



SYDNEY COASTAL COUNCILS GROUP INC.

councils **caring** for the coastal environment

SUBMISSION

Coastal Management State Environmental Planning Policy and Associated Materials

January 2017

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

Prepared by: Sydney Coastal Councils Group Incorporated (SCCG)

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1 Introduction

Established in 1989, the Sydney Coastal Councils Group (SCCG) is a regional organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.4 million Sydneysiders, and is the peak NSW ROC representing coastal councils.

The *Sydney Coastal Councils Group Strategic Plan 2015 – 2019* sets out three guiding principles which encapsulate the core ambitions of the SCCG:

1. Restore, protect and enhance the coastal environment, its associated ecosystems, ecological and physical processes and biodiversity.
2. Facilitate the sustainable use of coastal resources, now and in the future.
3. Promote adaptive, integrated and participatory management of the coast.

As managers and planners of the coastal zone, our Member Councils share an interest in the outcomes of the coastal reforms. The SCCG is a strong advocate for working collaboratively and transparently to ensure positive outcomes.

We welcome the opportunity to provide a submission in relation to the Coastal Management State Environmental Planning Policy (SEPP), including both general and specific comments on the SEPP and associated documentation.

This submission has been prepared with the assistance of a dedicated SCCG Coastal Reforms Advisory Committee including nominated representatives from our Member Councils. We have also sought input from additional experts.

The SCCG formally requests that all issues, concerns, opportunities and recommendations included in this submission are considered and feedback from the Department of Planning and the Environment is provided via a publicly available submissions representations report.

Scope:

This submission provides general and/or specific input for the following:

- State Environmental Planning Policy (Coastal Management) 2016
- Draft Local Planning Direction – Coastal Management Section 117(2) of the Environmental Planning and Assessment Act 1979
- Fact sheets
 - Coastal Wetlands and Littoral Rainforest Area
 - Coastal Use Area
 - Coastal Environment Area
 - Coastal Vulnerability Area
 - Coastal Protection Works

2 General Comments

- As stated in our previous submission to the Coastal Management Act, the SCCG remains concerned that the coastal reform agenda fails to adequately address the fundamental need to enhance the whole of government partnership approach necessary to ensure the sustainable management of the coast and achieve the objectives of the Act and the conditions and requirements outlined in the Draft SEPP. The reforms continually attempt (e.g. 2010 Coastal Reforms) to fundamentally shift responsibility for coastal management to local government. The proposed framework focusses on those areas which are under the control and management of local government; and proposes enforceable obligations to implement Coastal Management Programs on local government that other public authorities only need to “have regard to” when exercising their functions.

This approach continues to neglect the fact that the majority of the NSW coast is under public ownership, much of the state is owned and managed by state authorities, and that the State holds many responsibilities and has enormous economic interests in coastal NSW.

- The SCCG requests that DPE include the Sydney regional coastal inundation mapping information, prepared by the CSIRO on behalf of the SCCG, within the Coastal Management SEPP, subject to the provision of more detailed inundation information provided to the Department by Member Councils. This request was resolved unanimously at the SCCG Ordinary Meeting held on 3 December 2016 attended by all Member Councils.
- The SCCG seeks further transparency regarding the mapping process including methodologies used and clarification of the vegetation classifications utilised to map the Coastal Wetlands and Littoral Rainforest areas within the SEPP. Without guidance or clarification regarding how these maps were prepared, there are concerns regarding consistency as these maps evolve, when and if a Council proposes to amend them over time.
- The SCCG seeks further details of how the Coastal Management SEPP may cause inconsistencies and duplications, and effect the status and future of other State planning policy documents applying to Sydney’s coastal zone; including but not limited to: The Sydney Regional Environment Plan (SREP), Sydney Harbour Catchment 2005; Kurnell Peninsula. These well supported instruments should not be revoked nor weakened as a result of the Coastal Management SEPP.
- Specific assessment guidelines, practice notes, technical assistance and training is required from DPE / OEHL for local council staff to clarify how a consent authority might be “satisfied” that a proposed development meets certain biophysical, ecological, hydrological, geomorphological, and cultural thresholds before granting consent.

