

Submission to the NSW coastal management reforms

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Opening

Local Government NSW (LGNSW) is the peak body for councils in NSW, representing all 152 NSW general-purpose councils and associate members including 12 special-purpose county councils and the NSW Aboriginal Land Council. In essence, LGNSW is the organisation for all things Local Government in NSW.

LGNSW is a credible, professional organisation that represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community. LGNSW facilitates the development of an effective community-based system of local government in NSW.

LGNSW welcomes the opportunity to make a submission on the Stage 2 Coastal Management Reforms. The NSW Government has proposed significant reform that has the potential of an overall positive outcome for coastal management in NSW. LGNSW is strongly supportive of:

- The recognition of the dynamic and ambulatory nature of the coast.
- A focus on management of coastal hazards rather than protection measures.
- The integration of coastal management into land use planning.

LGNSW notes that the public consultation material for the coastal management reforms is voluminous and incomplete. Consultation has occurred at a time of significant other reform being conducted by the NSW Government including Fit for the Future, reviews of the Local Government Act, biosecurity, biodiversity, crown lands and proposed container deposit legislation. The capacity of local government to continue to respond to legislative change is stretched. LGNSW reserves the right to clarify or modify its position once all of the details of the proposed reforms are released.

While these comments are on behalf of NSW local government, the submission does not over-ride or negate any submission made by an individual council. LGNSW have actively supported and encouraged councils to make individual submissions, or provide input to the LGNSW submission.

Coastal Management Bill

General

LGNSW considers that for coastal management reform to be effective, a more equitable and stronger partnership with state government is required. As a substantial owner of the coastal zone, we would expect that the NSW Government would participate more in the development and implementation of Coastal Management Programs (CMP). The draft Bill places the potential of enforceable obligations to implement Coastal Management Programs on local government while only requesting that NSW agencies consider Coastal Management Programs when exercising their functions in the coastal zone.

These reforms, if adopted, effect significant structural, procedural, content and management changes to the framework which local government will have increasing responsibility for administering. They increase the burdens on local government in terms of application of resources to develop and implement coastal management plans and, potentially, place additional liabilities onto councils. This is another example of cost shifting where the responsibility of coastal management, by providing a certain service, asset or regulatory function are 'shifted' from a higher level of government on to a lower level of government without providing corresponding funding or the conferral of corresponding and adequate revenue raising capacity.

LGNSW is also concerned how the Coastal Management Reforms will interact with the crown land reforms. The change of ownership of crown lands to local government would pass on management liability for major tracts of the NSW coast.

Scope of the objects of the Coastal Management Bill

LGNSW generally supports the objectives of the draft Bill as they cover a range of social, environmental and economic issues relating to the coast comprehensively. However consideration should be given to the following point.

The Draft Bill does not carry over the following objective of the existing Act:

(e)to provide for the acquisition of land in the coastal region to promote the protection, enhancement, maintenance and restoration of the environment of the coastal region.

Coastal land acquisition can be a vital tool in meeting the objects of the draft Bill. Although this is cost prohibitive in some locations, it is an essential part of reducing the risk of coastal hazards and is an appropriate tool in some locations.

Maps and definitions, including the new definition of the coastal zone

The proposed definition of coastal protection works could apply to tidal rivers and estuaries. If this was not the intention, the definition of coastal zone could be adopted from State Environmental Planning Policy (Infrastructure) 2007 (ref clause 129(2A)) so the provisions are applicable to '*the open coast or entrance to a coastal lake*'.

Further clarification is also sought on the meaning of "resilience" and "future risk" as it relates to this Bill.

LGNSW supports the identification of four coastal management areas and the management objectives of each. The recognition of the coast as dynamic and heterogeneous will support community awareness and provide flexibility for local planning and management options. However, LGNSW notes that the breakdown of the coastal zone into four distinct areas complicates coastal management thereby increasing the administrative burden on local government.

Local government would like the opportunity to refine and amend the coastal management area maps prior to their finalisation and release to the public. Where council mapping is in a gazetted plan, the local hazard information should prevail given it is likely to be finer scale data and it has general acceptance by the community.

The *coastal environment area* references headlands and rock platforms to assist in interpreting the type of features contained in this coastal zone area. However, this specific focus on open coast features may limit the perception of what is meant by *land adjoining* in an estuary or tidal waters circumstance. We would recommend including other examples from an estuarine or tidal perspective.

