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Reference: 011-22

8 April 2022

Ms Claudine Lyons  
Claudine Lyons Consulting  
By email: [info@claudinelyonsconsulting.com.au](mailto:info@claudinelyonsconsulting.com.au)

Dear Claudine,

**Re: NSW Coastal Management Act 2016 – 5 year statutory review**

Thank you for the opportunity to provide comments to inform the review of the *Coastal Management Act 2016* (CM Act). The SCCG understands that the review is focused on the Act itself, with five consultation questions regarding the objectives and terms of the Act, definitions of the four coastal management areas and amendments needed, if any.

We note our participation in an interview with you on 3 March 2022 and attendance at a workshop held with catchment groups in the Sydney region on 23 March 2022. I trust that the SCCG's comments, as provided to you at these forums will be included in your considerations. Below is a consolidation of these comments, in response to the five consultation questions.

**Question 1: Do you think the objectives of the Act remain valid? Why/Why not?**

- *What are the strengths, barriers in using the Act?*
- *What do you think could be improved?*

CM Act objectives

The SCCG considers generally that the objectives are valid. However, the implementation and/or giving effect to the objectives, particularly through the development of coastal management programs (CMPs) is of concern and the SCCG believes that this should also be part of the review. This should include a review of the Coastal Management Manual (CM Manual) in particular to evaluate its effectiveness in guiding CMPs to meet the Act's objectives.

The SCCG has observed that development of CMPs among its member councils has been onerous, time consuming and a significant resource burden to complete. This is evident in the lapsing of timeframes for transitioning from Coastal Zone Management Plans (CZMPs) to CMPs. Many councils have struggled to conform with the transition provisions under the CM Act due to these factors. There are also concerns with the high resource burden and extended timeframes to complete CMPs, in the face of potential legislative changes that could result in changes to coastal planning requirements before CMPs can be completed.

We recommend that the CMP development process be simplified, include making it more targeted, timely and cost effective. It should better align with councils' capability and capacity



to ensure more timely certification of CMPs. Preliminary risk assessment should more closely guide a manageable scope and emphasis should be on identifying high priority management actions for early implementation. This could be effected through more specific requirements for risk assessment under cl.21(3)(b) and be reflected in the CM Manual.

Consideration should also be given to deferring full development of the CMP program to post initial certification such as through a periodic review and supplementary certification process (see also comments in relation to the review period for CMPs, below).

### S.23 public authorities

Section 23 of the Act requires other public authorities to have regard to CMPs to the extent that those programs are relevant to the exercise of their functions and to ensure that their own plans have regard to relevant CMPs.

The SCCG has observed and experienced challenges among CMP leaders in engaging State agencies in CMP development. As the Project Manager for the Greater Sydney Harbour multi-council CMP, the SCCG has laboured for up to 2 years to engage individual state agencies in its development despite the clear role these agencies play in the management of Sydney Harbour. There is also a lack of guidance from Department of Planning and Environment on how to formally engage these agencies throughout the CMP process and seek commitments to actions in a CMP. For CMPs led by an individual council, it can be overly onerous to effectively engage agency partners, let alone seek commitment and cost sharing for CMP development.

Councils need to be better supported in obtaining State agency buy-in to the CMP process and outcomes. It could benefit from DPE leadership to establish some generic principles with key agencies including facilitating regional level MOUs or terms of reference which could be reflected as requirements in the CM Manual. A key shortcoming of the process for CZMPs was a lack of State agency buy-in and the CMP process was intended to improve on that.

### **Question 2: Do you think the objectives and definitions of the four coastal management areas remain valid? Why/Why not?**

- *Would you like to suggest any changes?*

#### Catchment definition

In practice, managing the coast effectively requires consideration of how catchments are managed. The definition of 'coastal management areas' is incomplete in this regard.

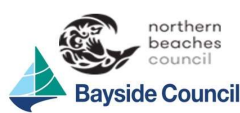
There is confusion among stakeholders about the extent that coastal/estuarine catchments can be covered by a CMP. The definition of the coastal zone in the CM Act appears to limit inclusion of catchments as does Schedule 1. However, the area that may be covered in a CMP is extended to catchments in Part B CM Manual, p.8 thus:

*The CMP may also cover areas outside the mapped coastal zone, where the management of the external area has a significant impact on issues within the coastal zone, for instance, wider estuarine catchments. This helps to ensure that actions are integrated and undertaken at an appropriate scale to address the issues.*

Inconsistency between the CM Act and the CM Manual needs to be addressed.

The definition of 'wider estuarine catchments' creates further interpretation as to whether this could include the freshwater parts of a catchment. The definitions of 'coastal zone' and 'coastal management areas' need to be redefined in the CM Act to better reflect the whole catchment, including the freshwater, estuarine and coastal parts of the catchment.

The SCCG notes also that the list of councils in Schedule 1 is limited to those Councils in coastal and estuarine areas. Schedule 1 needs to be updated to include those councils in



wider estuarine and associated freshwater environments. For example, not all of the 21 councils participating in the Greater Sydney Harbour CMP are included in Schedule 1.

### **Question 3: Are the terms of the Act appropriate for securing the objectives of the Act? Why/Why not?**

#### Review period for CMPs

Section 18(1) of the CM Act requires a council to ensure that its CMP is reviewed at least once every 10 years. The SCCG considers this period is too long, given the changes that could occur to coastal environments within this time, especially in response to climate change including sea level rise. The SCCG considers that a statutory timeframe of 5 years for reviewing CMPs would be more appropriate.