3 Specific Responses Comments – SEPP (Coastal Management) 2016

Component	Comments / Questions	Recommendations
Part 1 Preliminary		
<p>3 Aim of Policy</p> <p><i>The aim of this Policy is promoting an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 by:</i></p> <p><i>(a) managing development in the coastal zone and protecting the environmental assets of the coast, and</i></p> <p><i>(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and</i></p> <p><i>(c) mapping the 4 coastal management areas which comprise the NSW coastal zone, in accordance with the definitions in the Coastal Management Act 2016.</i></p>		<p>Reinstate first objective of the SEPP as was articulated in the ‘Explanation of Intended Effects’ document.</p> <ul style="list-style-type: none"> <i>Promote an integrated and coordinated approach to coastal planning and management, consistent with the objects of the (proposed) Coastal Management Act</i>
Definitions		
<p>Local Government Coastal Hazard Map means the State Environmental Planning Policy (Coastal Management) 2016 Local Government Coastal Hazard Map prepared in accordance with subclause (2).</p>	<p>Potentially inconsistent with 117(2) direction</p> <p>Where this direction applies</p> <p>(b) has been identified as land affected by a current or future coastal hazard in a study or assessment undertaken:</p>	<p>This matter be clarified</p>
Sub clause 2	<p>There are other hazards studies e.g. flood studies which include (at least components) of the 7 defined coastal hazards including coastal inundation e.g. Sutherland Council Port Hacking Flood study.</p>	<p>All hazard studies in coastal areas endorsed by Councils be included under Sub clause 2 i.e. including those undertaken as part of the</p>

Component	Comments / Questions	Recommendations
		NSW Flood management program that address 'coastal' hazards.
<p>7 Relationship with other environmental planning instruments</p> <p><i>(1) Subject to section 74 (1) of the Act and this clause, in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.</i></p> <p><i>(2) In the event of an inconsistency between this Policy and State Environmental Planning Policy (Three Ports) 2013, State Environmental Planning Policy (Three Ports) 2013 prevails to the extent of the inconsistency.</i></p>	<p>Concerns in relation to the status and future of other State planning policy documents applying to Sydney's coastal zone including but not limited to:</p> <ol style="list-style-type: none"> 1) The Sydney Regional Environment Plan (SREP) Sydney Harbour Catchment 2005; Kurnell Peninsula etc <p>These well supported REPs, SEPPs aim to ensure the catchment, foreshores and waterways are recognised, protected, enhanced and maintained as an outstanding natural asset for existing and future generations. Also, the SREP and DCP include provisions relating to biodiversity, ecology, environment protection, public access and use, scenic quality and view sharing. These well recognised, tested and supported instruments should not be lost or be overridden by weaker considerations as proposed in the SEPP Coastal Management.</p> <p>Issues in relation to differences and potential inconsistency also need to be addressed:</p> <ul style="list-style-type: none"> • Marine wetland inclusions within the SREP • Definition for foreshores and waterways <ol style="list-style-type: none"> 2) The application of the Three Ports SEPP should be encouraged to address coastal hazards, coastal protection works or emergency coastal protection works consistently with the Coastal Management Act 2016 and the SEPP (Coastal Management) as like all other public authorities on the coast. <p>Although some parts of these facilities are now privatised or government corporations, working with adjacent land</p>	<p>Clarify the relationship of the SEPP (Coastal Management) to various Sydney REPs and associated DCPs applying to Sydney's coast.</p> <p>Clause 23 of the Coastal Management Act requiring public authorities to have regard to CMPs should be noted within this section as still applicable for the SEPP (Three ports).</p>

Component	Comments / Questions	Recommendations
	<p>manages (public authorities) is critical to the success of a CMP and the future operations of and access to the port(s).</p> <p>There is very limited consideration of coastal hazards within the SEPP (Three Ports) other than:</p> <p>Schedule 1 Exempt development</p> <p>8 Emergency works</p> <p>(1) Works for the purpose of maintaining or restoring port facilities or emergency services equipment in order to ensure public safety or to protect buildings or the environment as a result of:</p> <p style="padding-left: 40px;">(a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or coastal inundation, or</p> <p style="padding-left: 40px;">(b) an accident, equipment failure or structural collapse, or</p> <p style="padding-left: 40px;">(c) damage caused by vandalism or arson.</p> <p>(2) The works must not disturb soil or vegetation any more than is necessary to carry out the works.</p> <p>(3) The works must not affect the heritage value of any heritage item any more than is necessary to carry out the works.</p>	
<p>9 Repeals</p> <p>The following environmental planning instruments are repealed:</p> <p>(a) State Environmental Planning Policy No 14—Coastal Wetlands,</p> <p>(b) State Environmental Planning Policy No 26—Littoral Rainforests,</p> <p>(c) State Environmental Planning Policy No 71—Coastal Protection.</p>	<p>The SCCG congratulates and thanks the DPE for the inclusion of wetlands and littoral rainforest areas in metropolitan Sydney previously not included in SEPP 14 and 26.</p> <p>It is noted that a number of SCCG councils have additional wetland and littoral rainforest mapping data that should be included within the Coastal Management SEPP.</p>	

