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Submission on the State Coastal Management Plan Review

Queensland Conservation Council (QCC) and its member organisations welcome the opportunity to provide our views on a review of the State Coastal Management Plan (SCMP).

QCC would like to state from the outset that we are not convinced by the process leading up to this statutory review. The scope and intentions of the process are unclear and confusing. We have seen no evaluation of the plan and have not been involved in any evaluation. It is difficult for any sector to adequately respond to the review as it is set out, due to this lack of information and assessment.

Why was there no independent review conducted as a starting point? The published findings of such a review would have made it possible for a more informed and comprehensive public response.

It slightly disconcerting to be asked by the EPA to prepare a coarse document that provides input to the State Government on some of the big issues for the State, without an adequate assessment of the State Coastal Management Plan to date.

While EPA has sought input from interested parties in the review of the State Coastal Management Plan, the approach adopted lacks rigour.

Any review needs to be supported by a thorough understanding of the history (what was sought to be achieved) and achievements (what has been achieved to date). Several varied data sources are essential. A number of well-recognised processes are available for use to develop this knowledge and understanding in support of the review, e.g. citizen and scientific expert panels, focus workshops with groups of similar stakeholders and most significant change reports.

In responding to the SCMP review documentation, we have provided comment under key headings which broadly express our views. We believe that this approach provides the EPA with the information on the most significant issues for our sector, and is the most effective means of assisting the EPA in developing a revised State Coastal Management Plan.

Key recommendations

- ? Full review of State Coastal Management Plan be undertaken to better address issues such as climate change impacts and other risks on coastal resources,
- ? A formal Implementation Plan be developed for the new State Coastal Management Plan with implementation targets and milestones developed and agreed to by relevant parties and adequate funding to deliver those;
- ? That the Implementation Plan include the requirement for the lead agency to report to Parliament on an annual basis on the implementation of the policy. To provide this, A State of Coast Report be prepared that reports against the milestones in the plan;
- ? That a permanent secretariat that has the responsibility of working with the EPA and other stakeholders to implement the plan be established;
- ? Greater focus in future implementation of State Coastal Management Plan on collaborative, non-statutory approaches and processes to increase community awareness of coastal values and 'buy in' for initiatives (but no reduction in regulatory tools available);

- ? Better application of the State Coastal Management Plan by elevating its status in the Integrated Planning Act so that compliance with the detail of the State and Regional Plans is mandatory rather than just one consideration of many, possibly through inclusion in the regulatory provisions of statutory regional plans;
- ? Leadership of coastal management in Queensland is elevated to a central agency (Premier and Cabinet) for delivery, or vastly increased resourcing to EPA to properly deliver the Plan.
- ? A revised SMPC must integrate, and be integrated, into all other government planning and development schemes

State Coastal Management Plan

The SCMP provided Queensland with an impressive first coastal policy. The policy was written with a distinct bias towards the protection of natural areas, rather than the management of developed areas. Given the charter of the lead agency, the Environmental Protection Agency, this is not at all surprising.

The State Coastal Plan is likely to be most relevant where the coastal resources are significant, or where potential impacts on coastal values may be on a scale that threatens those values. Therefore, many of the policies will have greater application to those undeveloped areas along the coast which are predominantly in their natural state and where future development may be proposed.

Urban areas often represent a highly modified natural environment where past decisions and approvals constrain the ability of agencies involved in coastal management to fully achieve the principles put forward in the State Coastal Plan (Government of Queensland 2001 p.3).

Without much subtlety at all, the policy clearly identifies what it intends to focus on what will be left out. This relatively insular approach has allowed the EPA to lose focus of the importance of building relationships with other key stakeholders who have serious management responsibilities in the coastal zone and there is significant room for improvement in this regard.

We strongly urge that the reviewed SCMP has due regard for the entire coastal zone. Natural areas must be protected, and developed areas must be properly regulated and managed so that they respect the natural environment and do not continue to threaten it.

Definition of the Coastal Zone

The definition of the coastal zone in Qld is arguably the most progressive in Australia; however, it aligns poorly with agencies and governments that are traditionally used to dealing with lines on maps.

The coastal zone includes coastal waters or all areas to the landward side of coastal waters in which there are physical features, ecological or natural processes or human activities that affect, or potentially affect, the coast or coastal resources.

It is worth reflecting on the success of coastal management programs in other states to see if it's worth amending this definition.

