



ACS

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Coastal Policy Unit
Department of Environment and Resource Management
Reply paid 15155
City East QLD 4002

Dear Sir / Madam

Re: Draft Queensland Coastal Plan

On behalf of the Queensland Branch of the Australian Coastal Society we would like to thank the Hon. Kate Jones MP, Minister for Climate Change and Sustainability for her request that the Society provide feedback on the Draft Queensland Coastal Plan (the Plan).

After consideration by members of the Queensland Branch, we would like to submit the attached comments for your consideration.

Members of the Society would be pleased to assist the Department in clarifying, or otherwise discussing further, the points and concerns raised in our submission.

We note that consultation and expert technical review of these documents to date has been limited and that whilst the Coastal Protection Advisory Council (CPAC) provided input to the terms of reference for the review last year, that there was no further consultation with CPAC this round.

Although this was in keeping with the recommendations contained in the review published earlier this year *Brokering Balance: A Public Interest Map for Queensland Government Bodies -An Independent Review of Queensland Government Boards, Committees and Statutory Authorities* to abolish the Coastal Protection Advisory Council, it unfortunately left the Queensland Government without independent and expert technical advice with which to finalize the Plan.

Given the complexity and the broad spectrum of stakeholders required to respond to the Queensland Coastal Plan, the Society would welcome the opportunity to be involved with any working group or other stakeholder committee set up to finalize the draft plan. We note that similar approaches have been used recently by the Department in the context of the Draft SPP Healthy Waters.

We look forward to working with the Department to achieve improved outcomes for Coastal Management in Queensland.

Yours faithfully

Sue Sargent
Acting Chair – Queensland Branch

Submission to Department of Environment and Natural Resources on the draft Queensland Coastal Plan

Submitted by the Australian Coastal Society - Queensland Branch (the Society)

For more information relating to this submission, please contact:

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This submission relates to the following aspects of the draft Queensland Coastal Plan 2009 -

- Draft Queensland Coastal Plan - Draft State Policy Coastal Management (hereafter referred to as 'the draft Policy'); and
- Draft Queensland Coastal Plan - Draft State Planning Policy Coastal Protection (hereafter referred to as 'the draft SPP').

Background

Getting coastal management right in Queensland has never been more important. The re-making of Queensland's State Coastal Management Plan (2001) provides the opportunity to review the progress made in terms of coastal management over the past decade, analyse ways to overcome barriers to implementation and determine the best ways to respond to new challenges such as climate change which will increasingly affect the coast and its resources over the next 10+ years.

The review of the plan also comes at a time when there is significant national attention on coastal management issues. The Commission of Inquiry on Coastal Management and Climate Change through the 'George Report' has made its recommendations to the Government, which will allow the Queensland Government to consider the emerging national policy objectives outlined by the Commission. The Government has also released its Climate Change Risks to Australia's Coast report which reinforces the risk of climate change to coastal values and assets including a specific chapter on Queensland.

On reviewing the documents released for consultation associated with draft Coastal Plan, the Society is concerned that the draft SPP and draft Policy - as essential components of the State's overall coastal management strategy - fail to address some of these key challenges for coastal management in their current form. This submission has been prepared to provide recommendations to the Department of Environment and Natural Resources (DERM) for consideration in revising the documents prior to finalisation and more broadly in terms of future coastal management in Queensland.

The content of this submission is separated into the following headings:

- (1) Overall Comments
- (2) Specific Comments about the draft Policy
- (3) Specific Comments about the draft SPP

(1) Overall Comments

Structure of the Documents

On reviewing the documents, the decision to have two policy instruments and a third 'glossy' document outlining the need and context for coastal management is confusing and counterproductive. The result is the loss of coherent Government policy position on coastal management.

While not perfect, the existing SCMP 2001 does provide guidance across a range of planning, development assessment and management functions categorized under major policy headings. Clearly, this structure and vision of the original document has been 'lost in translation' when reviewing the new documents.

As will be outlined below, the two documents (the draft SPP and the draft Policy) are themselves very disparate with the draft SPP intricately drafted for use in the preparation of assessment codes and development assessment functions while the broader draft Policy is considered to be vague and poorly outlines its scope and purpose.

If the two document approach is to be retained, we have outlined more specific comments about each of the instruments (and recommendations to address) for consideration in the sections below.

Loss of regional plans and resource assessment mapping

Overall, the Society is disheartened by the loss of the regional planning process under the Coastal Act. While it is acknowledged that in most cases the regional plans were not offering additional policy content/guidance to the State plan, the resource assessment role of the plans in bringing together stakeholders, information and resource data into mapping was a valuable process that included meaningful involvement, consultation and information sharing between Departments, local government, regional bodies and the community.