The draft Bill states that a Local Environment Plan (LEP), confirmed by the Minister, may amend the maps in the State Environmental Planning Policy (SEPP) to identify a coastal management area. Additional information is required on how this will occur procedurally as there are no current provisions that allow a LEP to amend a SEPP. The planning proposal process of Division 4 of Part 3 of the *Environmental Planning and Assessment Act 1979* does not expressly provide for the amendment of a SEPP by the mechanism of a LEP.

The hierarchy of management objectives is supported if the coastal management areas map all ecological sensitive areas. The unavailability of the maps at this stage prevents local government from assessing if the management objectives and their hierarchy are suitable.

LGNSW also notes that while the draft Bill provides for the hierarchy of management objectives in relation to the coastal management areas, it does not give advice on balancing the competing objectives of the underlying land use zones. For example, a residential zone will have certain objectives in relation to the provision of housing that may be inconsistent with the objectives of the coastal management area.

Requirements for coastal management programs, including content

Clause 14(2) “*A direction under this subsection prevails to the extent of any inconsistency between it and the coastal management manual*” is not acceptable. Any direction given by the Minister must be consistent with the manual and the objects of the Act.

The draft Bill states that a Coastal Management Program must consider and promote the objects of the Act. However, under the matters dealt with in a Coastal Management Program, the focus is on managing the risk of coastal hazards to development and human life. The objects of the Act, such as protecting natural processes, supporting social and cultural values etc., are not integrated sufficiently through the implementation phase.

Clause 15 (3) refers to *coastal erosion emergency action subplans*. LGNSW suggests that *coastal hazards subplans* is a broader and more appropriate term. This section (or the associated guidance) should also clarify under what circumstances an emergency action plan would be developed, and whether the status of the previously identified erosion hot spots is to be carried over.

The NSW Government is a significant owner and manager of the NSW coastline. Local government is willing to partner with the NSW Government in the management of the coastal zone. LGNSW considers it a step forward that the proposed legislation requires other councils and public authorities that exercise functions in connection with the coastal zone to be consulted in developing and implementing coastal management strategies. Public authorities are also to have regard to the CMP, coastal management manual and Act in exercising their functions. However, local government’s experience is that agencies are slow to respond or do not respond at all.

For example, Lake Macquarie City Council was unable to engage the SES in developing a Coastal Erosion Emergency Action Sub Plan (CEEASP) despite repeated requests. Further provision is needed to ensure the participation of NSW agencies in Coastal Management Programs such as deemed approval when no response is forthcoming. A deemed acceptance after a period of time (6 months) and number of notifications (2) would limit lengthy delays.

In relation to Clause 15 (4)(b), agencies can delay a CMP process significantly and the draft Bill provisions do not compel an agency to participate. Under the Minister’s enforcement powers of the *Coastal Protection Act 1979* (s52), the Minister’s oversight extended to directing a public authority having functions under any Act, in respect of the rules relating to the use or occupation or development in the coastal zone. LGNSW proposes provisions for the Minister to direct agencies to participate in the same way as councils are required to. This could be supported with a facilitation role within the Department of Premier and Cabinet to lead cross-agency discussions and a mediation role for the Coastal Council in disputes between council and agencies.

LGNSW asserts that Clause 17 (2) should contain a “turn around time” by which submitted Coastal Management Programs are certified by the Minister. There are Coastal Zone Management Plans (CZMPs) submitted to the Minister as far back as 2012 that have not been dealt with. The uncertain status of those draft CZMP places increased burdens on local government to transition to the new coastal management regime.

The introduction of a process whereby a CMP can be certified while deferring actions that are controversial and/or undetermined by agencies would reduce delays. A similar process occurs for the certification of LEPs. Those controversial actions, under the direction of the Minister, could then be referred to the Coastal Council for a recommendation.

Clause 18(4) raises concerns that a CMP could be repealed for political reasons rather than being repealed to make way for an updated CMP. This would leave a policy vacuum. What constitutes a review? Does this mean a review process through the Coastal Management Manual and not a review triggered through the Integrated, Planning and Reporting (IP&R) process?

Clause 20(8) states that if the Minister has refused to certify a draft CMP, the Minister can seek costs from council to prepare a new CMP. It is unclear the extent of the cost recovery as it states “the costs of the Minister in carrying out functions under this section” and may include the Coastal Council and court costs. This is not supported by LGNSW. It is also a juxtaposition with the existing arrangements were councils are currently eligible for 50% funding through the Coastal and Estuary Management Program managed by the NSW Office of Environment and Heritage (OEH).