#### Alignment of objectives in the Marine Estate Management Act 2014 (MEM Act)

The objects of the CM Act include supporting the objects of the MEM Act. The Marine Estate Management Strategy (MEMS) has been developed under the MEM Act to set the overarching strategy for the State Government to co-ordinate management of the marine estate, with a focus on achieving the objects of the MEM Act.

The SCCG member councils developing CMPs have experienced difficulties in aligning with outcomes of the MEMS. Delivery of many outputs committed under the MEMS that have been critical to inform CMPs has been significantly delayed as well as the reporting on types of projects and their progress. The SCCG acknowledges some improvement in engagement with councils developing CMPs. However, there is still room for improvement in reporting and communication about anticipated outputs, progress and delivery timeframes.

### **Question 4: What amendments – if any- do you think are needed to the Act?**

- *Are there definitions that need clarifying?*
- *Are changes needed to reflect other legislation?*
- *What would help facilitate your work plan and environmental outcomes?*

#### Multi council issues

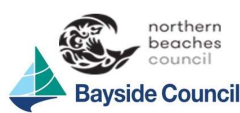
Under Section 7 Coastal Vulnerability Area, Section 7(2)(b), a council is required:

*to mitigate current and future risk from coastal hazards by taking into account the effects of coastal processes and climate change.*

The SCCG has observed current circumstances for multi-council CMPs being developed, where arriving at a shared view among those councils of the level of risk from coastal hazards is problematic. The problem is twofold; each council may bring a different level of currency and detail for its own coastal hazard information and each council may have a different appetite for risk, in choosing a coastal hazard scenario and time horizon such as for sea level rise and coastal inundation.

However, the CM Act is written as though every CMP is led by a council and there is no provision for multi-council CMPs. We note that funding under the Department of Planning and Environment (DPE) Coastal and Estuary Grants Program has been extended to Regional Organisations of Councils (ROCs), subsequent to the commencement of the CM Act. The references to a 'local council' in the CMP Act should be amended to reflect circumstances where ROCs or Joint Organisations of Councils may be developing and implementing CMPs.

The different issues that multi-councils may face in developing a CMP could also be afforded practical guidance in the Coastal Management Manual (CM Manual). The SCCG notes the



following statement, in Part A CM Manual, under the section for the Coastal Management State Environmental Planning Policy, Coastal vulnerability Area (CVA), p.11:

*The NSW Government will continue to work with local councils and communities to ensure that coastal hazards identified in studies or plans prepared by or for council are further considered, and where appropriate, reflected in land use planning instruments.*

The SCCG considers that more guidance is needed for multi-councils to deal with cross-boundary issues for their LGAs, regarding CVAs and to achieve consistency in risk levels and timeframes for coastal hazards such as sea level rise and coastal inundation.

## **Recommendations**

A summary of the SCCG's recommendations, as per comments under the preceding sections is below:

### CM Act objectives

1. The Coastal Management Manual (CM Manual) should be reviewed, as an outcome of the CM Act review to see how well it gives effect to the objectives, including how well it supports coastal management program (CMP) development and certification.
2. The CMP Act review should include making CMP development more targeted, timely and cost effective through:
  - i. a more simplified planning process that enables more resourcing and timely delivery for on-ground works and implementation
  - ii. more specific requirements for risk assessment under cl.21(3)(b) to guide efficiencies and be reflected in the CM Manual
  - iii. a more manageable CMP scope with emphasis on identifying high priority management actions for early implementation
  - iv. deferring full development of the CMP program to post initial certification such as through a periodic review and supplementary certification process.

### Section 23 public authorities

3. Greater clarity is needed about the commitment expected from public authorities to:
  - i. actively participate in CMP development and align their functions and plans
  - ii. identify financial and resourcing contributions to develop and implement the CMP.

The involvement of public authorities should also be supported through DPE leadership in ensuring the appropriate level of engagement of public authorities in CMP development and implementation, and formalising this through the development of regional level MOUs for example.

### Catchment definition

4. The CM Act is unclear on the extent of the catchment in the definitions of 'coastal zone' and 'coastal management areas'. The CM Manual identifies 'wider estuarine environments' which are not defined:
  - i. Redefine 'coastal zone' and 'coastal management areas' in the CM Act to better reflect the whole catchment, including the freshwater, estuarine and coastal parts of the catchment.
  - ii. Update Schedule 1 to include those councils within freshwater catchments, where upstream of an estuarine and coastal catchment.



### Review period for CMPs

5. Given the many changes that can occur to coastal environments over a 10 year period, the current period of review every 10 years should be reduced to at least every 5 years.

### Alignment of objectives in the MEM Act

6. There has been some improvement in engagement with councils developing CMPs establishing reporting and communication channels. However, better communication is needed about anticipated outputs, progress and delivery timeframes for projects that would likely provide vital information for CMP development. The development of a Communications Strategy, in consultation with Councils and catchment groups, is recommended.

### Multi-council issues

7. References to 'local council' in the CMP Act should be amended to reflect circumstances where ROCs may be developing and implementing CMPs. More guidance could be afforded for multi-councils to deal with cross-boundary issues for their LGAs, regarding CVAs and to achieve consistency in risk levels and timeframes, for coastal hazards such as sea level rise and coastal inundation.

Yours sincerely,



Sarah Joyce  
**Executive Officer**

