



New South Wales

Coastal Protection and Other Legislation Amendment Bill 2010

Explanatory note

Overview of Bill

The object of this Bill to make amendments to the *Coastal Protection Act 1979* (the *Principal Act*) and other legislation to deal with coastal erosion and projected sea level rise, including amendments relating to the following:

- (a) the improvement of the operation and enforcement of the Principal Act,
- (b) providing that certain temporary coastal protection works (such as sandbags) may be placed on beaches and sand dunes to mitigate erosion in specified circumstances without obtaining development consent or other specified permissions,
- (c) enabling local councils to make and levy an annual charge for the provision of coastal protection services (such as services to maintain coastal protection works or to manage the impacts of such works) on rateable land that benefits from such services.

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.

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Schedule 1 Amendment of Coastal Protection Act 1979 No 13

Schedule 1 [1] amends section 3 of the Principal Act to provide that it is an object of that Act to encourage and promote plans and strategies for adaptation in response to coastal climate change impacts, including projected sea level rise.

Schedule 1 [2] amends section 4 of the Principal Act to insert certain definitions for the purposes of that Act, including a revised definition of *beach* and a definition of *public land*.

Schedule 1 [3] makes a law revision amendment to take account of a change in a departmental name.

Schedule 1 [4] inserts proposed section 4C into the Principal Act to provide which designated authorities may exercise certain powers in relation to land under the Principal Act (see proposed Part 4D in **Schedule 1 [23]**).

Schedule 1 [5] inserts proposed Part 2 (proposed sections 6–12) into the Principal Act to deal with matters relating to the administration of that Act. More specifically, the proposed Part:

- (a) provides for the identification of Coastal Authorities (being the Minister administering the Principal Act (the *Minister*), the Minister administering the *Crown Lands Act 1989* and certain roads authorities, coastal local councils and other public authorities with land or responsibilities relating to coastal areas) who may exercise certain powers under the Principal Act (proposed section 6), and
- (b) provides for the appointment and functions of authorised officers by Coastal Authorities to enforce the Principal Act (proposed section 7), and
- (c) deals with identification cards for authorised officers and the delegation of functions by Coastal Authorities (proposed sections 8 and 9), and
- (d) provides that the investigative functions contained in Chapter 7 of the *Protection of the Environment Operations Act 1997* are conferred on authorised officers for the purposes of exercising functions under the Principal Act (proposed section 10), and
- (e) creates certain offences relating to obstructing or intimidating authorised officers and others exercising functions under the Principal Act or impersonating authorised officers (proposed sections 11 and 12).

Sections 38 and 39 of the Principal Act require that the Minister give concurrence to certain development or the granting of certain rights or consent in relation to such development in the coastal zone. **Schedule 1 [6] and [7]** amend sections 38 and 39 of the Principal Act to remove the requirement that certain public authorities obtain the Minister's concurrence twice in relation to the same development in the coastal zone. The amendments also provide that public authorities need not obtain such

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concurrence in relation to the carrying out of development for the placement or maintenance of temporary coastal protection works.

Schedule 1 [8] omits certain sections as a consequence of the enactment of proposed Part 2 (see above).

Schedule 1 [9] makes an amendment to provide that section 55 of the Principal Act (which relates to the carrying out of works under the *Public Works Act 1912*) does not authorise the Minister or the Governor to direct a specified person to carry out specified work.

Schedule 1 [10] makes a consequential amendment.

Schedule 1 [11]–[21] make amendments relating the making and enforcement of coastal zone management plans. More specifically, the amendments deal with directions to councils to make such plans, the matters to be included and not to be included in such plans, the guidelines relating to the preparation of such plans, providing that such plans are to be certified rather than approved by the Minister, providing that councils take such plans into consideration when making a decision relating to an activity dealt with in a plan and providing that the provisions relating to the enforcement of such plans do not apply to the carrying out of work that is development to which consent has been granted, exempt development or development that does not need consent under the *Environmental Planning and Assessment Act 1979* or an approved project within the meaning of Part 3A of that Act.

Schedule 1 [22] is a consequential repeal.

Schedule 1 [23] inserts proposed Parts 4C and 4D into the Principal Act.

Proposed Part 4C (proposed sections 55O–55Q) deals with temporary coastal protection works (in general, emergency sand and sandbags placed on a beach or a sand dune to mitigate erosion). Proposed section 55O, more specifically, defines ***temporary coastal protection works*** to mean works comprising the placement of the following material on a beach, or a sand dune adjacent to a beach, to mitigate the effects of wave erosion on land:

- (a) sand, or fabric bags filled with sand, (other than sand taken from a beach in a marine park or in an aquatic reserve),
- (b) other objects or material prescribed by the regulations under the Principal Act (other than rocks, concrete, construction waste or other debris).