LGNSW opposes Clause 22 as it makes a positive (and potentially enforceable) obligation to give effect to a CMP. The effect of this prioritises coastal management works over the other myriad functions of local government and exposes councils to litigation by third parties if they seek to enforce compliance on actionable items, works or responsibilities in any CMP. Limitations on resources and competing priorities mean that councils need flexibility to determine where finite resources are applied and in what circumstances. It may also mean that actions identified in a coastal erosion emergency action subplan are potentially enforceable.

LGNSW would suggest that Clause 23 be strengthened so that agencies are required to consult with councils, not just ‘have regard’ to a CMP. Also if an agency has agreed to an action in the CMP, that the agency report back to council on that action every 4 years to integrate into the IP&R process e.g. report to the community as part of Council’s End of Term report, which informs the development of the new Community Strategic Plan. Likewise if the agency is renamed, merged with another agency or privatised, the agreement to undertake the action should transfer to the new entity.

Scope of the coastal management manual

Local government is focussed on local issues and works within its local constraints. Councils are not in a position to provide a strategic vision for the management of the NSW coast especially when council is not the majority land owner or manager of the foreshore in their local government area e.g. the foreshore in Botany Bay Council is owned by the port, airport and Sydney Water; in Clarence Valley Council most of the coast is national park. The reliance on local government to develop coastal management programs, particularly without a corresponding commitment for agencies to engage in the process (pg 6), will result in disparate and intermittent management of the NSW coastal zone.

The draft manual does not expressly provide for readily identifiable ‘Principles’, which were a feature of the Coastal Zone Management Plan Guidelines. The statutory immunities contained in s733 of the *Local Government Act 1993*, as proposed to be amended by the draft Bill, continue to refer to the ‘principles’ in the draft manual. The draft manual and/or the Local Government Act will need to be amended to ensure that councils continue to have statutory immunity for the decisions they make in good faith and in substantial accordance with the manual.

LGNSW supports in principle the integration of Coastal Management Plans with the local government Integrated Planning and Reporting (IP&R) framework. This is in line with what councils are already doing. However, LGNSW notes the following implications of the obligation on councils to give effect to its CMP.

The IP&R Guidelines acknowledge that the essential elements to be included in IP&R documents have been kept to a minimum to allow flexibility in implementation. As outlined earlier, Clause 22 of the draft Bill is in direct contrast with this principle as it requires council to give effect to the implementation of a CMP through a council’s Community Strategic Plan, resourcing strategy, delivery program and operational plan.

There is extensive case law recognising that competing priorities and limits on resources can be defences to claims for liability when public authorities have statutory processes and functions. The draft Bill could be seen to mandate councils to set and budget for actions in the coastal zone, potentially prioritising those actions over other area-wide responsibilities, irrespective of immediate need, competing resources and priorities. Failure to do so may invite oversight, disciplinary action or litigation to enforce identified actions in a CMP and may increase exposure to potential liability.

The late release of the Coastal Management Manual on the 23 December has not provided sufficient time to critically review the document. However, LGNSW notes that the fast track methodology needs to be documented further to clarify the status of studies and investigations that were commissioned under former frameworks and that the “good faith” provisions of the Local Government Act continue to apply.

It is also disappointing that the funding mechanisms promoted are a rehash of existing mechanisms which are not sufficient to adapt coastal settlement in a changing climate. Also missing are funding arrangements by the NSW Government which owns substantial coastal lands. The focus on local government and private sector funding mechanisms further highlights the inequity in the local and state government partnership and provides another example of shifting costs onto local government.

Functions of the NSW Coastal Council

LGNSW supports the formation of the Coastal Council on the following basis:

- The composition of the Coastal Council be technical and not political.
- That the Coastal Council be established as a small independent agency with an independent secretariat, and be able to provide advice direct to councils, JRPPs, the Minister and State agencies.
- That the Coastal Council be empowered to provide such advice on request but also have the autonomy to provide that advice whether requested or not.
- That there be the ability for councils to liaise direct with the Coastal Council, and vice versa, on matters of coastal management.
- That there be the ability for local government to nominate members of the Coastal Council similar to the arrangements for the Coastal Panel.

LGNSW recommends that the Coastal Council also have the function of providing independent oversight of the new Act by reporting on the achievements of the Act's objectives to the Minister every 5 years.

What arrangements are envisaged for councils and other public authorities seeking advice from the Coastal Council? The draft Bill infers that only the Minister can seek advice, but the manual states that the Coastal Council should be consulted at various key stages of developing a CMP.