Component	Comments / Questions	Recommendations
Part 2 Division 1 Coastal Wetlands and Littoral Rainforest areas		
	<p>Incorporation of seagrass</p> <p>The finalisation of the Draft SEPP provides an opportunity to include seagrass mapping undertaken by either DPI or Councils</p>	<p>The Coastal Wetlands and Littoral Rainforest areas maps include seagrass mapping as undertaken by DPI or Council.</p>
11 1(a) Consultants note	<p>Given the reduction in protection under the <i>Biodiversity Conservation Act</i> comparative to the <i>Native Vegetation Act</i> – what assurances are there that existing levels of protection are maintained?</p>	<p>Ensure protection provisions within the Coastal Management SEPP are not weakened by the NSW biodiversity reforms.</p>
<p>11 (3) <i>Development for the purpose of environmental protection works on coastal wetlands or littoral rainforest.... May be carried out by or on behalf of a public authority without development consent if the development is identified in the coastal management program.</i></p>	<p>What is defined as ‘environmental protection works’? What methods are in place to ensure this ‘development’ does not impact on wetlands/rainforest? What checks are in place through the coastal management program to ensure development included does not adversely impact these habitats.</p>	<p>SEPP to define “environmental protection works”</p> <p>The NSW Coastal Management Manual prescribe environmental safe guards to ensure environmental protection works don’t have adverse impacts on these habitats.</p>
<p>11. (5) <i>Nothing in this clause requires consent for the damage or removal of noxious weeds within the meaning of the noxious Weeds Act 1993</i></p>	<p>Consideration of the NSW Wetlands Policy</p>	<p>DPE ensure there is no inconsistency with the NSW Wetlands Policy</p>
Division 2 Coastal vulnerability area		
	<p>Incorporation of Sydney regional coastal inundation information. At the SCCG Ordinary Meeting held on 3 December 2016, it was unanimously resolved:</p> <p>R5.4 - <i>That the Sydney regional coastal inundation information, prepared by the CSIRO on behalf of the SCCG be provided to the Department of Planning and Environment for inclusion in the Coastal Management SEPP, subject to the provision of more detailed inundation information provided to the Department by Member Councils.</i></p>	<p>That the Sydney regional coastal inundation information, prepared by the CSIRO on behalf of the SCCG be included with the Coastal Management SEPP.</p>

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	<p>NB All member councils represented at this meeting.</p> <p>A letter to this effect was sent to the DPE on 19 Dec 2016.</p>	
	<p>The objectives contained within the <i>Coastal Planning Guideline: Adapting to Sea Level Rise</i> should be transposed into the Coastal Vulnerability Area section. Specifically, objectives including:</p> <ul style="list-style-type: none"> • <i>Avoid intensifying land use in coastal risk areas through appropriate strategic and land-use planning</i> • <i>Consider options to reduce land use intensity in coastal risk areas where feasible.</i> 	<p>The relevant objectives contained within the <i>Coastal Planning Guideline: Adapting to Sea Level Rise</i> be transposed into the Coastal Vulnerability Area section of the SEPP.</p>
<p>12 Development on land in proximity to coastal wetlands or littoral rainforest land</p> <p><i>(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:</i></p> <p><i>(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</i></p> <p><i>(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.</i></p> <p><i>(2) This clause does not apply to:</i></p> <p><i>(a) land within Zone R1, R2, R3, R4, R5 or RU5 under an environmental planning instrument or in a land use zone that is equivalent to any of those zones, or</i></p>	<p>This clause does not apply to any residential land.</p>	<p>This clause should apply to residential areas to the extent that the consent authority has ‘considered’ that the proposed development will not have significant impact on 12 1(a) and 12 1 (b).</p>

