



Our future on the coast

NSW Coastal Management Manual Part B:
Stage 4 – Prepare, exhibit, finalise, certify
and adopt a coastal management program

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Prepare, exhibit, finalise, certify and adopt a coastal management program

In Stage 4, guidance is provided to councils about:

- preparing a coastal management program (CMP)
- exhibiting the draft CMP and any related planning proposal
- reviewing and adopting the draft CMP
- submitting the draft CMP to the Minister for certification
- publishing the certified CMP in the Gazette.

4.1. Overview of Stage 4

The following sections of the *Coastal Management Act 2016* and associated mandatory requirements from Part A are most relevant to this stage

Section 15 Matters to be dealt with in coastal management program.

Section 16 Consultation.

Section 17 Adoption, certification and gazettal of a coastal management program.

Section 18 Review, amendment and replacement of coastal management programs.

Section 19 Availability of coastal management programs,

Stage 4 involves the preparation, exhibition and submission of a draft coastal management program (CMP) to the Minister for certification.

Exhibition of the draft CMP enables council to confirm the outcomes of collaboration with the community and stakeholders about what coastal management issues are being addressed, what actions are proposed and the rationale for selecting those options. It provides a further opportunity for community involvement.

It is recommended that the draft CMP is submitted to the Office of Environment and Heritage (OEH) for review both before public exhibition and after community and stakeholder input has been incorporated. The draft CMP is then finalised and adopted as a draft by the council prior to forwarding to the Minister for certification.

When the draft CMP is submitted for certification, the Minister may seek advice from the NSW Coastal Council before deciding whether to certify the CMP. Once certified, the CMP must be published in the Gazette by the local council.

Figure B4.1 shows the recommended steps a council may undertake when preparing, exhibiting and finalising a CMP.