Managing our Coasts

Coastal development and use remains a major issue. Trends in migration to coastal areas and pressures from tourism (domestic and overseas) continue to grow. Additionally, coastal areas including major urban settlements are at a far greater risk from the impacts of climate change than previously recognised. Protection of coastal ecosystems and areas of social and cultural value and the sensible and sustainable use of coastal resources are still critical issues requiring collective government, industry and community action.

Decision-making for coastal areas and resources, however, remains fragmented. Completion and implementation of coastal plans, including the implementation of the State Coastal Plan 2001 remains incomplete and in many instances, separate to other planning and management arenas. Additionally, state of environment (coasts) reporting – a critical platform for managing coastal resources – is patchy and poorly linked to the planning cycle. The absence of a clear picture regarding the current condition of resources, the trends over time and the effectiveness of certain management actions is problematic.

Management of risk to coastal areas is a key issue to be addressed in the current review. Research projects to build an understanding regarding climate change impacts and community involvement in defining the options are essential. Federal and state governments are allocating greater levels of resources and priority to addressing potential climate change impacts. This is an opportunity for the current investments in this area to deliver significant outcomes for coastal management and data for future coastal planning.

Additionally, perverse incentives that encourage unsustainable and poor development of coastal areas need to be reviewed. Key examples include the impacts of the lack of land release strategies by local governments, inflated housing and land values for coastal foreshores and poor recognition of climate change risks by urban development and insurance industries.

Coastal Zone Management and Protection

At the time of its introduction, the Coastal Protection and Management Act 1995 was seen nationally as a new line of progress in managing Australia's coasts. The core directions of the legislation built on the findings from the national Resource Assessment Commission Inquiry into Coastal Zone Management in the early 1990s.

The key features of the Act are the focus on protection and wise use of coastal resources, holistic view of defining the coastal zone, establishment of a Coastal Protection Advisory Council and an emphasis on community involvement in planning for the coast on a region by region basis.

The strengths of our coastal management approach in Queensland, to date, have been:

- ? Sound legislation dedicated to coastal management setting up the regulatory framework for planning, development and use of coastal resources;
- ? Technical expertise in coastal processes (coastal engineering);
- ? The framework contained within the Coastal Act for a 'bilateral' approach to implementation of coastal management initiatives with State and local governments able to play key roles (State and regional planning, development assessment within coastal management districts; and local area planning, respectively);
- ? Clear relationship with the Integrated Planning Act 1997 (IPA), however there are shortcomings with treating the Coastal Plan as a State Planning Policy for the purposes of local government planning schemes and development assessment processes, which are outlined below;
- ? Ability for coastal plans to address issues that are not development focused e.g. rehabilitation and land management issues that sit outside IPA;
- ? The recognition of the broad spectrum environmental, social, cultural and economic values of the coast.

Implementation of the Coastal Act is seen within the Queensland Government as EPA business. However, the breadth of coastal issues is not limited to protection of biodiversity, management of protected areas and licensing of environmentally relevant activities. Portfolio responsibilities and expertise for critical issues such as land use and social planning, transportation and economic development, vegetation management, cultural heritage and landscape amenity sit outside EPA. This is a major flaw in the delivery and realisation of coastal management in Queensland.

An elevation of coastal management in recognition of the significant issues facing coastal areas to a whole of Queensland government level is essential.

A similar central agency approach has been taken for the Reef Water Quality Protection Plan 2003 which is led through the Department of the Premier and Cabinet. Investigation into the workability of such an approach being taken to coastal management generally in Queensland is recommended.

In addition, there is a need for a trilateral approach to managing our coasts as all three spheres of government have a strong role and stake in the coast.

COAG provides a strong unifying framework and could be the appropriate forum for addressing coastal policy and the development of a Coastal Agreement. Further investigation into this approach is strongly recommended to address the current fragmentation of decision-making in the coastal zone.

Coastal Planning

We support good and effective coastal planning and recognize the absolute importance of this process (when done properly). This is an opportunity to put forward a better means of implementation of the process.

Despite great effort only three plans are published with another four still in draft form. We need a better roll out and implementation. Future planning must include an implementation strategy that allocates funding for programs.

It needs to be recognized that capacity building and partnerships (i.e. with regional NRM Groups and Local Govt Authorities) are key to this.

The framework of a two-level, nested planning system – i.e. the State and regional coastal management plans – is a strong feature of coastal management in Queensland. It provides for the setting of state-wide policies and direction and response to the specific contexts of each region's coastal environment and communities.

