planning instruments, such as Local Government Local Environment Plans.
2. supports the high standards being introduced for the Coastal Wetlands and Littoral Rain Forests Area, and the need for a 'proximity area' around these Areas, so that downstream impacts of any development are thoroughly considered.
3. seeks clarification as to why the existing Coastal Wetlands numbering system under SEPP 14 has not been retained in the new CM SEPP, and why some Coastal Wetlands have been removed entirely.
4. considers that the Landward Area in the Coastal Environment Area of 100m be extended to 200m, until on-ground verification of the area and refinement of the maps occurs.
5. considers that the Coastal Environment Area should be afforded the same level of management priority as the Coastal Wetlands and Littoral Rain Forests. Any development activities, such as earthworks, or removing native vegetation in the Coastal Environment Area, should be classified as 'designated development' requiring the same level of rigorous environmental assessment process as with Coastal Wetlands and Littoral Rain Forests.
6. requests that the word "environmentally" be included in the

definition of the Coastal Use Area together with “economically” and “socially”.

7. considers development within the Coastal Use Area must give consideration to the impact on public use and access, recognise environmental values and put the public interest above that of private developers interests.

8. supports the introduction of a time limitation on certain developments in the Coastal Vulnerability Zone, given that coastal hazards change over time.

9. considers that all hazard mapping should be reviewed regularly (eg every five years), as new scientific and other information becomes available.

10. supports the proposed policy regarding s.149 Planning Certificates. This is a fair and reasonable way to assist land-owners and prospective purchasers to make informed decisions regarding property. It may also impact on future liability claims for State and Local Governments.

11. supports the proposed policy regarding Coastal Protection Works whether by private landholders, or public authorities being carried out only with the Joint Regional Planning Panel’s approval. The Joint Regional Planning Panel MUST recognise that such works will have long-term environmental, economic and social impacts, if not designed, installed or maintained appropriately.

1. Introduction

The Coastwatchers' Association Inc. is a community organisation that has served the Eurobodalla region of the South Coast of NSW for over thirty years. It is the leading independent environmental watchdog for the region, acting in close co-operation with the wider community, the environment movement, the Eurobodalla Shire Council and the NSW State Government.

The Association aims to help protect the environmental health and beauty of this very special NSW South Coast region and to raise awareness in the community of environmental and climate change issues.

The Association has an active representative on the Eurobodalla Shire Council's Coastal and Environmental Management Advisory Committee (CEMAC). The Coastwatchers Association understands the importance of effective coastal management to protect the natural processes that shape the environment, and to maintain public access, amenity and use of coastal areas into the future.

The Association therefore welcomes the opportunity to respond to the Government's *draft State Environmental Planning Policy (Coastal Management) 2016 (CM SEPP)*, which will become the primary environmental planning instrument to provide the framework for coastal management in NSW, giving equal importance to social, economic and environmental interests, and eventually replacing older policies when the CM SEPP is finalised.

2. General comments

The new definition of the 'Coastal Zone' has four distinct coastal management areas. This is welcomed by Coastwatchers, as it allows the specific objectives and diverse environments and interests of each category to be individually managed, each having its own specific development controls.

When complete, the mapping overlays for all four management areas will be an extremely useful management tool for planners and approval authorities, in determining development applications for land use within the Coastal Zone.

The Association notes that development will be permissible in all management areas of the Coastal Zone. However, the Association notes and supports the fact that in the event of any inconsistency between Local Planning controls and the CM SEPP, the CM SEPP will prevail.

Coastwatchers supports the proposed Coastal Management SEPP policy. The Association notes and supports the fact that in the event of any inconsistency, the CM SEPP will prevail over other environmental planning instruments, such as Local Government Local Environment Plans.

3. Coastal Wetlands and Littoral Rain Forest Area

The purpose and objectives of the Coastal Wetlands and Littoral Rain Forests Area are clearly defined in the CM SEPP. However, wetlands previously defined as SEPP 14 Coastal Wetlands do not appear to be similarly numbered as in the new CM SEPP and some have been omitted entirely. The Association seeks clarification of this point and the reasons for the change.

The Association supports the need for a 'proximity area' when preparing the mapping for the Coastal Wetlands and Littoral Rain Forest Areas. These are extremely sensitive areas and the 'proximity area' that surrounds the vegetated area, is critical to ensure that any development nearby considers downstream effects and impacts.