If the regional planning process is to be abandoned, the Society advocates that the Department should under the State Coastal Policy continue to lead a regional coastal resource assessment planning function through the establishment of expert panels (made up of appropriate Government and Non-Government representatives) for coastal resource assessment.

Similar models exist for other resource assessment functions undertaken by the Department including for instance the Biodiversity Planning Assessments and AquaBAMM.

These expert panel bodies should meet on a regular basis to review information and data sets underpinning the State plan and ensure decision making is based on the best available data and information. It is noted that these groups could replace the current Regional Consultative Groups under the Act, noting their intended function would be more technical than statutory in supporting coastal management at the regional level.

Recommendation

That the Department set up regional resource assessment expert panels in each of the coastal regions to review the mapping and underlying data sets called up in the State policy and SPP. This intention should be included in the documentation to ensure accountability with performance measures to assess implementation.

Provision should also be made in the Act and/or Policy to allow review and revision of mapping layers under the State plan to be reviewed and amended outside of the mandatory statutory review periods for the plan to ensure new information and data can be considered in decision-making as it is collated and reviewed by the resource assessment expert panels.

Implications of the SPA and Climate Change

As the Department is no doubt aware, the draft SPP and draft Policy as they currently stand will need to be amended to address the implications of the passage of the Sustainable Planning Act (SPA). It is assumed that this will be addressed as part of the finalization of the coastal planning documents.

In this context, it will be essential that the draft SPP provides clear guidance to local governments as well as to DERM and other State Government agencies acting as IDAS decision makers to which provisions in the SPP relate to the consideration of climate change issues such as sea level rise now that the SPA makes consideration of these issues a statutory requirement.

Recommendation

That the DERM in finalising the draft SPP and draft Policy ensure consistency with the SPA including guidance on new requirements related to consideration of climate change in decision-making.

(2) Specific Comments about the draft SPP

Drafting Technique and Approach

In reviewing the document, the draft SPP appears to have gone down a much more legalistic pathway to the previous State Coastal Plan. The resulting SPP, we believe would be difficult to use even by experienced coastal management practitioners because of this drafting style.

A number of Society members from local governments have particularly commented on the complexity of the drafting and the likely need for significant training and resources that would be needed to use the document.

Part of the problem here is the effort put into arranging the policies by their exclusion rather than their application. For instance, development provisions are currently organised in the context of where they occur (within or outside strategic port land) versus the type of development (coastal protection works) versus the applicant (Government sponsored infrastructure).

While legally precise, we suggest that these provisions are even more difficult to decipher and utilise than the current SCMP and the Department needs to consider ways as part of the final documentation of making them more user friendly, similar to

the approach in other SPPs (including the recently released draft SPP Healthy Waters).

In this context, the loss of logical policy headings within the SPP erodes its usability. Specifically, a move to organise and arrange components under the policy outcomes (refer Section 1 of the draft SPP) would seem a more logical approach to be considered. We note that this approach has been done in the assessment code – but not in the policy itself.

Recommendation

That the DERM in finalising the draft SPP consider restructuring the document into more logical headings and to reduce the level of legal complexity inherent in the draft to improve usability.

Overriding Need in the Public Interest and Offsets

It is commendable that the Plan has sought to better define this existing requirement of the Coastal Plan in Annexure 2 of the draft SPP. However, the Society's view is that the tests of establishing overriding public need set out in the Annexure are still sufficiently broad and qualitative in nature and therefore unlikely to change the status quo.

In addressing this, the draft SPP has the opportunity to be much more prescriptive about environmental offset requirements such that there is certainty in Government, business and the community to what is expected in terms of an offset and such considerations can be factored into project planning and decision making.

Recommendation

That the DERM in finalising the draft SPP re-work and augment the Annexure 2 about overriding need in the public interest including through the setting or more prescriptive offset requirements for offsetting residual impacts to coastal resource values that cannot be otherwise avoided or mitigated through on-site design and environmental management measures. This could include for example required ratio for coastal habitat removal or degradation consistent with current DPIF Operational Policy.

Visual amenity

As is the case with the current State Coastal Management Plan, the draft SPP has limited scope in the context of coastal landscape and visual amenity (the draft SPP term is scenic preference values). There is poor explanation of the planning process that would be undertaken to establish the scenic preference value of an area or the overall process of how such preferences would be assessed at an application level. Compared to other States in Australia such as NSW (refer NSW Coastal Design Guidelines) and Victoria (refer Landscape and Visual Amenity Guidelines published by the Victorian Coastal Council), this issue is not given a high priority in the plan despite being an obvious, critical component of Queensland's coastal value base.