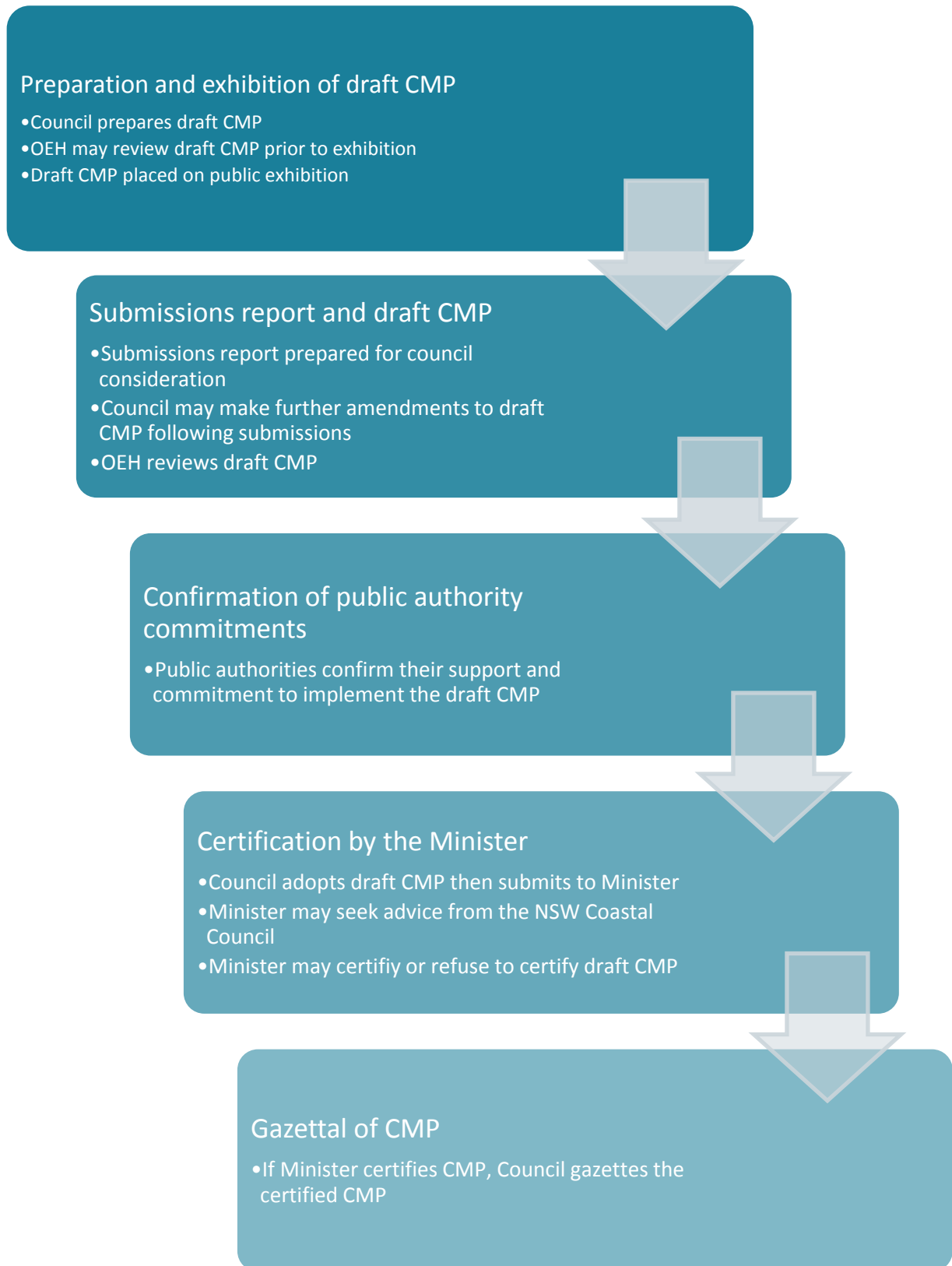


Figure B4.1 Finalising the CMP

4.2. Components of a CMP

The CMP is a clear and succinct statement of proposed coastal management actions undertaken to meet state, regional and local coastal management objectives.

The CMP outlines how actions will be implemented through the Integrated Planning and Reporting (IP&R) framework and the land-use planning system (including relevant information about timing, costs and responsibilities).

The CMP should contain sufficient information to stand alone as a framework for sustainable management of the coastal zone for the coming 10 years. It may also highlight any uncertainties about change and foreshadow longer-term issues.

The components of the CMP are outlined in **Figure B4.2**, with further information in **Sections 4.2.1 – 4.2.9**.