Performance audits of coastal management programs would be best undertaken by OEH due to their technical nature. Agencies should also be subject to the performance audit function (Clause 25(1) (a)(iii)) should the Minister request it.

Proposed transitional arrangements, including for Coastal Zone Management Plans

There are a number of CZMPs that have been awaiting certification from the Minister since 2012. What is the status of these?

Schedule 3 Clause 4 gives a period of 5 years for a CZMP to be superseded by a Coastal Management Program. A large amount of Council and OEH resources are needed to undertake the coastal management process as outlined in these reforms and under the current legislation. It places further burdens on local government to re-do contemporary (in last 18 months) CZMPs within a 5 year period.

The draft Bill proposes that the Minister has 6 months to certify a CZMP after the repeal date of the current Act, however successive Ministers have to date not acted on certifying CZMPs. What if the Minister requests amendments, can councils still submit an amended plan after the 6 months has expired?

New compliance and enforcement arrangements

LGNSW supports the new compliance and enforcement arrangements under the EP&A Act 1979 as this supports procedural fairness.

The effectiveness of any compliance regime depends upon resourcing. There may be competing requirements and priorities for compliance resources through any Local Government Area. These reforms assume councils will have access to appropriate technical expertise to undertake compliance monitoring in the coastal zone and the resources to enforce removal and rehabilitation works. LGNSW rejects councils being primarily responsible for compliance actions in the coastal zone and orders under the consolidated framework. The compliance function should be carried out by OEH as the relevant state government authority.

Non-complying coastal works often breach multiple legislation and regulations. LGNSW recommends a co-ordinated and streamlined approach for compliance and enforcement that navigates the process between the multiple agencies.

A recent Land and Environment Court case (*Anderson v Lake Macquarie City Council*) where council unsuccessfully 'ordered' the removal of an unapproved seawall on a Crown reserve, highlights the limitations of the *Environmental Planning & Assessment Act 1979* and *Local Government Act 1993* in regards to Crown Land.

Section 126 of the *Local Government Act*, and section 121C of the *Environmental Planning & Assessment Act* (both titled "Giving orders to public authorities") require that prior to the issuing of 'orders', written consent of the Minister is required. LGNSW believes that the intent

of these provisions was to require the Minister's consent when issuing orders to public authorities, however the legal interpretation of these clauses applies to the issuing of 'orders' to any party.

LGNSW requests that Schedule 4 of the draft Bill be amended to also include amendments to section 126 of the *Local Government Act*, and section 121C of the *Environmental Planning & Assessment Act*. The amendments should include a reference to 'public authorities' within the text of the section (rather than the reference to 'public authorities' currently only being contained in the heading, which according to section 35(2)(a) of the *Interpretation Act 1987* is not part of the Act).

Amendment of Acts and instruments

The proposed amendments to s80A of the *Environmental Planning & Assessment Act* permit the imposition of a condition of development consent requiring financial security in respect of coastal protection works. Prescribing a power to impose security conditions may not be practical to implement.

Development conditions are subject to both modification and appeal on an individual development consent. The temporal manifestation of 'any increased erosion of the beach or adjacent land caused by the presence of the works' may not occur until sometime into the future. This is in contrast to the other security provisions in s80A where it is possible to ascertain damage to public property at the time of development or shortly thereafter.

These other forms of security relate to public lands or public works. Security contemplated in these reforms could relate to private land or land under the control of another public authority where it could be difficult to apply restoration works.

There could also be factual disputes between landowners and consent authorities as to whether or not any increased erosion is due to the presence of the coastal protection works or other dynamic coastal processes. Security is also a once off payment not suitable for the ongoing maintenance costs associated with coastal protection works.

Providing security conditions in respect of beach restoration, rather than including them as a threshold consideration to granting consent inherently recognises that such works will have impacts. LGNSW has concerns about the efficacy of the proposed security conditions and whether the security conditions are capable of functioning to meet their intended effect.

The proposed amendments to s733 of the *Local Government Act* have two significant consequences to the statutory exemptions from liability:

- (a) they differentiate between the provisions pertaining to natural hazards in terms of flood and bushfire risk and coastal hazards; and
- (b) they set a more onerous threshold for the presumption of good faith in respect of advice, actions or omissions pertaining to coastal hazard management and planning in the coastal zone.