Recommendation

That the DERM in finalising the draft SPP re-consider the approach to landscape and visual amenity with a view to ensuring coverage of the issue is approaching best practice similar to approaches already implemented in other Australian states.

(3) Specific Comments about the draft Policy

The draft Policy is an essential tool for ensuring the range of land and water management activities that occur and/or affect the coastal zone (that are not regulated through the IPA/SPA) are provided with a overarching policy direction towards effective coastal management outcomes.

In this context, the Society recognises that the document can perhaps be somewhat less rigidly drafted than the SPP but nevertheless needs to provide clear policy outcomes in order to influence a range of decisions and activities in the coastal zone. The opportunity provided by this document is to ensure some of the suitable principles and policies that underpin the original State Coastal Management Plan are retained.

Drafting Technique and Approach

Overall the Society found the draft policy to be vague, poorly drafted from a legal perspective (compared to the SPP) and ambiguous in terms of its scope, content and intended use. In our view, the policy guidance provided in the previous State Coastal Management Plan in terms of the hierarchy of outcomes, principles and policies appears to have been lost. Statements within the Policy such as the 'the State Government supports and encourages proactive planning and management responses' (refer Policy 5.1) are illustrative of the lack of precision in drafting as well as the lack of clear direction being offered by the instrument.

Recommendation

A major drafting review of draft policy should occur to ensure it better reflects the policy outcomes sought by the current SCMP and can be practically implemented. In this context, the Policy should be re-structured to target the key decisions and activities it is trying to influence - see comments below

Application in planning and decision-making by other Government Departments and Local Government

Whereas the draft SPP is very deliberate in the functions and decision under the IPA it is attempting to influence, the scope and application of the draft Policy in section 3 of the document continues to be vague and unnecessarily limited. It is noted that the draft Policy is intended to influence a broad range of planning and management actions. If that is the case, we would recommend that the draft Policy (in so far as it has the legislative power to do so) should be prescriptive about the decisions it is trying to influence in a similar manner to the SPP.

Noting a broader range of activities than is presented here, the Policy should at least be considered in the context of the following decisions -

- Allocation of State land (including the type of tenure and conditions of tenure) and/or provision of a resource entitlement in the coastal zone under the Land Act
- Planning and decision making in relation to protected areas under the Nature Conservation Act
- Planning and decision making in relation to State forests, plantations and similar tenures controlled under the Forestry Act
- Water resource plans, resource operations plans, and other permitting and decision making under the Water Act
- Preparation and implementation of strategic port land use plans and state boat harbour management under the Transport Infrastructure Act

- Vegetation clearance permits and planning under the Vegetation Management Act
- Preparation and implementation of local laws under the Local Government Act

The policy states that implementation will rely on 'effective partnerships between stakeholders'. In this context, the provisions discussed above are strongly recommended to be reinforced through Memoranda of Understanding (MOU) or similar instruments between departments of the State and with the Local Government Association of Queensland to ensure that the policy is being effectively considered in day to day decision making. These MOUs could relate to amendment of other department's internal policies and guidelines, referrals to the DERM for advice on proposals or similar arrangements, noting the key implementation action is to ensure the document is known to and being used by agencies other than the Coastal section of the DERM.

Recommendation

A major drafting review of draft policy should occur to ensure it targets the key decisions and activities it is trying to influence in terms of other State Government agencies and local government. The Department should also consider the best means of implementation of the Policy and flag as part of the final document its intention to develop MOUs or similar instruments that will ensure the policy is implemented by these entities.

Application in land and water management activities

It is intended by the draft Policy that it be 'used by coastal land owners and managers' in the context of day to day management of land and water. While this is also an issue with the current SCMP as well, there continues to be no practical means within the Policy for achieving this. Similar to the comments above, at a minimum the policy should be more direct about the types of activities it is seeking to influence. For instance, we assume the Policy is seeking to influence management of reserves and other coastal land held in trust by local government as well as farm management plans and systems and other property level plans on freehold and leasehold land. The policy in its current form does nothing to identify its relevance to these processes and will likely be ignored as a result.

Similar to the above, assuming the scope of the Policy can be better defined, the policy should form the basis for more proactive arrangements to be defined between the DERM as lead agency for coastal management and other land managers. This could take the form of MOUs or similar but implementation should also link with existing policies and programmes aimed at land management such as regional NRM planning and Caring for Country (eg. Coastcare, Landcare and similar).

Recommendation

A major drafting review of draft policy should occur to ensure it targets the key decisions and activities it is trying to influence in terms of land and water management activities. The Department should also consider the best means of implementation of the Policy and flag as part of the final document its intention to develop MOUs or similar instruments that will ensure the policy is implemented by these entities and appropriate linkages with other property level planning and funding programmes are outlined.