However, the finalisation and implementation of coastal plans has been problematic (e.g. Wide Bay has been in draft form since 1997). This failure to complete plans calls into question if there are alternatives that would deliver the desired clarity of direction for the coast.

Since the development of the State Coastal Management Plan in 2001, regional NRM bodies have been established throughout Queensland and regional planning for natural resources including coastal areas and catchments has been through its first cycle of plan development, investment and implementation. These groups provide a significant opportunity for an alternative or complementary approach to be taken to future coastal planning initiatives. With the revised arrangements for NHT 3, this complementary approach should be extended to include the independent community sector in the delivery of desired outcomes.

Additionally, in an after-action review of the State Coastal Management Plan 2001, it was identified that EPA lacks clarity in its role in coastal planning. Conflicting roles for EPA staff occur between playing dual tasks of;

- 1) Advocate for good environmental outcomes and;
- 2) Facilitator of consultation and negotiator between sectors/ agencies and community interests.

The public profile and image of EPA was at times counter-productive to establishing trust and open communication with many stakeholder groups. In many cases, stakeholder perceptions of EPA were 'anti-development' and believed therefore that coastal planning would be solely focused on conservation outcomes.

Statutory Review

The State Coastal Management Plan contains no regulatory provisions and is only implemented legally by being deemed to be a State Planning Policy (SPP) under the Integrated Planning Act (IPA). While delivery through IPA is supported, there are numerous problems caused by the State Coastal Management Plan being treated as an SPP.

(i) State Coastal Management Plan only a non-mandatory consideration in development assessment. The detailed provisions of the State Coastal Management Plan (and of other SPPs) are routinely ignored by local government assessment managers as IPA only requires them to "have regard" to SPPs in making a decision on a development application, as one consideration amongst many. There is no obligation to actually implement the detail of the State Coastal Management Plan, which vastly undermines the effectiveness of the Plan.

(ii) State Coastal Management Plan poorly reflected in local planning schemes. SPPs are also required under IPA to be reflected in local government planning schemes. To date only six planning schemes have been certified as appropriate reflecting the State Coastal Management Plan.

The authors are concerned that the finer details of SPPs are lost in this process of incorporation into planning schemes. This is exacerbated when an SPP contains generalised statements or lacks specificity. The result is a watered down version of the Plan's requirements once incorporated into the planning scheme. For example, the authors are aware of anecdotal evidence where local government town planners thought the State Coastal Management Plan was only a guideline.

Moreover, frequently there are conflicts within planning schemes – such as where a parcel of freehold land is zoned for rural residential but also has a nature conservation overlay on it.

In such circumstances, the Council and the Courts routinely preference development rights over the rights of the environment. There is no vehicle in the State Coastal Management Plan or in IPA to require the State Coastal Management Plan to prevail where there is a conflict with other parts of the planning scheme.

(iii) Conflicts between state interests – the environment always loses

State interests as expressed in SPPs may conflict with each other, and there is currently no guidance to local governments conducting development assessment on which should prevail. The authors understand that the current review of IPA will produce a hierarchy of SPPs. The strong view of the authors is that pro-environment SPPs, including the State Coastal Management Plan, should prevail over other SPPs.

In summary, treating the State Coastal Management Plan treated as an SPP under IPA results in a watered down and un-enforced Plan.

The authors support delivery of the State Coastal Management Plan through IPA, but it must be given primacy. Amendments are required to compel local government assessment managers to comply with (rather than just “have regard to”) the State Coastal Management Plan when making development assessment decisions. Amendments or more strict state interest checks of local planning schemes are also required, to ensure the Plan is accurately reflected in local planning schemes at an appropriate level of detail.

Using the Regulatory Provisions of the SEQ Regional Plan and future statutory regional plans to come could achieve this certainty.

Scope of EPA Referral Jurisdiction

EPA’s referral jurisdiction for development assessment under IPA should be triggered if an activity conducted outside the coastal management district is likely to impact up on the coastal management district. This ensures that activities which have off-site impacts are not sited near the boundary of the coastal management district without being assessed for their potential impacts on the coastal management district.

Reducing duplication between State Coastal Management Plan and other instruments

We are very concerned about the proposal to remove aspects of the State Coastal Management Plan which are duplicated in other regulatory instruments, including those administered by other agencies.

Our strong view is that the State Coastal Management Plan should be the primary document containing all regulatory and policy arrangements for the coastal zone. A piecemeal and fragmented State Coastal Management Plan

would be weaker and would not only make coastal regulation more complex by spreading relevant regulatory provisions across several instruments; it may also reduce protection for the coast.