The threshold has been changed from "substantially in accordance with" to "in accordance" with the coastal management manual. If actions, advice or omissions are not undertaken in accordance (as opposed to 'substantially in accordance with') with those Mandatory Requirements then it seems the rebuttable presumption of good faith may not be available to the council or its staff as a statutory defence under s733. Instead of the benefit of a presumption, a council may have the onus of establishing it has acted in good faith if litigation ensues for its actions.

Flood, bushfire or coastal hazards are all a part of local government's responsibility and should all be treated on an even playing field. At a minimum LGNSW recommends that proposed subsection 733(4)(b) be amended to reinstate the terms 'substantially in accordance with'. Alternatively, there would be no need to amend subsection (5) but merely amend the definition of Manual in the section itself to include the Coastal Management Manual under that Act.

Particular consideration needs given to be given to the operation of transitional provisions in circumstances where many councils have either implemented CZMPs or are in the process of preparing, and implementing CZMPs under the pre-existing regime. Deletion of the reference to a Manual relating to the management of the coastline at subsection 5 may have implications for past and current actions or advice given in terms of the ability to rely on the s733 statutory defences.

Coastal Management State Environmental Planning Policy

General

The following statements relate to the Coastal Management State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE). LGNSW notes that the draft Coastal Management SEPP and maps of the coastal management areas will be released for public comment later in the year. However without the draft SEPP and maps, LGNSW is unable to fully comprehend the intended effects and reserves the right to comment further once all of the information is available.

If the coastal zone management areas change the standard instrument LEP, it is recommended that the NSW Government coordinate and manage the necessary amendments to coastal LEPs in consultation with each council. This is a much more efficient way to manage amendments to multiple LEPs rather than each council preparing their own Planning Proposal.

Principles 3 and 4 of the NSW Coastal Planning Guideline – Adapting to Sea Level Rise should be incorporated into the SEPP specifically around avoiding new development in existing hazard areas, not intensifying development in those areas and where possible reducing the intensity of development in current risk areas.

The coastal expertise Joint Regional Planning Panel (JRPP) model is supported. Councils appreciate that technical expertise is being brought into a regional body. However, further detail is needed on how this will be managed within the context of the Greater Sydney Commission.

Division 25 of the Infrastructure SEPP (ISEPP) allows, in certain circumstances, for coastal protection works overriding the LEP. The ISEPP expressly does not prevail over SEPP 14 and SEPP 26 to the extent of inconsistency (ISEPP clause 8). The EIE indicates that these ISEPP provisions will be replicated in the SEPP potentially having adverse outcomes for littoral rainforest and wetland habitats.

Consultation questions

The following are LGNSW's responses to the consultation questions posed.

1. *Should councils be able to propose changes to the maps for all or some of the coastal management areas?*

Yes to all coastal management areas, noting that the NSW Government is responsible for the regular review and update of the maps. Councils often have finer scale maps that would

improve the accuracy of the SEPP maps. For example, Lake Macquarie City Council has unsuccessfully attempted to update the SEPP 26 maps with verified on-ground information for a number of years.

The process for updating the maps should be streamlined. LGNSW proposes that it be a similar process to the updating of bushfire risk maps, which are approved by the Commissioner of the NSW Rural Fires Service, rather than having to go through a public inquiry process. For the coastal management process, this approval could be via the Minister or the Coastal Council, with advice from OEH.

There needs to be some justification and triggers to review and amend the mapping to remove it from the political process. Triggers may include updated information such as new vegetation mapping, coastal vulnerability study etc.

The frequency of changes isn't expected to be that great but that depends on the veracity of the initial mapping which councils have not been given access to at this stage.

2. Should the development controls be included in the proposed Coastal Management SEPP or as a mandatory clause in council LEPs?

LGNSW recommends development controls should be via the Standard Instrument rather than the SEPP. While still providing consistency across the NSW coast, this would allow also local provisions to support the unique management challenges of individual local government areas and support specific actions identified in a Coastal Management Program.

3. Do the proposed development controls for mapped coastal wetlands and littoral rainforest remain appropriate for that land?

The proposed development controls are supported.

4. Do you support the inclusion of a new 100m perimeter area around the mapped wetlands, including the application of additional development controls?

The 100m buffer already applies under SEPP 71 Coastal Protection, but not to SEPP14 wetlands. LGNSW supports the 100m buffer being applied to all wetlands in the new SEPP.

5. Are the proposed development controls for mapped coastal vulnerability areas appropriate for that land?

Further guidance is needed on the definition of "the life of the works" and how councils can implement triggers for relocation, modification or removal of the development.