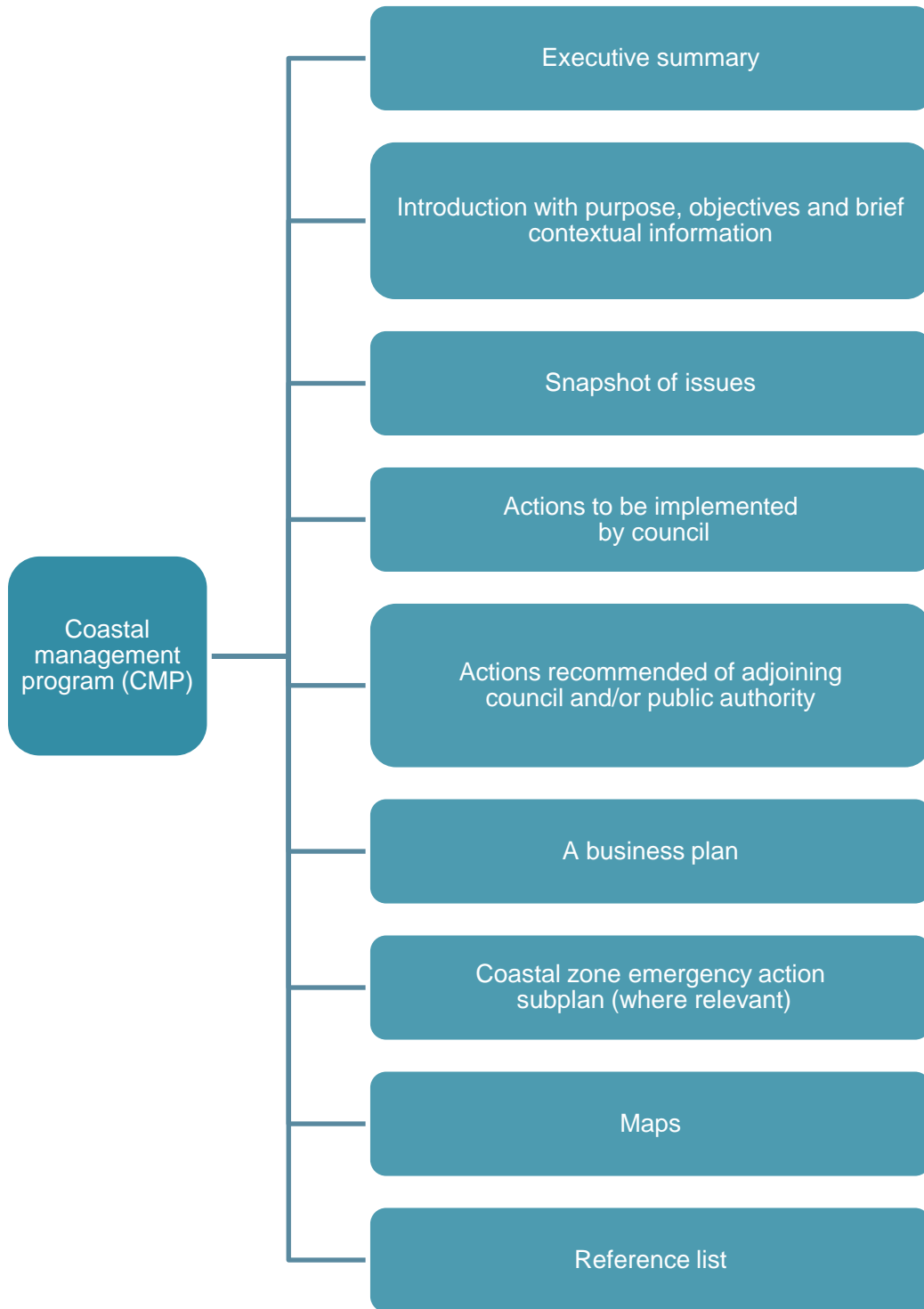


Figure B4.2 Recommended components of the CMP

4.2.1 Executive summary

The executive summary of the CMP provides an overview of the CMP.

It outlines the council's proposed framework for a strategic and integrated approach to managing short, medium and long-term coastal management issues.

The executive summary provides a clear statement of council's priorities over the next 10 years. It also signals council's longer-term strategy for the coast, consistent with the objects and management objectives in the *Coastal Management Act 2016* (CM Act).

4.2.2 Introduction

It is recommended that the introduction provides an overview of council's vision, objectives and strategic direction for the relevant coastal management areas, and how these align with the state's objectives for the NSW coastal zone under the CM Act.

It provides an overview of the context, purpose and scope of the CMP. It also includes a location map showing the relevant coastal management areas included in the CMP, the coastal sediment compartment context, local council boundaries and natural and socioeconomic features.

The introduction would benefit from being supported by an overview of key stakeholders, their interests and issues, and how they have been consulted. Key stakeholders may include public authorities, other councils, the local Aboriginal community, businesses, residents, rate payers, community groups and visitors.

4.2.3 A snapshot of issues

The snapshot provides a summary of the key coastal processes, coastal hazards, threats to coastal ecosystems and values, and priority coastal management issues for the CMP. This information may be presented graphically or in tables, with detailed information provided in the supporting documents.

It outlines how the CMP was prepared and what planning horizons, scenarios and risk criteria have been used when identifying coastal management issues, assessing risks and evaluating actions and the rationale for their selection. It also highlights any significant changes in issues since the last CMP was adopted.