The placement of the material as temporary coastal protection works must comply with the following requirements:

- (a) the material must be placed as an emergency action during a period of beach erosion (where the beach erosion occurs through storm activity or an extreme or irregular event) or when such beach erosion is imminent, and
- (b) the material must be placed by or on behalf of a landowner or occupier to protect a dwelling house or commercial building from damage due to the

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erosion (other than a house or building designed and constructed to accommodate the effects of such erosion), and

- (c) the material must be placed and maintained in accordance with any requirements adopted by the Minister and published in the Gazette, and
- (d) the material must be placed and maintained in accordance with any requirements specified in the regulations under the Principal Act.

The maximum period allowed for temporary coastal protection works is 12 months or such shorter period as may be prescribed by the regulations under the Principal Act. Works cease to be temporary coastal protection works for the purposes of the Principal Act if the works remain in place for longer than the maximum period allowed for temporary coastal protection works.

Proposed section 55P provides that such temporary coastal protection works may be placed and maintained despite certain restrictions and limitations contained in the *Environmental Planning and Assessment Act 1979*, the *Fisheries Management Act 1994*, the *Marine Parks Act 1997* and, where the beach or dune is a road (or road reserve), the *Roads Act 1993*.

Proposed section 55Q facilitates the use of certain public land for temporary coastal protection works in emergency situations. Specifically, the proposed section provides that a person may use or occupy, or both, public land for that purpose for a period of up to 30 days without obtaining a lease, licence or permit in respect of, or an easement or right-of-way in relation to, the land, but only if the person took all practical measures:

- (a) to avoid placing those works on the public land, and
- (b) if the works were placed partly on private land and partly on public land, to minimise the portion of the works that were placed on public land.

The person must inform the appropriate public authority within 7 days of placing such works. The person must remove the works before the expiry of the relevant emergency period (being not more than 12 months).

Proposed Part 4D (proposed sections 55R–55W) confers certain powers and functions on Coastal Authorities relating to beaches.

Proposed section 55R gives a Coastal Authority that is a designated authority for a beach the power to make orders to remove materials or structures from the beach (including private land that is or fronts a beach) where the Coastal Authority is of the opinion that the material or structure affects or is likely to affect beach erosion or affects or is likely to affect public access to a beach or headland or poses or is likely to pose a threat to public safety. The proposed section does not apply to material deposited on a beach, or a structure erected, in the course of development to which consent has been granted or that is exempt development, development that does not need consent under the *Environmental Planning and Assessment Act 1979* or is an approved project within the meaning of Part 3A of that Act or in relation to temporary coastal protection works. The proposed section is a remaking of, and makes

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provision for substantially the same matters as, current section 55M of the Principal Act.

Proposed section 55S gives a Coastal Authority that is a designated authority for land the power to make stop work orders to prohibit an activity on a beach on the land that, in the opinion of the Coastal Authority, affects or is likely to affect beach erosion, affects or is likely to affect public access to a beach or headland or poses or is likely to pose a threat to public safety. Such an order cannot be made in relation to an activity carried out in the course of development to which consent has been granted, exempt development or development that does not need consent under the *Environmental Planning and Assessment Act 1979* or an approved project within the meaning of Part 3A of that Act or in relation to temporary coastal protection works.

Proposed section 55T gives a Coastal Authority that is a designated authority for land the power to make certain orders to remove, alter move or repair temporary coastal protection works on the land and to restore the land in accordance with any requirements adopted by the Minister and published in the Gazette and any requirements specified in the regulations made under the Principal Act.

Proposed section 55U contains general provisions regarding the operation of orders under the proposed Part.

Proposed section 55V makes it an offence to fail to comply with an order under the proposed Part. The offence will carry a maximum penalty of 2,000 penalty units (currently \$220,000) and 200 penalty units (currently \$22,000) for each day the offence continues (in the case of a corporation) or 1,000 penalty units (currently \$110,000) and 100 penalty units (currently \$11,000) for each day the offence continues (in any other case).

Proposed section 55W provides for appeals to the Land and Environment Court from a decision of a Coastal Authority (other than a decision of the Minister or the Minister administering the *Crown Lands Act 1989*) to make an order under the proposed Part.

Schedule 1 [24] amends section 56A of the Principal Act to make it clear that the Land and Environment Court may make a order under that section that a person remove or clean up material dumped following (as well as during) a beach erosion event.

Schedule 1 [25] amends section 58 of the Principal Act to increase the maximum penalty for offences against the Principal Act for which a specific penalty is not provided to 2,000 penalty units (currently \$220,000) in the case of a corporation and 1,000 penalty units (currently \$110,000) in any other case. Currently that maximum penalty is 100 penalty units (currently \$11,000).

Schedule 1 [26] and [27] amend section 59 of the Principal Act to provide that proceedings for offences against proposed section 55Q (4) or proposed Part 4D may be taken before the Land and Environment Court. Proceedings for other offences will continue to be taken before the Local Court.

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Schedule 1 [28] inserts proposed section 59A into the Principal Act to deal with continuing offences.