Recognition of the sensitivity of the Coastal Wetlands and Rain Forest Areas affords them the highest management priority within the Coastal Zone. Any development activities, such as earthworks, or removing native vegetation, would make it a designated development, requiring a rigorous environmental assessment process.

Coastwatchers supports the high standards being introduced for the Coastal Wetlands and Littoral Rain Forests Area, and the need for a 'proximity area' around these Areas, so that downstream impacts of any development are thoroughly considered.

Coastwatchers seeks clarification as to why the existing Coastal Wetlands numbering system under SEPP 14 has not been retained in the new CM SEPP, and why some Coastal Wetlands have been removed entirely.

4. Coastal Environment Area

The mapping for the Coastal Environment Area includes all waterways along the coast and is made up of State waters and estuaries and a 100m landward area. In Coastal Lakes and Coastal Lagoons there is a 500m landward area plus any additional catchment area.

The mapping extends upstream to 1 km beyond the Highest Astronomical Tide of the estuary. It will be refined over time, based on evidence and better information, as it comes to hand.

Coastwatchers supports the Coastal Lakes and Lagoons requiring a 500m landward area, as these coastal lakes and coastal lagoons are extremely sensitive to any development.

However, the arbitrary 100m area for State waters and estuaries, does not recognise natural variations along the coast and appears to be a random desktop

derived figure that has not been verified on-ground, to ensure the areas it claims to cover are actually protected. This needs to be rectified, by increasing this area from 100m to 200m, until ground verification occurs.

Increasing the landward area to 200m, provides more certainty of achieving consistency with the management objectives of the Coastal Environment Area in the *Coastal Management Act* 2016. These are to protect and enhance:

- the coastal environment values and natural process of coastal waters, estuaries, coastal lakes and lagoons;
- the natural character, scenic values, biological diversity and ecosystem integrity;
- reduce threats to, and improve the resilience of coastal waters, including, response to climate change;
- maintain and improve water quality and estuary health;
- support the social cultural and **environmental** values and maintain the presence of beaches, dunes and the natural foreshores and beach systems, and
- where practicable improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

Coastwatchers considers that the stringent development controls which have been imposed on the Coastal Wetlands and Rain Forest Areas should equally apply to the Coastal Environment Area. Development activities, such as earthworks, or removing native vegetation, should also be classified as designated development, requiring a rigorous environmental assessment process.

Coastwatchers considers that the Landward Area in the Coastal Environment Area of 100m be extended to 200m, until on-ground verification of the area and refinement of the maps occurs.

Coastwatchers considers that the Coastal Environment Area should be afforded the same level of management priority as the Coastal Wetlands and Littoral Rain Forests. Any development activities, such as earthworks, or removing native vegetation in the Coastal Environment Area, should be classified as 'designated development' requiring the same level of rigorous environmental assessment process as with Coastal Wetlands and Littoral Rain Forests.

5. Coastal Use Area

Mapping of this Coastal Use Area starts at the seaward local government boundary (low water mark) and extends to the estuary limit. The purpose and objectives of the Coastal Use Area are defined. That definition includes **social** and **economic** considerations, but excludes **environmental** considerations. This

must be simple oversight.

Development within this Coastal Use Area will impact on public enjoyment of the area, access to beaches, foreshores, dunes, estuaries, lakes and the ocean. That is why any development in this area needs to be extremely well managed. This will protect the public interest by maintaining or improving access to public foreshores and beaches, minimising shadowing, wind funnelling and loss of views from public places. If these occur they will detract from the scenic nature and beauty of this Coastal Use Area. Measures also need to be implemented within the policy, to protect Aboriginal cultural heritage sites.

Coastwatchers requests that the word “environmentally” be included in the definition of the Coastal Use Area together with “economically” and “socially”.

Coastwatchers considers development within the Coastal Use Area must give consideration to the impact on public use and access, recognise environmental values and put the public interest above that of private developers interests.

6. Coastal Vulnerability Area

The Coastal Vulnerability Area is defined as land which is subject to current and future coastal hazards, which are defined in the *Coastal Management Act 2016* as:

- beach erosion,
- shoreline recession,
- coastal lake or watercourse entrance instability,
- coastal inundation,
- tidal inundation, and
- coastal cliff or slope instability.