Component	Comments / Questions	Recommendations
<p>13 Development on certain land within the coastal vulnerability area</p> <p><i>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered, <u>given anticipated impacts of coastal processes and coastal hazards, whether:</u></i></p>	<p>Clarification is sort to define “anticipated impacts of coastal processes” and the relationship to climate change impacts including sea level rise and its temporal dynamics.</p> <p>The lack of direction as to how “the future” is to be defined and assessed is concerning and it is assumed that this will be clearly articulated in the final SEPP, if not at least within the NSW Coastal Management Manual. A major objective of coastal management is to minimise the increase in value of development/infrastructure at risk (in future) and to prevent the increase in development (intensification / rezoning / land release) in areas potentially at risk. This warrants a conservative approach and of necessity must be time based and include realistic allowances to be applied (e.g. for sea level rise). The State’s positon to allow Local Government to determine their own “appetite for risk” should not be confused with lack of knowledge / understanding or data.</p> <p>No consideration of ecological considerations with Coastal Vulnerability Areas (with only rock platforms and headlands are covered in Coastal Environment areas).</p>	<p>Clarification be sort to define anticipated impacts in relation to Climate change impacts spatially and temporally (2020, 2050, 2100, 2200). This to included directly in the SEPP or at least clearly articulated within the NSW Coastal Management Manual.</p> <p>Necessary considerations for potential impacts to ecological values and assets be incorporated in the development approval considerations. E.g. to ensure consideration of potential impacts to dunes, beaches and other intertidal areas (NB rock platforms (only) addressed in Coastal Environment area).</p>
<p>Division 3 Coastal environment area</p> <p>14 Development on land within the coastal environment area</p>		
<p><i>(c) is not likely to have an adverse impact on the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, having regard to the cumulative impacts of the proposed development on the marine estate including sensitive coastal lakes.</i></p>	<p>Water quality related issues should apply to <u>all</u> Coastal lakes.</p>	<p>Clause 14(c) should also apply to Schedule 2.</p>
<p><i>(d) is not likely to have an adverse impact on native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, and other natural landforms.</i></p>	<p>Definition and identification of un-developed headlands required.</p>	<p>Define what is classified as an undeveloped headland.</p> <p>Undeveloped headlands be mapped and included as a Schedule.</p>

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Division 4 Coastal use area		
<p>15 Development on land within the coastal use area</p> <p><i>Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:</i></p> <p><i>(ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and</i></p> <p><i>(iii) ... visual amenity and scenic qualities</i></p> <p><i>(v) will not impact ...'surf zone'...</i></p>	<p>Clarification required to define “minimise” and triggers established.</p>	<p>Clarification to define “minimising”</p> <ol style="list-style-type: none"> 1) ‘overshadowing’ 2) ‘wind funnelling’ 3) ‘Visual amenity’ 4) ‘Scenic qualities’ 5) ‘Surf Zone’ <p>DPE to develop detailed guidance and triggers for councils to be able to assess development potentially effecting these issues.</p> <p>Triggers for overshadowing and wind tunnelling might include: Not before 5pm EST; Not more than 10% of background levels etc.</p>
Division 5 General		
<p>16 Development in coastal zone generally— development not to increase risk of coastal hazards</p> <p><i>(1) Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</i></p> <p><i>(2) This clause ceases to have effect at the end of 31 December 2021.</i></p>	<p>Detailed guidance on how a consent authority is to be ‘satisfied’ is required.</p> <p>Clause 1 – clarification is sort in relation to consideration of coastal hazards when not yet identified in the CMP or planning instrument or that a study has previously been undertaken.</p> <p>These transitions are not contained in the SEPP however the 117(2) direction notes:</p> <p>Where this Direction applies</p> <p>(b) has been identified as land affected by a current or future coastal hazard in a study or assessment undertaken:</p>	<p>Further clarification is required in relation the consideration of “existing hazard studies” during the transitional period (Dec 2021)</p> <p>Provide guidance on existing hazard studies i.e. will a list be provided to Councils of all known hazard studies done “by or on behalf of a public authority”. (i.e. there has been 300 odd hazards studies undertaken across the State).</p>