Schedule 1 [29] inserts proposed sections 63 and 64 into the Principal Act. Proposed section 63 deals with the delegation of the Minister's functions under the Principal Act (other than the functions of the Minister as a Coastal Authority which are dealt with under proposed section 9). Proposed section 64 provides that the Minister is to review the Principal Act to determine whether its policy objectives remain valid and whether its terms remain appropriate for securing those objectives. The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the proposed Act and a report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 2 Amendment of Local Government Act 1993 No 30

Schedule 2 [1] makes an amendment to section 124 of the *Local Government Act 1993* to enable councils to issue orders to owners or occupiers of land (other than Ministers or public authorities) to repair or make safe coastal protection works (including temporary coastal protection works) where the coastal protection works present a public safety risk.

Schedule 2 [2] inserts proposed section 496B into the *Local Government Act 1993* to enable a council to make and levy an annual charge for the provision of coastal protection services for rateable land that benefits from the services. The charge may be levied if the services relate to coastal protection works that were jointly constructed (or are being constructed) by owners or occupiers, or previous owners or occupiers, of the land, and a public authority or a council and must be levied if the works were constructed (or are being constructed) solely by such private owners or occupiers of land. **Schedule 2 [3]** makes a consequential amendment.

Schedule 2 [4] inserts provisions into the *Local Government Act 1993* to provide that a council must, before new coastal protection works are constructed, give each person who would be liable to pay a coastal protection services charge under proposed section 496B with an estimate of the person's liability for that charge for each of the following 5 years. If a council fails to provide the estimate as required, the council, during the first 4 years after making such a charge, may only levy on the person's land a reduced percentage of the charge.

Schedule 2 [5] and [6] make amendments to section 733 of the *Local Government Act 1993* to extend the exemption from liability that a council possesses in relation to flood liable land and land in the coastal zone to the following things done in good faith by the council:

- (a) the preparation or making of a coastal zone management plan, or the giving of an order, under the Principal Act,
- (b) any thing done or omitted to be done regarding beach erosion or shoreline recession on Crown land or land owned or controlled by a council,

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- (c) the failure to upgrade flood mitigation works or coastal management works in response to projected or actual impacts of climate change,
- (d) the failure to undertake action to enforce the removal of illegal or unauthorised structures on Crown land or land owned or controlled by a council that results in beach erosion,
- (e) the provision of information relating to climate change or sea level rise.

Section 733 (4) provides that, unless the contrary is proved, a council is taken to have acted in good faith for the purposes of section 733 if advice was furnished, or a thing was done or omitted to be done, substantially in accordance with the principles contained in a specified manual relating to the management of flood liable land or the management of the coastline identified by the Minister for Planning. **Schedule 2 [7]** provides that guidelines may also be adopted for this purpose.

Schedule 2 [8] makes it clear that in section 733 of the *Local Government Act 1993*, references to the *coastal zone* include land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries.

Schedule 2 [9] provides that regulations may be made under the *Local Government Act 1993* relating to coastal protection services. For example, the minimum standards in carrying out such coastal protection services.

Schedule 2 [10] inserts new definitions into the Dictionary to the *Local Government Act 1993*, including the following:

coastal protection service which is defined to mean a service:

- (a) to maintain coastal protection works, or
- (b) to manage the impacts of such works (such as changed or increased beach erosion elsewhere),

but does not include a service:

- (c) that relates to temporary coastal protection works, or
- (d) that relates to the maintenance of coastal protection works or the management of the impacts of such works where that maintenance or management is a condition of an approval or consent under the *Environmental Planning and Assessment Act 1979* relating to the works.

coastal protection works which is defined to mean activities or works to reduce the impact of coastline hazards on land adjacent to tidal waters and includes seawalls, revetments, groynes and beach nourishment.

Schedule 3 Amendment of other legislation

Schedule 3.1 amends the *Coastal Protection Regulation 2004* to make a parallel amendment to those contained in **Schedule 1 [6] and [7]**. The amendment removes the need for the Minister to give double concurrence to the same development.

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Schedule 3.2 [1] and [2] amend the *Conveyancing (Sale of Land) Regulation 2005* to provide that where a contract for the sale of land relates to land that is subject to a coastal protection services charge under the *Local Government Act 1993* (see **Schedule 2 [2]**), the contract must include a certificate issued under section 603 (3) of the *Local Government Act 1993* (being a certificate as to rates and charges).

Schedule 3.3 amends the *Environmental Planning and Assessment Regulation 2000* to provide that the factors to be taken into account when consideration is being given to the likely impact of an activity on the environment for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* are to include the impact on coastal processes and coastal hazards, including those under projected climate change conditions.

Schedule 3.4 makes amendments to the *Local Government (General) Regulation 2005* in relation to the proposed coastal protection services charge (see **Schedule 2 [2]**). Specifically:

- (a) **Schedule 3.4 [1]** provides that a council's annual statement of its revenue policy is to include a map or list (or both) of the parcels of rateable land that are to be subject to the charge in the following year (if any), and
- (b) **Schedule 3.4 [2]** makes a law revision amendment, and
- (c) **Schedule 3.4 [3]** provides that a council's annual report is, if the council levied a coastal protection services charge in the relevant year, to include a comparison of the actual coastal protection services made available by the council during the year with the projected coastal protection services that were proposed to be made available, together with a statement of the reasons for any difference between them, and
- (d) **Schedule 3.4 [4]** provides that coastal protection services provided by the council are to be of a certain specified standard.

