

[Act 1998 No 46]



New South Wales

Coastal Protection Amendment Bill 1998 (No 2)

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Coastal Protection Act 1979*:

- (a) to redefine the coastal zone, and
- (b) to reconstitute the Coastal Council, and
- (c) to require consideration to be given to the principles of ecologically sustainable development in the exercise of certain functions under that Act.

The Bill makes a related amendment to the *Local Government Act 1993*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Coastal Protection Act 1979* set out in Schedules 1–3.

Clause 4 is a formal provision giving effect to the amendment to the *Local Government Act 1993* set out in Schedule 4.

Schedule 1 Amendment of Coastal Protection Act 1979 relating to definition of coastal zone

Schedule 1 [1] replaces the definition of *coastal zone* in the Principal Act. The coastal zone will extend:

- (a) to the coastal waters of the State, that is, the waters of the State out to 3 nautical miles, and
- (b) to the area of land or inland waters adjoining the coastal waters of the State with a western boundary shown on maps approved by the Minister for Urban Affairs and Planning for the purposes of the Act.

The Coastal Council has functions with respect to the coastal region (which includes the coastal zone). The Principal Act also places various controls on the development of land within the coastal zone and enables certain work for the preservation, protection, maintenance, restoration or improvement of the coastal zone to be carried out under the *Public Works Act 1912*.

Schedule 1 [2] provides that the western boundary of the coastal zone is to be determined in accordance with specified principles (proposed section 4A) and requires the maps relating to the coastal zone to be made available for inspection at the principal office of the Department of Urban Affairs and Planning (proposed section 4B). Maps relevant to particular regions or areas will be made available for inspection at the regional offices of the Department of Urban Affairs and Planning and the Department of Land and Water Conservation and at the offices of the relevant local councils.

Schedule 1 [3] preserves, despite any variation in the boundaries of the coastal zone, the power to make regulations under section 39 of the Act controlling the use of areas of water adjoining the coastal zone that are not within a local government area or subject to a local or regional environmental planning instrument.

Schedule 1 [5] and **[6]** contain savings and transitional provisions.

Schedule 1 [4] contains a consequential amendment.

Schedule 2 Amendment of Coastal Protection Act 1979 relating to constitution of Coastal Council

Schedule 2 [2] expands the membership of the Coastal Council from 10 to 20 members. The members of the Council will be drawn from nominations made by Ministers with portfolios concerning coastal matters, the Nature Conservation Council, industry and local councils. The functions of the Coastal Council will remain unchanged, the principal function being to give advice to the Minister in relation to the conservation and utilisation of the coastal region and its resources.

Schedule 2 [1] and **[3]–[7]** contain consequential amendments.

Schedule 3 Amendment of Coastal Protection Act 1979 relating to principles of ecologically sustainable development

Schedule 3 [1] contains a definition of *ecologically sustainable development*. The term is defined as meaning the principles of ecologically sustainable development described in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

Schedule 3 [2] requires the Coastal Council in exercising its functions, and the Minister in exercising functions in relation to the Coastal Council, to have regard to the principles of ecologically sustainable development.

Schedule 3 [3] requires the Minister, in exercising functions under Part 3 (Use of the coastal zone) of the *Coastal Protection Act 1979*, to have regard to the principles of ecologically sustainable development.

Schedule 3 [4] requires the Minister, in exercising functions under Part 4 (Carrying out of works in the coastal zone by the Minister) of the *Coastal Protection Act 1979*, to have regard to the principles of ecologically sustainable development.

Schedule 4 Amendment of Local Government Act 1993

Schedule 4 amends section 733 of the *Local Government Act 1993* which provides that a council does not incur any liability for any actions, or the giving of advice, relating to the likelihood of land in the coastal zone being affected by a coastline hazard. The section extends to the making of an environmental planning instrument, the grant or refusal of a development application or an application for the erection of a building, advice furnished in a section 149 certificate under the *Environmental Planning and Assessment Act 1979* and the carrying out of flood mitigation works and coastal management works. The amendment ensures that the section continues to operate in relation to land formerly within the definition of *coastal zone*.