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	<p><i>(i) by or on behalf of the relevant planning authority, or</i></p> <p><i>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</i></p> <p>Clause 2 should be removed with a risk that not all areas of NSW coast will be covered by a gazetted CMP at this time and or not all of the 7 identified “coastal hazards” have been assessed.</p>	<p>Also, see comments in “Division 2” regarding existing Sydney regional coastal inundation information.</p> <p>Remove Clause 2</p>
<p>19 Hierarchy of development controls if overlapping</p> <p><i>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:</i></p> <p><i>(a) the coastal wetlands and littoral rainforests area,</i></p> <p><i>(b) the coastal vulnerability area,</i></p> <p><i>(c) the coastal environment area,</i></p> <p><i>(d) the coastal use area.</i></p>	<p>Clarification is needed on how a public authority is to implement the hierarchy of development control in overlapping areas. All controls remain valid and will still need to be addressed to satisfy the Act and the Coastal Management SEPP.</p> <p>No trade-offs should be permissible when overlapping controls apply.</p>	<p>All development controls should apply to an area regardless if overlaid by more than one Coastal Management Area.</p> <p>No trade-offs should be permissible when overlapping controls apply.</p>
<p>20 References to equivalent land use zones</p> <p><i>In this Policy, a reference to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 33A (2) of the Act as determined under clause 1.6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</i></p>	<p>Exempt and complying development provisions in the proposed Coastal Vulnerability areas should be reviewed</p> <p>This review is particularly relevant for current Coastal Vulnerability Areas’ but should also consider ‘future coastal vulnerability areas’ due to the economic and often emotional pressures to attempt to protect these often expensive ‘minor’ developments and their often important</p>	<p>From previous submission</p> <p>Exempt and complying development provisions in the proposed Coastal Vulnerability areas should be reviewed.</p> <p>For example, including but not limited to:</p> <ul style="list-style-type: none"> ○ Subdivision 1 Access ramps

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	function to the other elements of the development (e.g. driveways, entertainment areas).	<ul style="list-style-type: none"> ○ Subdivision 5 Awnings, blinds and canopies ○ Subdivision 6 Balconies, decks, patios, pergolas, terraces and verandas ○ Subdivision 9 Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses ○ Subdivision 10 Carports ○ Subdivision 10A Change of use of premises ○ Subdivision 14 Driveways and hard stand spaces ○ Subdivision 16 Farm buildings ○ Subdivision 21AA Fuel tanks and gas storage ○ Subdivision 23 Home-based child care ○ Subdivision 26 Minor building alterations (internal) ○ Subdivision 27 Minor building alterations (external) ○ Subdivision 39B Tennis courts ○ Subdivision 40A Waterways structures—minor alterations <p>This review is particularly relevant for Coastal Vulnerability Areas’ but should also consider Coastal Environment and Coastal Wetland and Littoral Rainforest Areas.</p>
Part 3 Miscellaneous		
(2) Coastal protection works by public authority	Regardless if works are identified in the CMP – all <u>major</u> works including beach nourishment should require development assessment and be considered integrated development (requiring EIA).	Regardless if works are identified in the CMP – all major works including beach nourishment programs should require

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<p><i>Development for the purpose of coastal protection works may be carried out on land to which this Policy applies by or on behalf of a public authority:</i></p> <p><i>(a) without development consent—if the coastal protection works are:</i></p> <p><i>(i) identified in the relevant coastal management program (or a coastal zone management plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016), or</i></p> <p><i>(ii) beach nourishment, or</i></p> <p><i>(iii) the placing of sandbags for a period of not more than 90 days, or (iv) routine maintenance works or repairs to any existing coastal protection works, or</i></p> <p><i>(b) with development consent—in any other case.</i></p> <p>Note. <i>Clause 22 provides that the function of granting consent for development referred to in this subclause is to be exercised by the relevant joint regional planning panel.</i></p>	<p>Small scale beach re-sharpening, scrapping, relocation of ‘nuisance sands*’ could happen without development assessment (although may still require Lands and or DPI Fisheries approval).</p> <p>NB Further consideration of environmental / restoration / improvement works is required. This type of activity should not be compelled to go through an integrated development assessment process resulting in additional costs and timeframe blow outs and impacts on the practicality to source grant funding to support for such activities. There is also a potential for councils to cease environmental restoration activities in the coastal zone in preference to areas where processes were more practical.</p> <p>*” Nuisance sands” e.g. sands accumulating affecting drainage infrastructure / access ways</p>	<p>development assessment and be considered integrated development (requiring EIA).</p> <p><i>Sandbags:</i> clear guidance on definition of what constitutes appropriate sandbags (size, materials, design and construction) is required within the Coastal Management Manual.</p> <p>Further consideration of environmental / restoration / improvement works is required. These activities should not be compelled to go via through an integrated development assessment process.</p>
<p>22 Council consent functions to be exercised by joint regional planning panel</p> <p><i>(1) This clause applies to the following development on land within the coastal zone:</i></p> <p><i>(a) development for the purpose of coastal protection works carried out by a person other than a public authority, other than coastal protection works identified in the relevant coastal management program (or coastal zone management plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016),</i></p>		<p>This provision should not be utilised as a ‘backdoor’ to seek approval via the JRPP when a council has made a determination that no CWP are to be placed on a beach or anywhere within the local government area. This same provision should be also applicable to any public authority.</p> <p><i>JRPP consent:</i> Further details of powers and the expert referral requirements of the JRPP to properly assess CPW approvals is required. It is assumed and strongly recommended that</p>