The snapshot of issues outlines how the CMP has considered matters such as:

- current and future risks, at timeframes of immediate, 20 years, 50 years, 100 years and beyond and if appropriate, potentially very large, low probability events
- the effects of climate change
- the local and regional-scale effects of coastal processes
- the ambulatory and dynamic nature of the shoreline
- population growth and demographic changes
- projected use of the coastal zone.

The snapshot identifies the coastal management issues for each of the coastal management areas recognising that some issues may affect more than one area.

For a coastal wetlands and littoral rainforests area, the snapshot may identify the current and future threats to the biodiversity, resilience and integrity of these ecosystems and ecological health. It may highlight degraded areas and locations threatened by land-use pressures and climate change.

For coastal vulnerability areas, the snapshot may outline the current and future risks from coastal hazards, including public safety and risk to life. It highlights the properties and critical infrastructure that are vulnerable to coastal hazards. It may also outline issues and threats to the presence of beaches, dunes, natural features, public access, use and amenity.

For coastal environment areas, the snapshot may identify any threats and risks to coastal ecosystems, biological diversity, ecosystem integrity, water quality and estuary health. It may also outline threats to beaches, dunes, natural features, public access, use and amenity.

For coastal use areas, the snapshot may outline threats and risks to the scenic, social and cultural values of the coast including expected population growth and development pressures.

4.2.4 Actions to be implemented by the local council

The CMP outlines what proposed coastal management actions will be implemented by the council and how they address coastal management issues in an integrated and strategic manner. It may identify how actions have been prioritised in terms of their feasibility, viability and acceptability.

The CMP provides an overview of how and when coastal management actions are to be implemented, whether there are any priorities, and the allocation of roles and responsibilities to achieve them (consistent with the relevant legislation). It distinguishes between actions to be implemented under the IP&R framework and the land-use planning system.

As a minimum, a CMP includes a list or table of coastal management actions that are intended to be implemented by council in relation to any existing or proposed coastal management areas.

It also includes coastal management actions that are intended to be implemented by council through the preparation, development and review of, the plans and strategies, programs and reports to which Part 2 of the *Local Government Act 1993* applies (referred to in this document as the IP&R framework) and the indicative time-frame for this.

Actions to be implemented by councils as part of the IP&R framework may include policies, programs, plans or works relating to coastal infrastructure, asset management, public access, amenity, community awareness, monitoring, reporting, research and environmental protection and restoration. It is recommended that actions be consistent with the level of service expected by the local community.

The CMP may present schedules of proposed coastal management actions in a similar format to the IP&R framework, highlighting actions to be delivered in the Operational Plan and Delivery Program. Tables that show location, issue, actions, priority, budgets, responsibilities and timeframes may help in presenting this information.

The scheduling of coastal management actions may identify short, medium and long-term actions. It may also highlight actions that are linked and contingent on the implementation of other actions.

The CMP may identify ongoing programs and commitments for maintenance or replacement of assets that may extend beyond the review timeframes for both the IP&R framework and the CMP.

A CMP will need to include a list or table of proposed coastal management actions that are intended to be implemented by council, as far as this relates to their statutory functions, and could include the preparation of planning proposals and development control plans under the *Environmental Planning and Assessment Act 1979* (EP&A Act), and an indicative time-frame for this implementation.

Coastal management actions to be implemented by councils may include working on redefining and revising mapping of existing coastal management areas.

Councils may prepare draft maps of proposed new coastal vulnerability areas, for example, and supply this information to support the preparation of a planning proposal that may in turn amend the State Environmental Planning Policy (Coastal Management) 2017 (CM SEPP) to identify that area as a coastal vulnerability area. Please note that such a planning proposal must not be made without the recommendation of the Minister administering the CM Act.

Where a council, or adjoining councils, are proposing to amend one or more coastal management area map, separate planning proposals may be prepared.

Section 3.33 (2) of the EP&A Act outlines the components of a planning proposal. These are summarised in **Table B4.1**. Further guidance on the information required to prepare planning proposals is included in *Planning Proposals – A guide to preparing planning proposals*, NSW Department of Planning and Environment, 2016 (issued under section 3.33(3) of the EP&A Act).