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A Bill for

An Act to amend to the *Coastal Protection Act 1979* and other legislation to deal with coastal erosion and projected sea level rise; and for other purposes.

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Clause 1 Coastal Protection and Other Legislation Amendment Bill 2010

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coastal Protection and Other Legislation Amendment Act 2010*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

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Coastal Protection and Other Legislation Amendment Bill 2010

Amendment of Coastal Protection Act 1979 No 13

Schedule 1

Schedule 1 Amendment of Coastal Protection Act 1979 No 13

[1] Section 3 Objects of this Act

Insert after section 3 (g):

- (h) to encourage and promote plans and strategies for adaptation in response to coastal climate change impacts, including projected sea level rise.

[2] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

authorised officer means a person who is appointed as an authorised officer under section 7.

beach means the area of unconsolidated material between the highest level reached by wave action and the place where tidal or lake waters reach a depth of 10 metres below Australian Height Datum.

Coastal Authority—see section 6.

coastal zone management plan means a coastal zone management plan made under Part 4A.

designated authority—see section 4C.

public land means:

- (a) Crown land within the meaning of the *Crown Lands Act 1989* or land within a reserve as defined in Part 5 of that Act, or
- (b) land owned or under the care, management or control of a council or a public authority,

but does not include any land reserved under the *National Parks and Wildlife Act 1974* or land acquired under Part 11 of that Act.

road work has the same meaning as in the *Roads Act 1993*.

temporary coastal protection works—see section 55O.

[3] Section 4B Inspection of maps outlining coastal zone

Omit “Infrastructure, Planning and Natural Resources” wherever occurring in section 4B (1) and (2).

Insert instead “Planning”.

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Schedule 1 Amendment of Coastal Protection Act 1979 No 13

[4] Section 4C

Insert after section 4B:

4C Designated authorities for land

The following Coastal Authorities are designated authorities for land for the purposes of this Act:

- (a) in relation to all land—the Minister,
- (b) in relation to land within a local government area of a council that is a Coastal Authority—the council,
- (c) in relation to Crown land within the meaning of the *Crown Lands Act 1989* or land within a reserve as defined in Part 5 of that Act—the Minister administering that Act,
- (d) in relation to public land not referred to in paragraph (c)—the public authority that is the owner of, or has the care, control or management of, the land.

[5] Part 2

Insert after Part 1:

Part 2 Administration

Division 1 Coastal Authorities and their authorised officers

6 Coastal Authorities

- (1) For the purposes of this Act, each of the following is a Coastal Authority:
 - (a) the Minister,
 - (b) the Minister administering the *Crown Lands Act 1989*,
 - (c) a council whose area, or part of whose area, is included within the coastal zone or whose area includes land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries,
 - (d) a roads authority (within the meaning of the *Roads Act 1993*) for a road within the coastal zone or on land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries,
 - (e) a public authority that is the owner of, or has the care, control or management of, land within the coastal zone or land that adjoins the tidal waters of the Hawkesbury River,

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Sydney Harbour and Botany Bay, and their tributaries (other than a reserve trust within the meaning of Part 5 of the *Crown Lands Act 1989*).

- (2) A Coastal Authority:
 - (a) may exercise the functions of an authorised officer, and
 - (b) when exercising those functions, has all the immunities of an authorised officer.

7 Appointment of authorised officers

- (1) A Coastal Authority may appoint a person to be an authorised officer.
- (2) In appointing authorised officers, a Coastal Authority may specify that the appointment is subject to conditions or restrictions relating to:
 - (a) the functions that are exercisable by those officers, or
 - (b) when, where and in what circumstances those officers may exercise functions.

8 Identification cards

- (1) A Coastal Authority is to issue an identification card that complies with this section to each authorised officer.
- (2) The identification card must:
 - (a) state that it is issued under this Act, and
 - (b) give the name of the person to whom it is issued, and
 - (c) state the date (if any) on which it expires, and
 - (d) describe the kinds of premises to which the powers of the authorised officer extend, and
 - (e) state any limitations on the functions that the authorised officer is authorised to exercise under this Act that are imposed by the authorised officer's instrument of appointment.
- (3) Each authorised officer who is not a police officer must:
 - (a) carry his or her identification card as an authorised officer while exercising functions under this Act, and
 - (b) if requested to do so by any person affected by the exercise of a function by an authorised officer under this Act, produce the officer's identification card to the person.

Note. See section 201 of the *Law Enforcement (Powers and Responsibilities) Act 2002* in relation to a police officer's obligation to

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Schedule 1 Amendment of Coastal Protection Act 1979 No 13

produce evidence that the police officer is a police officer (unless the police officer is in uniform).

- (4) A person who has been issued with an identification card and who stops being an authorised officer must return his or her identification card to the appropriate Coastal Authority as soon as practicable.
- (5) A person must not contravene subsection (4) without reasonable excuse.
Maximum penalty: 10 penalty units.