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<p><i>(b) development for the purpose of coastal protection works carried out by or on behalf of a public authority (other than development that may be carried out without development consent under clause 21 (2) (a)).</i></p> <p><i>(2) The relevant joint regional planning panel may exercise the following consent authority functions of the council or councils for development to which this clause applies:</i></p> <p><i>(a) the determination of development applications, and applications for the modification of development consents previously granted by the panel, in accordance with Part 4 of the Act,</i></p> <p><i>(b) without limiting paragraph (a), the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Act and sections 89A, 93I, 94, 94A, 94B, 94C, 94CA, 94EF, 94F, 95 (2), 96 (2) and 96AA of the Act</i></p>		<p>direct consultation with the local council and the NSW Coastal Council would be a mandatory process in any such determinations.</p>
<p>Schedule 1 Sensitive Coastal Lakes</p> <p>Schedule 2 Coastal Lakes</p>	<ul style="list-style-type: none"> • There is no direct mention of schedule 2 nor any provisions applying to Schedule 2 • Clause 14 (c) also apply to “Schedule 2” 	<p>Clause 14 (c) also apply to “Schedule 2”</p>
<p>Schedule 3 Amendment of other Instruments</p>		
<p>3.4 State Environmental Planning Policy (Infrastructure) 2007</p> <p>[1] Clause 8 Relationship to other environmental planning instruments</p> <p><i>Omit clause 8 (2)–(4). Insert instead:</i></p> <p><i>(2) Except as provided by subclauses (3) and (4), if there is an inconsistency between a provision of this Policy and any of the following provisions of</i></p> <p><i>another environmental planning instrument, the provision of the other instrument prevails to the extent of the inconsistency:</i></p>	<p>Infrastructure SEPP doesn't have to adhere to:</p> <ul style="list-style-type: none"> • Clause 11 Development of Coastal Wetlands or littoral rainforest • Clause 12 Development of land in proximity to Coastal Wetlands and Littoral Rainforest land • Clause 21 Coastal Protection Works 	<p>Further consideration is necessary for appropriate development assessment provisions for river bank ‘back filling’ and / or reclamation works being undertaken in estuarine and riverine systems classified as either i) construction works, ii) routine maintenance works, iii) emergency works. It is suggested that many of these activities do require some level of EIA and associated development approval processes.</p> <p>There have been examples of both Local Councils and State agencies using the</p>

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<p><i>(a) clauses 11, 12 and 21 of State Environmental Planning Policy (Coastal Management) 2016,</i></p> <p><i>(b) all of the provisions of State Environmental Planning Policy (State Significant Precincts) 2005.</i></p> <p><i>(3) Clause 48B of this Policy prevails over clauses 11 and 12 of State Environmental Planning Policy (Coastal Management) 2016 to the extent of any inconsistency.</i></p> <p><i>(4) A provision of this Policy that permits development for the purpose of emergency works or routine maintenance works to be carried out without consent prevails over clauses 11 and 12 of State Environmental Planning Policy (Coastal Management) 2016 to the extent of any inconsistency, but only if any adverse effect on the land concerned is restricted to the minimum possible to allow the works to be carried out.</i></p> <p><i>(5) For the avoidance of doubt, development to which subclause (3) or (4) applies is not declared designated development for the purposes of the Act.</i></p>		<p>Infrastructure SEPP for the installation of protection structures outside any Coastal Management Plan or LEPS and/or without appropriate assessment nor community consultation, which is concerning.</p> <p>Actions under the Infrastructure SEPP must be compliant with the CMP, with the current Coastal Management SEPP silent on ‘other’ coastal assets and infrastructure other than “coastal protection works”</p>
<p>Clause 15A (2)</p> <p>Public authority must give written notice of intention to carry out development...and take into consideration a response from council within 21 days after notice was given.</p>	<p>Question whether this is a sufficient timeframe? Is notification sufficient or should they be required to include councils in initial consultation(s) ?</p>	<p>Recommend inclusion that Public Authorities are required to consult with councils when intending to carry out development rather than simply ‘notify’.</p>
<p>Suggested additional inclusion</p> <p>Manufactured Homes estate, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005”</p>		<p>The “<i>Manufactured Homes estate, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005</i>” should also be amended to ensure that any type of dwelling in “Vulnerability areas” must require appropriate development assessment to ensure they account for coastal processes and hazards. There are numerous regrettable examples along the NSW coast where we</p>