In some circumstances, two or more adjoining local councils may need to submit planning proposals simultaneously, to provide for a consistent approach across the council boundary.

Table B4.1 Summary of components of a planning proposal

| Requirement | Where this information is available |
|--|---|
| Statement of the objectives and intended outcomes of the proposed instrument, in this case, a new or revised map of a catchment management area (CMA). | Stage 1 and Stage 4 of Part B of the Manual will provide information about the objectives and outcomes. |
| Explanation of the provisions that are to be included in the proposed instrument. | The planning proposal will amend the extent of a coastal management area. |
| The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1 of the EP&A Act). | Stage 1 will provide the justification for the objectives, which are aligned with the relevant community strategic plan, the CM Act and other relevant regional plans. |
| Maps containing sufficient detail to indicate the substantive effect of the proposed instrument, including the area to which it applies. | Stage 2 and Stage 3 will provide information about how to map the area to which the planning proposal applies. |
| Details of the community consultation to be undertaken before the making of the planning proposal. | Community engagement should occur in all stages of the preparation of a CMP. Councils should ensure that consultation during Stage 4 meets the requirements of the Gateway determination, particularly in relation to consultation. |

When defining the extent of any proposed coastal vulnerability area, councils may consider:

- the results of coastal hazard studies for a range of scenarios, including hazard types, probabilities and timeframes
- risk analysis and risk evaluation for assets affected by coastal hazards
- the council's tolerance of risk, as established through consultation with their community

- advice provided by the NSW Coastal Council on the appropriate scope and scenarios to be considered in hazard studies (during Stage 1 or Stage 2 of the preparation of the CMP).

A CMP may recommend that land be identified as a coastal vulnerability area within the council's local government area, and indicate whether any beach erosion, coastal inundation or cliff instability is occurring on that land, and if so, confirm that a coastal zone emergency action subplan has been or will be prepared.

The CMP also outlines the monitoring, review and reporting that needs to be implemented by the council or public authorities, developed in consultation and with the agreement of those authorities. Performance targets and indicators should be consistent with those developed for the council's community strategic plan, but additional performance targets and indicators may also be used. Stage 5 of the manual provides further information about monitoring and reporting requirements for a CMP.

4.2.5 Actions to be undertaken by public authorities

Councils often share responsibility for implementing and resourcing actions in the coastal zone with other councils and public authorities. The CM Act provides for public authorities to have regard to CMPs to the extent that they are relevant to their function; and to CMPs and the manual and the objects of the CM Act when preparing, developing and reviewing any plans of management they may be required to produce.

A CMP may also include a list or table of proposed coastal management actions or activities that are intended to be implemented by public authorities and must indicate that their agreement for the inclusion of these actions or activities has been obtained (including adjoining councils where relevant).

A CMP may only identify proposed coastal management actions or activities to be carried out by a public authority, or relating to any land or other assets owned or managed by a public authority, if the public authority has agreed to the inclusion of those proposed actions or activities in the CMP. It is important that councils engage with public authorities early about these actions, and at least before including them in the draft CMP.

Examples of coastal management actions which may be included in a CMP, which may be carried out by a public authority, and may be integrated with coastal management actions by councils, include:

- construction, upgrade or repair of major infrastructure such as entrance breakwaters and ports
- dredging programs to maintain safe navigation access or to provide sand which can be used for beach nourishment
- construction or upgrade of water supply and wastewater treatment systems, including ensuring critical infrastructure is located outside a coastal vulnerability area and managing discharges to coastal waterways
- development of tourism infrastructure
- managing access through Crown reserves or national parks
- joint programs to manage invasive species, waste dumping or pollution sources
- emergency response actions for coastal hazards
- preparation of a plan of management for Crown reserve lands or protected lands (such as nature reserve or national park), consistent with their gazetted purposes
- community engagement, awareness and education programs
- preparation of a boating management plan or mooring management plan for an estuary
- development or upgrade of boating facilities such as ramps, pontoons and wharves

- preparation of mangrove or saltmarsh management plans or plans for marine reserves
- determination of claims under the *Aboriginal Land Rights Act 1983* or Native Title over coastal land, including co-management proposals
- proposed changes to land tenure including rationalising complex boundaries and review of water boundaries
- proposals to update the mapping of a coastal management area that crosses council boundaries
- proposals by public authorities to rezone land in preparation for disposal and development.