9 Delegation

A Coastal Authority may delegate the exercise of any function of the Coastal Authority under this Act (other than this power of delegation) to:

- (a) an authorised officer, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

Division 2 Powers of authorised officers

10 General powers of authorised officers: application of Chapter 7 of Protection of the Environment Operations Act 1997

- (1) An authorised officer has and may exercise the functions of an authorised officer under Chapter 7 and section 319A of the *Protection of the Environment Operations Act 1997* (the **POEO Act**) for the following purposes:
 - (a) for determining whether there has been compliance with or a contravention of this Act and the regulations,
 - (b) for obtaining information or records for purposes connected with the administration of this Act and the regulations,
 - (c) generally for administering this Act and the regulations.
- (2) The provisions of Chapter 7 (other than Part 7.2) and section 319A of the POEO Act apply to and in respect of this Act as if those provisions were part of this Act, subject to the following modifications:
 - (a) references in those provisions to an authorised officer are to be read as references to an authorised officer appointed by a Coastal Authority under this Act,
 - (b) references in those provisions to “this Act” are to be read as references to this Act,

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Amendment of Coastal Protection Act 1979 No 13

Schedule 1

- (c) references in those provisions to the EPA are to be read as references to a Coastal Authority,
 - (d) a Coastal Authority is taken to be the appropriate regulatory authority for matters concerning this Act.
- (3) For the avoidance of doubt, a prosecution of a person for an offence against a provision of Chapter 7 (other than Part 7.2) of the POEO Act (as applying under this section) is to be taken as if the offence were an offence against this Act.
 - (4) The functions that an authorised officer has under Chapter 7 of the POEO Act are, for the purposes of any provision of this Act, taken to be functions under this Act.
 - (5) If an authorised officer has functions in respect of a matter under both Chapter 7 of the POEO Act (as applying under this section) and under any other provision of this Act, the fact that there is a restriction on the exercise of a function under this Act does not of itself operate to restrict the exercise by an authorised officer of any similar or the same function under Chapter 7 of the POEO Act.

11 Offence of obstructing or intimidating authorised officers and others exercising functions under Act

A person must not:

- (a) obstruct, hinder or impede any authorised officer or a person assisting an authorised officer in the exercise of the officer's functions under this Act, or
- (b) intimidate or threaten or attempt to intimidate any authorised officer in the exercise of the officer's functions under this Act.

Maximum penalty: 100 penalty units for an individual or 500 penalty units for a corporation.

12 Offence of impersonating an authorised officer

A person must not impersonate, or falsely represent that the person is, an authorised officer.

Maximum penalty: 100 penalty units.

[6] Section 38 General supervision of coastal zone

Insert after section 38 (2):

- (3) If:
 - (a) a public authority (the *developer authority*) is required to obtain the concurrence of the Minister to carry out any

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Schedule 1 Amendment of Coastal Protection Act 1979 No 13

- development in the coastal zone under subsection (1) (a),
and
- (b) the developer authority is required under any law to obtain a grant of a right or consent from another public authority (the *approval authority*) to carry out that development, and
 - (c) the approval authority is required to obtain the concurrence of the Minister to the grant of the right or consent under subsection (1) (b),
concurrence by the Minister to the carrying out of the development by the developer authority is taken to also be concurrence to the grant of the right or consent by the approval authority.
- (4) This section does not apply to the use or occupation of any part of the coastal zone, or the carrying out of any development in the coastal zone, for the placement or maintenance of temporary coastal protection works.

[7] Section 39 Special provisions respecting coastal development

Insert after section 39 (4):

- (5) If:
- (a) a public authority (the *developer authority*) is required to obtain the concurrence of the Minister to carry out any development in the coastal zone under subsection (1) (a),
and
 - (b) the developer authority is required under any law to obtain a grant of a right or consent from another public authority (the *approval authority*) to carry out that development, and
 - (c) the approval authority is required to obtain the concurrence of the Minister to the grant of the right or consent under subsection (1) (b),
concurrence by the Minister to the carrying out of the development by the developer authority is taken to also be concurrence to the grant of the right or consent by the approval authority.
- (6) Subsection (1) does not apply to the carrying out of any development in the coastal zone for the placement or maintenance of temporary coastal protection works.

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Amendment of Coastal Protection Act 1979 No 13

Schedule 1

[8] Sections 48–50

Omit the sections.

[9] Section 55 Carrying out of certain works

Insert after section 55 (6):

- (7) Nothing in this section authorises the Minister or the Governor to direct a specified person to carry out specified work.

[10] Section 55A Definition of “beach”

Omit the section.

[11] Section 55B Requirement for coastal zone management plans

Insert after section 55B (4):

- (5) For the avoidance of doubt, the Minister may make a direction under subsection (1) in relation to part of an area included within the coastal zone.
- (6) In this section, *coastal zone* includes land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries.