Component	Comments / Questions	Recommendations
		have single and even 2 story “manufactured” villas located directly on incipient and fore dunes of active beaches (e.g. Kendall’s Beach - Kiama.

2) Draft Local Planning Direction – Coastal Management - Section 117(2) of the Environmental Planning and Assessment Act 1979

Component	Comments / Questions	Recommendations
<i>Where this direction applies</i>		
<p>1 (b) has been identified as land affected by a current or future coastal hazard in a study or assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.</p>	<p>What does ‘current’ or ‘future’ hazard study or assessment mean?</p> <p>Does the hazard study need to have been referenced in a planning instrument (i.e. LEP, DCP, REP or other SEPP)?</p> <p>Does the hazard study need to be part of a gazetted Coastal Management Program?</p>	<p>Questions to be clarified.</p>
<i>3) What a relevant planning authority must do if this direction applies</i>		
<p>3 (b) the NSW Coastal Management Manual and associated Toolkit;</p>	<p>Potential issues in relation to mentioning the “Toolkit” in the 117(2)</p> <p>Coastal Reforms web site:</p> <p><i>“The manual outlines the <u>mandatory requirements</u> and provides guidance on the preparation, development, adoption and content of a coastal management program”</i></p> <p>While the Toolkit is <i>“a <u>compendium of technical information and guidance on a range of topics</u>.”</i> <i>In addition to assisting councils with preparing coastal management programs, this information <u>can be used</u> by other public authorities.</i></p> <p>Mentioning the toolkit directly in the s117(2) might cause unintended legal issues if the planning authority has or has not used it to a certain level of detail.</p>	<p>Remove the reference to the “Toolkit” as this voluminous information is additional technical information only, provided to public authorities for support purposes only.</p>

	The toolkit is intended for supporting purposes only and not a mandatory consideration when preparing CMPs or undertaking strategic planning and development assessment.	
3(c) NSW Coastal Design Guidelines 2003;	Advice is sort on how a local authority is to consider and “give effect to and are consistent with” this 13-year-old document.	Advice be given to a Consent Authority on how they are to “give effect to and are consistent with the 2003 NSW Coastal Design Guidelines. SCCG requests this 13-year-old document be reviewed and updated.
<i>3(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</i>	<p>clause 4 of Schedule 3</p> <p><i>(1) A coastal zone management plan (including any emergency action subplan in that plan) in force under the former Act before the repeal date continues to have effect in respect of the local council to which it applied immediately before the repeal date until replaced by a coastal management program prepared and adopted under this Act.</i></p> <p>Does (d) expire on 31 December 2021 (5 years of the gazettal of the Act) as all CZMP will need to be reviewed and updated to be compliant with the Coastal Management Act 2016 within this time frame.</p> <p>See: clause 4 of Schedule 3 (2)</p> <p><i>(2) This clause ceases to have effect at the end of 31 December 2021</i></p>	Amend (d) to include a 5-year time frame consistent with clause 4 of Schedule 3 (2) of the Coastal Management Act 2016.