The CMP may include details indicating how and when these actions should be implemented and any sequencing or pathways for linked actions. It may identify any monitoring and reporting of actions and outcomes that may be carried out by a public authority, with the intention that they are aligned with the monitoring and reporting conducted by the council.

4.2.6 A business plan

As a minimum, a CMP includes a business plan outlining the key components of the funding strategy, including the cost of proposed coastal management actions, proposed cost-sharing arrangements and other viable funding mechanisms.

As a minimum, the business plan demonstrates viable funding mechanisms for proposed coastal management actions. The business plan needs to identify:

- the full capital, operational and maintenance costs, and timing, of coastal management actions
- proposed cost-sharing arrangements and other viable funding mechanisms to ensure the potential to deliver outcomes consistent with the objects of the CM Act
- the distribution of costs and benefits of coastal management actions.

In the business plan, councils may also demonstrate:

- That adequate resources are identified in council's long-term financial planning, including its asset management plan, to implement short, medium and long-term actions that are the council's responsibility.
- How council will work with public authorities, adjacent councils, private landholders and the broader community to try to achieve secure fair and equitable funding to implement coastal management actions.

The business plan may also highlight any potential contingent liabilities if the CMP were to be varied or not implemented as planned. For example, a contingent liability may arise when a council issues development consents that assume continuing maintenance of coastal protection works such as a seawall or ongoing beach nourishment. This ongoing maintenance could be the responsibility of the council, a public authority or a private landholder, or all three of these.

The protection offered to development by a structure or by beach nourishment will be reduced if the work is not maintained as intended. Reduced maintenance of coastal protection works could increase risks to approved development.

4.2.7 A coastal zone emergency action subplan

The CMP must include a coastal zone emergency action subplan (CZEAS), where the council's local government area contains land within coastal vulnerability area and beach erosion, coastal inundation or cliff instability is occurring on that land.

The CZEAS should include:

- a definition of coastal emergencies
- the roles and responsibilities of public authorities, including council, in response to emergencies immediately preceding or during periods of beach erosion, coastal inundation or cliff instability, where the beach erosion, coastal inundation or cliff instability occurs through storm activity or an extreme or irregular event
- triggers for emergency response actions
- a clear statement of how council should and should not respond
- the roles and responsibilities for the carrying out of any works for the protection of property affected or likely to be affected by beach erosions, coastal inundation or cliff instability
- actions to be undertaken in the prevention, preparation response and recovery phases.

4.2.8 Mapping

As a minimum, a CMP includes a map (or maps) of the relevant coastal management areas, and any proposed new and/or amended coastal management areas.

These maps may also identify areas exposed to current and future risk from coastal hazards, any proposed new coastal vulnerability areas, or changes to existing ones, and any proposed new (or amendments of) existing maps of the other coastal management areas.

A CMP may also include maps covering adjoining local council areas where cross boundary management is required to address issues such as regional-scale sediment compartment processes, or where an estuary or wetland and its catchment straddles a council boundary.

The starting point for mapping of coastal management areas should be the existing coastal management area maps under the CM SEPP. Fact sheets provide information about the criteria used to determine the boundaries of coastal management areas.

The CMP may also include a map (or maps) of proposed changes to the boundaries of the coastal management areas (see **Section 4.2.4**) highlighting where changes to these current coastal management areas are proposed.

It is recommended that maps be at an appropriate scale, accessible and readily understood by the affected local communities. Councils are encouraged to consult early in the process with the Department of Planning and Environment about any technical requirements for these maps.