[12] Section 55C Matters to be dealt with in coastal zone management plans

Insert at the end of section 55C (c):

, and

- (d) where the plan relates to a part of the coastline, the management of risks arising from coastal hazards, and
- (e) where the plan relates to an estuary, the management of estuary health, and
- (f) the impacts from climate change on risks arising from coastal hazards and on estuary health, as appropriate, and
- (g) where the plan proposes the construction of coastal protection works within the meaning of the *Local Government Act 1993* (other than temporary coastal protection works) that are to be funded by the council or a private landowner or both, the proposed arrangements for the adequate maintenance of the works and for managing associated impacts of such works (such as changed or increased beach erosion elsewhere or a restriction of public access to beaches or headlands).

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Schedule 1 Amendment of Coastal Protection Act 1979 No 13

[13] Section 55C (2)

Insert at the end of section 55C:

- (2) A coastal zone management plan must not include the following:
 - (a) matters dealt with in the State Disaster Plan under the *State Emergency and Rescue Management Act 1989* in relation to the prevention of, preparation for, response to and recovery from emergencies,
 - (b) proposed actions or activities to be carried out by any public authority or relating to any land or other assets owned or managed by a public authority, unless the public authority has agreed to the inclusion of those proposed actions or activities in the plan.

[14] Section 55D Guidelines for preparation of draft coastal zone management plans

Insert after section 55D (2):

- (3) The Minister is to ensure that notification of the adoption of any guidelines is published in the Gazette.
- (4) A copy of the Minister's guidelines must be available for public inspection on the Internet website of the Department of Environment, Climate Change and Water.

[15] Section 55G Certification by Minister

Omit "for approval" from section 55G (1).

Insert instead "for certification under this section".

[16] Section 55G (2) and (3)

Omit section 55G (2). Insert instead:

- (2) The Minister may certify, or refuse to certify, that a draft coastal zone management plan submitted to the Minister has been prepared in accordance with the requirements of this Act.
- (3) Before submitting the draft coastal zone management plan to the Minister under subsection (1), the council must consult with other public authorities in the manner specified in the Minister's guidelines.

[17] Section 55H Gazettal and commencement of coastal zone management plans

Omit "approves a draft coastal zone management plan" from section 55H (1).

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Insert instead “certifies that a draft coastal zone management plan has been prepared in accordance with the requirements of this Act”.

[18] Section 55J Availability of coastal zone management plans

Insert at the end of the section:

- (2) A copy of a coastal zone management plan must be available for public inspection on the Internet website of the council.

[19] Section 55JA

Insert after section 55J:

55JA Councils to take coastal zone management plans into consideration

- (1) A council must take a coastal zone management plan into consideration when making a decision relating to an activity dealt with in the plan.
- (2) This section does not operate so as:
 - (a) to exclude a statutory discretion of a public authority, but the public authority must take the coastal zone management plan into consideration, or
 - (b) to authorise any action by a public authority that is inconsistent with any statutory or other legal obligation of the public authority.

[20] Section 55K Breach of coastal zone management plan: offence

Insert at the end of the section:

- (2) This section does not apply to the carrying out of work that is development to which consent has been granted, exempt development or development that does not need consent under the *Environmental Planning and Assessment Act 1979* or an approved project within the meaning of Part 3A of that Act.

[21] Section 55L Breach of coastal zone management plan: restraint

Insert after section 55L (4):

- (5) This section does not apply to a breach of a coastal zone management plan that is an act or omission that is development to which consent has been granted, exempt development or development that does not need consent under the *Environmental Planning and Assessment Act 1979* or an approved project within the meaning of Part 3A of that Act.

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[22] Section 55M Breach of coastal zone management plan: order

Omit the section.

[23] Parts 4C and 4D

Insert after Part 4B:

Part 4C Temporary coastal protection works

Note. This Part does not limit the operation of any other law in relation to the placement of works on a beach or sand dune.

For example, clause 129 of *State Environmental Planning Policy (Infrastructure) 2007* provides that development for the purpose of flood, storm or coastal erosion emergency works may be carried out by or on behalf of a public authority without development consent. Those emergency works may include the placement of rocks or other material on a beach or sand dune.

550 Meaning of “temporary coastal protection works”

- (1) In this Act, *temporary coastal protection works* means works comprising the placement of the following material, in compliance with the requirements of this section, on a beach, or a sand dune adjacent to a beach, to mitigate the effects of wave erosion on land:
 - (a) sand, or fabric bags filled with sand, (other than sand taken from a beach in a marine park within the meaning of the *Marine Parks Act 1997* or in an aquatic reserve under the *Fisheries Management Act 1994*),
 - (b) other objects or material prescribed by the regulations (other than rocks, concrete, construction waste or other debris).
- (2) The requirements for the placement of material as temporary coastal protection works are as follows:
 - (a) the material must be placed as an emergency action during a period of beach erosion (where the beach erosion occurs through storm activity or an extreme or irregular event) or when such beach erosion is imminent,
 - (b) the material must be placed by or on behalf of a landowner or occupier to protect a dwelling house or commercial building from damage due to the erosion (other than a house or building designed and constructed to accommodate the effects of such erosion),
 - (c) the material must be placed and maintained in accordance with any requirements adopted by the Minister and published in the Gazette for the purposes of this section, and

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- (d) the material must be placed and maintained in accordance with any requirements specified in the regulations for the purposes of this section.
- (3) The maximum period allowed for temporary coastal protection works is 12 months or such shorter period as may be prescribed by the regulations. Works cease to be temporary coastal protection works for the purposes of this Act if the works remain in place for longer than the maximum period allowed for temporary coastal protection works.