Consistency		
<p><i>Consistency (7) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:</i></p> <p><i>(a) justified by a study or strategy prepared in support of the planning proposal which gives consideration to the objective of this direction, or</i></p> <p><i>(b) in accordance with any relevant Regional Plan or District Plan prepared under Part 3B of the Environmental Planning and Assessment Act 1979 by the relevant strategic planning authority which gives consideration to the objective of this direction, or (c) is of minor significance.</i></p>	<p>Concerns that planning proposal can be inconsistent with this direction and in turn a gazetted CMP. This should not be permissible. And only permissible if the CMP is so amended, in consultation with the NSW Coastal Council and the local community.</p>	<p>Planning proposals must at least consider a gazetted CMP.</p> <p>Department of Planning ensure relevant elements (provisions, controls and maps) are included in relevant (coastal) Regional Plans, District Plans and REPs to ensure adherence to the Coastal Management Act 2016 and any gazetted CMP within the Plan's areas.</p>

3) Fact Sheets

3.1) Coastal Wetlands and Littoral Rainforest Area

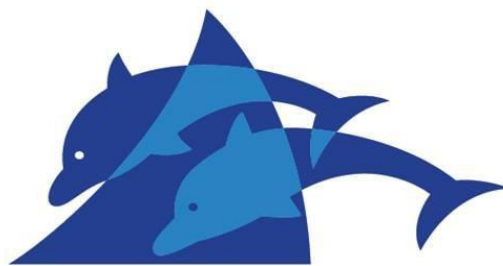
Component	Comments / Questions	Recommendations
Where this direction applies		
<p><i>(b) has been identified as land affected by a current or future coastal hazard in a study or assessment undertaken:</i></p> <p><i>(i) by or on behalf of the relevant planning authority, or</i></p> <p><i>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</i></p>	<p>What does 'current' or 'future' hazard study or assessment mean?</p> <p>Does the hazard study need to have been referenced in a planning instrument (i.e. LEP, DCP, REP or other SEPP)?</p> <p>Does the hazard study need to be part of a gazetted Coastal Management Program?</p>	<p>Questions to be clarified (see comments in Clause 13)</p>
<p><i>The maps include the Sydney Metropolitan region for the first time, and also show a 100m proximity area for both coastal wetlands and Littoral Rainforest</i></p>	<p>The SCCG thanks the DPE for taking the SCCG request to include areas of wetland and littoral rainforest in the Sydney region.</p> <p>Query if other areas in the "Greater Metropolitan Region (Newcastle – Shellharbour) previously excluded from SEPP14 and 26 have now also been included?</p>	<p>Significant wetlands and areas of Littoral Rainforest in the GMR also be included in the SEPP maps.</p>

3.2) Coastal Use Area

Component	Comments / Questions	Recommendations
What is included in the new maps		
<p><i>The coastal use area in the Sydney metropolitan area region is defined differently ...</i></p> <p><i>The coastal use area between Northern Beaches and Sutherland Councils extend 200m landward of the open coast and 100m landward of estuaries, bays and other waterways</i></p>		<p>The SCCG recommends a consistent approach for the entire NSW coast – e.g. Sydney metropolitan area is similar to other ultra-urban centres e.g. Newcastle, Central Coast or Wollongong.</p>

3.4) Coastal Vulnerability Area

Component	Comments / Questions	Recommendations
<p><i>It is the intention of the NSW Government that coastal councils, through CMPs and support of the NSW Government will map all coastal hazardsand include appropriate maps in land use planning instruments within the next five years</i></p>	<p>What resource needs assessment(s) has been undertaken to determine the feasibility of this intent (including, time frames, state funding and council funding and staff resources)</p>	<p>A detailed resource assessment be undertaken (in consultation with Councils) to clarify resources required to fulfill this intent.</p>
<p><i>In recognition of the fact that not all areas of coastal hazards are currently identified in land use planning.....the draft SEPP including requirement for consent authorities to consider coastal hazards throughout the coastal zone consent authorities should consider the many coastal studies or plans that have been undertaken in the past</i></p>	<p>See comments in Division 5 General</p> <p>16 Development in coastal zone generally—development not to increase risk of coastal hazards</p>	<p>Further clarification is required in relation to the consideration of “existing hazard studies” during the transitional period (Dec 2021)</p> <p>Is there any guidance on existing hazard studies i.e. will a list be provided to Councils of all know hazard studies done “by or on behalf of a public authority” (also see Clause 16)</p>



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NORTHERN BEACHES
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INNER WEST COUNCIL



WAVERLEY
COUNCIL

Bayside Council

CITY OF SYDNEY



WILLOUGHBY
CITY COUNCIL
City of Diversity

Mosman
COUNCIL

Sutherland Shire
COUNCIL



Randwick City
Council
a sense of community