4.2.9 Reference list

A CMP includes a list of any additional studies and maps relied on in the preparation of the CMP, and a statement as to how the public can access any of the listed documents (see **Section 4.3**).

4.3. Supporting documentation

Supporting documents may include technical studies and analysis that have been considered during the preparation of a CMP. The nature of the supporting documents will depend on the scope and complexity of coastal issues in the local council area.

The supporting documents are not part of the certified CMP, however, they should be available electronically on the council's website and as hard copies on request. Councils may choose to make hard copies of supporting documents available through their libraries.

Supporting documents may include:

- a scoping study from Stage 1
- a community engagement strategy
- any detailed studies relating to the coastal management areas that have been undertaken in Stage 2 to fill information gaps identified in the scoping study
- reports associated with the evaluation of management options such as an economic evaluation, cost benefit analysis or distributional analysis
- the outcomes of any community engagement and consultation activities.

4.4. Consultation during the preparation of the draft CMP

Consultation is required under section 16 of the CM Act. This may include consultation with:

- directly affected landholders or residents, especially if the distribution analysis indicates that they may contribute to funding to implement coastal management actions
- directly affected landholders or residents who occupy land which may be affected by recommended changes to coastal management area maps
- the broader community of the regional area, not just the local community.

4.5. Exhibiting the draft CMP

It is a mandatory requirement of this manual that a draft CMP be exhibited for a period of not less than 28 calendar days.

If the draft CMP is subject to substantial changes after the exhibition period, it is recommended that the CMP be re-exhibited for an additional period of not less than 28 days.

When exhibiting a draft CMP, councils may also provide:

- additional opportunities for stakeholders to obtain information about the draft CMP and provide feedback
- clear information about how feedback will be used in finalising the draft CMP.

4.5.1. Submissions report

Councils may prepare a submissions report that documents issues raised during the exhibition period. The report may include details on the number of submissions, sources of submissions (by stakeholder, locality and issue) and how any concerns that have been

raised will be addressed in the draft CMP. The submissions report may include the results of consultation with adjoining councils and public authorities.

4.5.2. Final draft CMP

Council's final draft CMP may incorporate any changes necessary to accommodate the feedback received during the exhibition process. Council should consult with OEH about the final draft CMP to ensure consistency with the state's requirements before it is considered for adoption by council and submitted to the Minister for certification.

4.6. Certification of the CMP

Councils may adopt a draft CMP and submit it to the Minister for certification. The Minister may seek advice from the NSW Coastal Council on whether the draft CMP has been prepared appropriately.

The Minister may decide to certify or refuse to certify the CMP. The Minister may request that the council amend the CMP to address matters identified in the reasons for refusal.

A council may seek advice from OEH about the preparation of new material to address any reason for the refusal of a certification.

4.7. Gazettal and availability of the CMP

After the coastal management program has been certified by the Minister, a local council must publish it in the Gazette.

A coastal management program takes effect on the date on which it is published in the Gazette or, if a later date is specified in the program for its commencement, on the later date so specified.

Councils may wish to notify specific stakeholders that the CMP is adopted, certified and gazetted. This may be achieved through electronic media, notices in local newspapers, and/or through direct correspondence to the most affected landholders.

Relevant public authorities should also be notified of certification to enable implementation of any coastal management actions for which it is intended they are to be responsible for.

Implementation of a CMP, through planning and development control measures, on-ground works, community involvement, monitoring or other processes, is discussed in **Stage 5**.

4.7.1. Good faith and liability

Section 733 (2) of the *Local Government Act 1993* provides that a local council does not incur any liability in respect of:

- any advice furnished in good faith by the council relating to the likelihood of any land in the coastal zone being affected by a coastline hazard (as described in the coastal management manual) or the nature or extent of any such hazard, or
- anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being so affected.

Also, section 733 (4) (b) relevantly provides that a council is, unless the contrary is proved, taken to have acted in good faith for the purposes of section 733 if the advice was furnished, or the thing was done or omitted to be done substantially in accordance with the principles and mandatory requirements set out in the coastal management manual.