The State Coastal Management Plan sits under the Coastal Protection and Management Act which has as its object to provide for the protection, conservation, rehabilitation and management of the coast and its biodiversity. This object is clearly protective of environmental coastal values. Relying on other policy or legal instruments which are not bound to advance the purpose of the Coastal Protection and Management Act to deliver aspects of coastal regulation therefore risks reducing protection for the coastal zone.

IPA has strong public participation and enforcement provisions and these must remain as the vehicle for ensuring compliance with the State Coastal Management Plan. Use of other instruments which may not be rolled in to IPA would remove those good public participation and enforcement rights.

Funding for Implementation

Funding for programs and implementation is crucial to the success of the State Coastal Management Plan.

Given the poor incorporation rates of the State Coastal Management Plan into local planning schemes, there is an urgent need for increased funding for proper implementation of the Plan in this aspect. Training of local government personnel on enforcing the State Coastal Management Plan, or enforcing conditions on development approvals imposed to protect the coastal zone is imperative.

Climate Change

The State Coastal Management Plan must be amended to deal better with climate change, both in mitigation and adaptation. The Plan should also require decision makers to apply the precautionary principle when making decisions in the coastal zone.

A review of the plan will provide the opportunity to integrate policy and actions with the Queensland Climate Adaptation Program.

The impacts of storm surges, rising sea levels and loss of foreshore habitat are crucial and must be planned for both in the State Coastal Management Plan and in local planning schemes. Failure to do so is likely to lead to legal liability and claims for compensation by coastal property owners against local Councils and the state government. Buckley et al (2007)¹ expects disgruntled property owners are most likely to seek compensation from local and state governments for approving development in vulnerable areas.

¹ Buckley, R., et al., 2007, *Climate Response: Issues, Costs and Liabilities in Adapting to Climate Change in Australia*, Griffith University, Gold Coast and Brisbane, ISBN 978-1-921291-11-1, page 13.

Other Comments

- ? Improve the relationship between agencies and organisations that have coastal planning, management and protection roles (Principle 9).
- ? There is a generally poor understanding of the economic, social and cultural values of the coast. For example, the plan does not adequately reflect the importance and value of our social, cultural and spiritual relationship to the coast (Principles 6 & 7) and how this relationship may be used to improve coastal stewardship.
- ? Neither the SCMP nor the finalised RCMPs have attempted to value the coastal economy or coastal ecosystems. This is a key gap in the SCMP and really should be a new Principle. The SCMP has made an initial attempt to understand / reflect this through the concept of areas of state significance (social, economic and natural) but is poorly understood and not well integrated through the plan.
- ? Our understanding of emerging coastal impacts needs to be improved e.g. how climate change, risk and emergency management is dealt with in the SCMP needs to be significantly reviewed. The construction of the desalination plant in Tugun and the very real prospect of other desal plants and a number of offshore energy projects being constructed in the coastal zone in the next few years needs to be seriously considered. A piecemeal and ad hoc approach (policy development on the fly) is unacceptable.
- ? The role of a revised IPA in the coastal planning and management process needs to be better understood.
- ? Delivery of coastal management - the role of regional NRM bodies and regional plans for delivering coastal management outcomes needs to be better examined and integrated into the coastal management program.
- ? Delivery of coastal management - the role of local government, especially in strategic planning should be investigated.
- ? Delivery of coastal management - the use of Strategic Environmental Assessment could be explored for use at the regional level to assist managers to deal with cross jurisdictional environmental management issues that are not picked up in plans that are cadastrally restrictive.

- ? The development of Coastal Management Districts (CMDs) as coastal management tools is tied to the development of plans for the old erosion prone areas and their current application seems to be limited for no apparent reason except that of precedent. Under the Act, CMDs can have a much wider application and serious attention should be given to how CMDs might be used to better achieve coastal management goals, especially in developed areas.
- ? There needs to be a systemised social learning and capacity building program for staff and key stakeholders.
- ? The reporting process (i.e. through the SoE) is not well developed and should be improved, for example through an annual report to Parliament against specific milestones.
- ? The State Coastal Management Plan needs to better identify and protect important habitat areas within the coastal zone. The Nature Conservation Act does not protect habitat, and the impacts of climate change are likely to exacerbate pressures on coastal habitat. The need for habitat protection in these areas is great.

Regards,

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