

Submission on the Hawkesbury Shelf Marine Bioregion

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Table of contents

Opening	3
Purpose	3
Background	3
Response	4
Spatial management	4
Community consultation	4
Responding to priority threats	4
Draft objectives of the proposed marine park	4
Implementation of the marine park proposal	5
Benefits to local government of a marine protected area	5
Approval processes for activities in a marine protected area	6
Monitoring and adaptive management	6
Conclusion	7

Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the public consultation on the discussion paper prepared by the Marine Estate Management Authority which proposes a management framework for priority threats that impact the Hawkesbury Shelf marine bioregion. The discussion paper identifies options to enhance the conservation of marine biodiversity while maximising the environmental, social, cultural and economic benefits to the NSW community.

Please note that to meet the consultation deadline, this submission is provided in draft form, in anticipation of LGNSW Board endorsement at their December meeting. LGNSW will advise of any amendments to the submission at that time.

Purpose

This submission is in response to the discussion paper 'Enhancing Conservation of Marine Biodiversity: Hawkesbury Shelf Marine Bioregion' prepared by the Marine Estate Management Authority.

Background

The Hawkesbury Shelf Marine bioregion includes the estuaries, coastline and marine waters from Newcastle to Wollongong. The discussion paper includes a proposal to establish a marine park with an aim to enhance the conservation of marine biodiversity and maximise environmental, social, cultural and economic benefits to the NSW community.

The proposed marine park will establish a suite of management changes at 25 non-contiguous sites to provide local responses to risks from some threats, and to enhance community benefits. The proposal meets the requirements of the *Marine Estate Management Act 2014* which guides how the marine estate is to be managed in NSW. The draft site objectives described in the discussion paper align with the objects of the Act.

Zones are proposed as a management tool for the 25 sites within the proposed marine park. Feedback is sought on these zones and their appropriateness in achieving the objectives of each site. Zones include:

- Sanctuary zones
- Conservation zones
- Special purpose zones.

LGNSW will not provide comment on the detail of any particular sites proposed, as the local community and local council are best placed to provide this input. We will however, comment on the overall proposal and management approach suggested, and welcome the Government's intention to ensure the marine and coastal values of this highly populated region of NSW continue to be maintained and enhanced.

Response

In 2011, the Local Government Association conference endorsed the following resolution:

That the Local Government Association:

- 1. Support initiatives to protect the marine environment and urges the State Government to create a Sydney Marine Park*
- 2. Urges the State Government to develop and implement a marine management strategy for the whole NSW Coastal area in consultation with the broader NSW community.*
- 3. Request the State Government to consult with all stakeholders prior to any decision on the proposed Park.*

Representations were made to NSW Government Ministers at the time, with a response received that no further marine parks would be established until 2016. While the ongoing support for this position has not been tested with members since, LGNSW has clear policy positions supporting the precautionary principle; to prevent environmental degradation and mitigate risk, as well as a position to support the conservation of biological diversity. Both these policy positions are consistent with the NSW Marine Estate Management (MEM) Strategy, its nine initiatives, and the threats and management responses identified in the Hawksbury Shelf Marine Bioregion discussion paper.

LGNSW supports a marine park for the Sydney region which affords greater protection to our marine environment while still allowing the wider community continued enjoyment of this natural area and access to recreational activities, consistent with the ongoing management and protection of this region.

Particular comments on the approach taken in the discussion paper will be further explored.

Spatial management

The spatial management approach suggested allows for site-based management to promote, regulate or control activities to manage threats to social, cultural, economic or environmental values. This approach is supported as it enables a flexible framework to respond to local sites and their specific needs.

Community consultation

Community consultation on individual sites is necessary and welcomed. Local communities utilise and recreate in the coastal and marine environment and should be directly involved in their management. The final decision on site boundaries, permissible activities and the management regimes of these sites should be determined in consultation with the local community users and scientific advice.

Responding to priority threats

A risk management approach to the threats facing the region is supported. Extensive scientific rigour has been applied to the threat assessment process and actions are needed to respond to these threats. Addressing these threats requires all spheres of government to coordinate their management of the marine estate to ensure effective decision making, alignment of policies and programs, and management and compliance within the marine environment.

Draft objectives of the proposed marine park

The draft objectives of the proposed marine park cover environmental, economic, cultural, social, scientific and education and governance outcomes are supported. These clearly require community input to meet the objectives which enables opportunities to create a management

response reflective of community values. A participatory approach is needed to ensure all users of the marine environment are involved in its future management.

The governance objective seeks to move to self-compliance, which is an admirable goal but does pose some concern for other managers of this resource including local government. Councils support a strategic compliance and enforcement framework so that all levels of government are fully committed to collaborating on the management of the marine estate. Self-compliance in this highly complex network of marine protected sites is too risky, particularly in the short term while users are being made aware of the changed management approach.

Implementation of the marine park proposal

The implementation of the marine park proposal is a key concern for local government in the region. Issues including compliance and enforcement, funding, and monitoring and evaluation must all be addressed in order to meet the objectives of the marine park.