55P Placing and maintaining temporary coastal protection works not restricted by certain legislation

- (1) Placing and maintaining temporary coastal protection works is taken to be exempt development for the purposes of the *Environmental Planning and Assessment Act 1979*.
- (2) Division 3 of Part 7 of the *Fisheries Management Act 1994* does not apply to dredging or reclamation work that is carried out for the purpose of temporary coastal protection works.
- (3) The placement or maintenance of temporary coastal protection works does not, despite any regulation under the *Marine Parks Act 1997*, require the consent of the relevant Ministers within the meaning of that Act.
- (4) Section 138 (Works and structures) of the *Roads Act 1993* does not apply in relation to temporary coastal protection works placed by a person on a public road, but only if:
 - (a) there are no road works on the public road, and
 - (b) the public road is not used by vehicular traffic, and
 - (c) the person took all practical measures to avoid placing those temporary coastal protection works on the public road.
- (5) Section 147 (Crown roads may not be sold etc) of the *Roads Act 1993* does not apply in relation to a licence granted under the Crown Lands Acts (within the meaning of that Act) to enable land that is a Crown road (within the meaning of that Act) to be used or occupied for the purpose of placing and maintaining temporary coastal protection works.

55Q Use and occupation of public land for temporary coastal protection works

- (1) A person may use or occupy, or both, public land for the purpose of placing and maintaining temporary coastal protection works for a period of up to 30 days without obtaining a lease, licence or

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permit in respect of, or an easement or right-of-way in relation to, the land, but only if the person took all practical measures:

- (a) to avoid placing those works on the public land, and
 - (b) if the works were placed partly on private land and partly on public land, to minimise the portion of the works that were placed on public land.
- (2) A person who places (or causes to be placed) temporary coastal protection works in reliance on subsection (1) on public land must notify in writing the following, in the manner specified in the regulations (if any), of that fact within 7 days of that placement.
- (a) in relation to public land that is Crown land within the meaning of the *Crown Lands Act 1989* or land within a reserve as defined in Part 5 of that Act—the Minister administering that Act,
 - (b) in relation to other public land—the public authority that is the owner of, or has the care, control or management of, the land.

Maximum penalty (subsection (2)): 5 penalty units.

- (3) If public land has been used or occupied for the purpose of placing and maintaining temporary coastal protection works in reliance on subsection (1) and that use or occupation has continued for more than 30 days, a Coastal Authority that is a designated authority for the public land may recover as a debt from the person who placed the works (or caused the works to be placed) any costs or expenses it has incurred in determining:
- (a) whether the land is public land (for example, costs or expenses incurred in surveying the land), or
 - (b) whether the works pose a public safety risk or are likely to exacerbate erosion to other land (for example, engineering assessment fees).
- (4) A person who has placed temporary coastal protection works (or caused such works to be placed) on public land must, before the expiry of the maximum period allowed for temporary coastal protection works, remove the works and restore the land in accordance with:
- (a) any requirements adopted by the Minister and published in the Gazette for the purposes of this subsection, and
 - (b) any requirements specified in the regulations for the purposes of this subsection.

Maximum penalty (subsection (4)):

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- (a) in the case of a corporation—1,000 penalty units and 100 penalty units for each day the offence continues, or
 - (b) in any other case—500 penalty units and 50 penalty units for each day the offence continues.
- (5) A person may not be found guilty both of an offence under subsection (4) and an offence for a failure to comply with an order under Part 4D in relation to the same failure to remove works or restore land.
- (6) If a person does not comply with subsection (4) (whether that person has been convicted of an offence in respect of the subsection or not), the Coastal Authority concerned may remove the works and restore the land. Any costs reasonably incurred by the Coastal Authority under this subsection may be recovered in a court of competent jurisdiction from the person as a debt due to the Coastal Authority.
- (7) This section does not apply to material deposited on a beach, or a structure erected, in the course of development to which consent has been granted or that is exempt development, development that does not need consent under the *Environmental Planning and Assessment Act 1979* or is an approved project within the meaning of Part 3A of that Act.