While development is permitted in the Coastal Vulnerability Area, all consent authorities need to be satisfied that risks from coastal hazards can be appropriately managed now and into the future. Any consent may need to be time limited, or alternatively geared to a trigger point such as an imminent threat of inundation or erosion. Then the development approval must automatically lapse.

Hazard mapping of all hazards in a Local Government area, will be undertaken the Local Government Council, based on local science and values. Coastal Management Programmes (CMPs) will be developed by these Councils with the support of the NSW Government, and will include appropriate maps in land use planning instruments. This will occur within the next five years, and will be reviewed after one year, and then every five years as new scientific and other information becomes available.

Coastwatchers supports the introduction of a time limitation on certain developments in the Coastal Vulnerability Zone, given

that coastal hazards change over time.

The Association considers that all hazard mapping should be reviewed regularly (eg every five years), as new scientific and other information becomes available.

7. s.149 (2) Planning Certificates

s.149 Planning Certificates are required to identify property that is wholly or partly in the Coastal Zone, requiring the issue of a s.149(2) Planning Certificate, including a notation that the land is subject to the Coastal Management SEPP, and naming each of the proposed environmental planning instruments that apply to any development on that land.

Coastwatchers supports the proposed policy regarding s.149 Planning Certificates. This is a fair and reasonable way to assist land-owners and prospective purchasers to make informed decisions regarding property. It may also impact on future liability claims for State and Local Governments.

8. Coastal Protection Works

Emergency Coastal Protection Works are defined in the draft CM SEPP as the placement of sand, or sandbags, for less than 90 days.

Other Coastal Protection Works, which could include nourishment (replenishment of sand) activities/works, or activities/works to reduce the impacts of coastal hazards on land adjacent to tidal waters, such as seawalls, revetments and groynes to protect property, maintain public safety and prevent erosion of land.

The new coastal management framework requires all proposals for Coastal Protection Works to be considered strategically through the development of a coastal management programs, undertaken by each coastal Local Government Council, based on their own studies and modelling. These coastal management programs will be then reviewed by the new NSW Coastal Council.

Coastwatchers supports the requirement for both private landowners and public authorities (such as Local Government Councils) having to apply for development consent for any Coastal Protection Works, whether temporary and longer-term measures. That application will have to be made to the Joint Regional Planning Panel (JRPP), which is the determining authority. (In the case of the Eurobodalla Shire Council, that application will be to the Southern JRPP.) This will provide a more rigorous and consistent process aimed at avoiding significant adverse long-term environmental, social and economic impacts. The JRPP will have the responsibility to ensure that any Coastal Protection Works are expertly designed, installed and maintained.

The Association also agrees that public authorities can put in place emergency coastal protection works, as exempt development, if these works are in accordance with a coastal emergency action sub-plan.

Coastwatchers supports the proposed policy regarding Coastal Protection Works whether by private landholders, or public authorities being carried out only with the Joint Regional Planning Panel's approval,. The Joint Regional Planning Panel MUST recognise that such works will have long-term environmental, economic and social impacts, if not designed, installed or maintained appropriately.

9. Conclusions

Coastwatchers supports the Draft Coastal Management State Environmental Planning Policy (CM SEPP). The Association considers that such major coastal management reforms are timely, given that climate change is already evident, and will become a major consideration in determining future coastal management and planning. The Association is concerned that given the relevance of climate change to coastal management, sea level rise and climate change receives little mention throughout the SEPP, or accompanying legislation.

As the primary environmental planning instrument, the CM SEPP will be following the objectives of the Coastal Management Act, and will set the land-use planning framework in keeping with the Act, and in keeping with the principles of ecologically sustainable development.

It is hoped that the accompanying maps, when complete, will be an effective mechanism for managing future development and protecting the environmental integrity of the coastal zone.

The Coastwatchers Association, supports five yearly reviews of mapping to ensure that management areas covered by the CM SEPP continue to incorporate the most up to date expert scientific advice. With experts predicting climate change and sea level rise, with an associated risk of increasing intensity and frequency of coastal hazards, continual monitoring and revision of mapping will be critical into the future for all coastal planning matters.