The complexity of the park - with multiple sites encompassing different objectives and zones - will create significant compliance challenges. Community awareness of the locations of the marine protected areas and their associated management rules is necessary but challenging. An ongoing process of raising community awareness of the marine park and the permissible uses will be required given the location of the Hawkesbury Shelf marine bioregion, the large population residing in the region, and the numbers of visitors to the region. Community education and awareness raising will need to be widely available, clearly visible at sites and have resources committed to enable continued engagement.

The structure of the park with multiple small sites, dispersed across large distances, with complex rules varying at each site, will make compliance activities difficult. There are no changes proposed to the powers of council or National Parks and Wildlife (NPWS) compliance staff who will continue to only have jurisdiction to the mean high-water mark. This is despite the MEM Strategy seeking more effective governance and cooperation across jurisdictions.

Expanding jurisdictional powers to enable coordinated compliance activities across all compliance officers, including NSW Fisheries, NPWS and council officers should be investigated further, including identifying resourcing and any other practical implications of a shared approach.

Further consideration of the need to support the proposed marine park with adequate compliance action is necessary. Compliance officers will require appropriate levels of training and be appropriately resourced to undertake an effective regulatory role. A 24-hour hotline for the public to report non-compliance activities should also be considered.

Benefits to local government of a marine protected area

There are a number of benefits to local government resulting from the creation of marine protected areas. The Marine Estate Management Strategy has identified 'improving water quality and reducing litter' as a management initiative to address threats, and funding will be provided for actions. Councils are well placed to address some of the water quality issues through their stormwater management activities and welcome additional resources to undertake more action on this issue.

Other potential benefits to councils in areas with a marine park include:

- Increased priority given to coastal and estuary issues, and access to grant opportunities

- Better coastal planning outcomes due to the additional consideration and requirements of marine parks consent which ensure better planned coastal development;
- Expertise and support from specialised staff for technical assistance and to collaborate on joint programs such as Intermittently Closed and Open Lakes and Lagoons (ICOLL) management which councils have a role in managing, and a broader range of coastal issues; and
- An expectation of a commitment to resources to assist with compliance activities.

Approval processes for activities in a marine protected area

Marine protected areas create an additional approval authority for some activities, which can pose challenges for councils. An example of this is the requirement to seek approval for maintenance works in a marine park which can be very time consuming and delay council's ability to undertake basic up keep on assets that the community relies on. Maintenance works could be something as straightforward as jetty repairs which may be caught up in a complex approval process.

These concerns raised by councils could be managed through an agreement with council in the form of a Memorandum of Understanding (MOU) or Code of Practice Guidelines that specifies rules around maintenance activities to enable councils to undertake agreed works without needing a complex approval. This would enable ongoing basic maintenance activities to continue in line with these agreed guidelines and only more complex works to be captured by the more detailed approval process.

Responsibility for undertaking artificial openings of ICOLL entrances usually lies with the local council under their duty of care to the local community. Councils are required to obtain a licence under the *Crown Lands Act 1989* to undertake the entrance opening works, and an additional permit from the Marine Park Authority if the ICOLL is located in a marine park. Streamlining processes to ensure councils can obtain both approvals efficiently and ensure necessary works are not delayed should be considered.

Sections of the *Marine Estate Management (MEM) Act 2014* which will impact on councils include: Section 55 which requires a concurrence from marine parks for development within the marine park and may capture coastal protection works below the mean high water mark; and section 56 requires councils to take into consideration and consult with the Marine Park Authority if a development application (DA) in the locality is likely to have an effect on the marine park.

Clear advice will be needed by the numerous councils impacted by the Hawkesbury Shelf Marine Bioregion to ensure they understand any additional planning responsibilities or approvals required, including any impact of their own coastal management actions.

It should also be noted that councils preparing Coastal Management Plans (CMP) will be required to consult with the Marine Estate Management Authority as another agency stakeholder, adding more complexity to developing and finalising these plans.

Monitoring and adaptive management

If the proposed marine park is established, it will be essential to monitor the protected sites over time and ensure a scientifically rigorous monitoring approach is adopted. Base-line information will be important to observe changes over time. Outcomes of such research should be built into an adaptive management approach for the park along with a commitment to review site boundaries and permissible activities over time.

Conclusion

LGNSW supports the conservation of marine biodiversity and the management of threats facing the Hawkesbury Shelf marine bioregion. Consulting with the community directly affected by changes in management regimes in the marine bioregion is necessary, and must be undertaken prior to finalising the management framework, and the proposed marine park.

The discussion paper identifies the challenges faced in creating a marine park for the region. If the proposed marine park proceeds, then LGNSW seeks close consultation with relevant councils and the Sydney Coastal Councils Group in the development of a management plan as required under the MEM Act. The success of the marine park in achieving its objectives will depend on the approach taken to implement the park's management objectives. Community engagement, compliance, clear governance arrangements and adequate resourcing are all requirements of an effective marine park.

Local government is willing to work with other agencies to support marine protection while meeting the needs of the many existing users of this area.

For further information on this submission please contact Kirsty McIntyre, Senior Policy Officer – Environment on 9242 4055 or kirsty.mcintyre@lgnsw.org.au.