There is some confusion over how the coastal protection works provisions will apply in estuaries and tidal waters that are not open coast. This may be clarified with the release of the maps.

6. Are the proposed development controls for coastal environment areas appropriate for that land?

The proposed development controls are adequate.

7. Is the inclusion of the catchments of the 15 sensitive lakes within the coastal environment area appropriate?

The inclusion is supported.

8. Which is the best option for mapping the coastal use area? Is the proposed approach to mapping of the coastal use area of Sydney metropolitan area appropriate?

Local government in NSW has varying opinions on which methods would be most appropriate and LGNSW will leave individual councils to make their own recommendations. However, LGNSW suggests that the process for increasing or decreasing the mapped area needs to meet pre-determined criteria to avoid political interference e.g. reductions could be justified for existing high or medium density, non-scenic area.

9. Should councils be able to propose variations to the Coastal Use Area maps over time to take into account local characteristics and circumstances?

Yes, circumstance and community expectations change over time.

10. Are the proposed development controls for mapped coastal use areas appropriate for that land?

LGNSW supports the development controls as it means the unique environmental considerations of the coast are taken into account when assessing development applications.

11. Should the current exempt development and complying development provisions be retained for coastal management areas?

Consideration should be given to reviewing the definition of environmentally sensitive areas in which exempt development cannot occur. Presently that definition includes land to which SEPP 14 or SEPP 26 applies and land within 100 metres of such land. Importantly whilst environmentally sensitive areas include the coastal waters of the state there is not similarly a prescription on exempt development on land within 100 metres of the coastal waters of the state.

Conceivably some forms of exempt development in the 'active zone' could still be able to be undertaken. Carports on slab construction, earthworks and retaining walls on sloping sites, and masonry fences on sloping sites (which could arguably be used as de facto erosion protection works) are but some examples of development which could conceivably occur as exempt development within areas to be mapped under the SEPP.

In addition, fairly intensive forms of residential development can occur in coastal areas unregulated by the *Environmental Planning & Assessment Act*. The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 enables manufactured homes to be erected in caravan parks provided the requirements of that Regulation are adhered to. Provisions of LEPs and SEPPs are not relevant. Whilst those Regulations contain some controls upon the installation of manufactured homes, there are no equivalent provisions in relation to coastal hazards and coastal processes. Integration of the coastal management and land use planning framework realistically may also require the State to investigate amending Part 2 of the Local Government Manufactured Home Estate Regulations to incorporate appropriate considerations of coastal hazards and processes.

12. Should consideration be given to applying other controls for these areas? For example, what types of exempt and complying development might be appropriate in coastal wetlands and littoral rainforest or in the catchments of sensitive coastal lakes and lagoons?

No development is appropriate in those areas except for signage and walkways.

13. Should any provision be retained to allow the use of emergency coastal protection works in emergency situations? What limitations should be put on such works being undertaken by private individuals and public authorities?

The pathways for the approval of new coastal protection works (CPWs) appear to allow CPW to be assessed by the JRPP even after council has gone through a CMP process, thereby opening a back door. LGNSW recommends that when a private proponent is seeking consent for CPW where there is no CMP or the action is not identified in a CMP, further oversight be provided by seeking the opinion of the Coastal Council.

There needs to be further detail or a definition on what ‘sand bagging’ refers to. Also, the 30 day limit on the removal of sandbags may be premature as it may not be safe to do so.

Conclusion

LGNSW appreciates the opportunity to comment on the Stage 2 coastal management reforms, however we note that there is much detail to consider in a short and crowded timeframe, and indeed the fundamental basis of the reforms – the maps – are not yet available. Councils and other stakeholders must be allowed to digest the proposed zonings and understand the implications of these before the reform package is finalised. Similarly, the draft SEPP must be provided for comment.

LGNSW is broadly supportive of the reforms (at a high level), however we have raised a number of issues relating to the need for the draft legislation to demonstrate a true partnership and consistent allocation of responsibility between state and local government. All coastal land managers must be compelled to work with councils and abide by the same rules that councils must abide by.

Of upmost concern to local government is the higher threshold being set to meet the statutory defences to liability by the proposed changes to the Local Government Act, as well as the potential creation of enforceable obligations to implement coastal management programs. LGNSW in conjunction with the Sydney Coastal Councils Group sought legal commentary on the proposed reforms, and would be amenable to discussing this information with the Department of Planning and Environment.

LGNSW looks forward to further consultation on the reforms, and particularly on working with the NSW Government to find solutions to the issues raised in this submission.