Part 4D Powers with respect to material and structures on beaches

55R Order to remove certain materials and structures on beaches

- (1) A Coastal Authority may, in respect of a beach on land for which it is a designated authority, order a person to remove material deposited by or on behalf of the person on the beach that, in the opinion of the Coastal Authority:
- (a) causes or is likely to cause increased beach erosion, or
 - (b) limits or is likely to limit public access to a beach or headland, or
 - (c) poses or is likely to pose a threat to public safety.
- (2) A Coastal Authority may order a person who is the owner or occupier of land that is on or has a frontage to a beach for which it is a designated authority:
- (a) to refrain from erecting a structure on the beach or on or near the boundary of the land and the beach, or

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- (b) to remove a structure erected on the beach or on or near the boundary of the land and the beach (not being a structure lawfully erected before the commencement of this section),
- if the structure, in the opinion of the Coastal Authority:
- (c) causes or is likely to cause increased beach erosion, or
- (d) limits or is likely to limit public access to a beach or headland, or
- (e) poses or is likely to pose a threat to public safety.
- (3) A person who carries out work in compliance with a requirement of an order given under this section by a Coastal Authority is not subject to Part 5 of the *Environmental Planning and Assessment Act 1979* in carrying out the work.
- (4) Before giving an order under this section that relates to Crown land within the meaning of the *Crown Lands Act 1989* or land within a reserve as defined in Part 5 of that Act, a Coastal Authority must consult the Minister administering that Act.
- (5) This section does not apply to material deposited on a beach, or a structure erected, in the course of development to which consent has been granted or that is exempt development, development that does not need consent under the *Environmental Planning and Assessment Act 1979* or is an approved project within the meaning of Part 3A of that Act.
- (6) This section does not apply in relation to temporary coastal protection works.
- (7) A council may not give an order under this section to a Minister or another public authority.

55S Stop work orders

- (1) A Coastal Authority that is a designated authority for land may order a person not to carry out an activity on a beach on the land that the person is carrying out, or is about to carry out, if the Coastal Authority is of the opinion that the activity:
- (a) causes or is likely to cause increased beach erosion, or
- (b) limits or is likely to limit public access to a beach or headland, or
- (c) poses or is likely to pose a threat to public safety.
- (2) This section does not apply to an activity carried out in the course of development to which consent has been granted, exempt development or development that does not need consent under

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the *Environmental Planning and Assessment Act 1979* or an approved project within the meaning of Part 3A of that Act.

- (3) This section does not apply if the activity comprising the placement or maintenance of temporary coastal protection works.
- (4) A council may not give an order under this section to a Minister or another public authority.

55T Removal, restoration and other orders relating to temporary coastal protection works

- (1) A Coastal Authority that is a designated authority for land on which a person has placed (or cause to be placed) temporary coastal protection works may order the person to remove, alter or repair the works and restore the land if the Coastal Authority is of the opinion that the works:
 - (a) are causing increased beach erosion, or
 - (b) pose a threat to public safety.
- (2) A Coastal Authority that is a designated authority for public land on which a person has placed (or cause to be placed) temporary coastal protection works may order the person to move, alter or remove the works and restore the land if the Coastal Authority is of the opinion that:
 - (a) the works have ceased to be temporary coastal protection works (for example, the works have been in place for longer than the maximum period allowed for temporary coastal protection works), or
 - (b) the person did not take all practical measures to avoid placing those works on the public land, or
 - (c) if the works were placed partly on private land and partly on public land, the person did not take all practical measures to minimise the portion of the works that were placed on public land.
- (3) An order under this section that requires a person to restore land may require the person to restore the land concerned in accordance with:
 - (a) any requirements adopted by the Minister and published in the Gazette for the purposes of this subsection, and
 - (b) any requirements specified in the regulations for the purposes of this subsection.

A failure to comply with this subsection is taken to be a failure to comply with the order concerned.

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- (4) Before giving an order under this section that relates to Crown land within the meaning of the *Crown Lands Act 1989* or land within a reserve as defined in Part 5 of that Act, a Coastal Authority must consult the Minister administering that Act.
- (5) A council may not give an order under this section to a Minister or another public authority.

55U General provisions relating to orders

- (1) An order under this Part may be given to a person by notice in writing or orally.
- (2) An order under this Part:
 - (a) takes effect immediately (or from a later date specified in the written notice or at the time the order is given orally), and
 - (b) is subject to such conditions as the Coastal Authority may specify in the written notice or at the time the order is given orally, and
 - (c) may require a person to cease doing, or causing or permitting to be done, the relevant activity for a specified time, and
 - (d) may require a person to do, or cause or permit to be done, the relevant activity within a specified time.
- (3) The Coastal Authority concerned may vary or revoke the order or the conditions of the order by further notice in writing or further oral order given to the person subject to the order.
- (4) An order given orally to a person ceases to have effect on the expiration of 72 hours from the time it was given unless confirmed by the Coastal Authority who gave the order by a notice in writing given to the person.
- (5) Subject to subsection (4), an order under this Part remains in force until whichever of the following happens first:
 - (a) the order is revoked by the Coastal Authority concerned,
 - (b) the activity to which the order relates ceases to be unlawful and evidence of the activity's lawfulness is provided to the Coastal Authority concerned,
 - (c) the period of 2 years from the day on which the order took effect ends.
- (6) A Coastal Authority is not required, before making an order under this Part, to notify any person who may be affected by the order.

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55V Failure to comply with order

- (1) A person who does not comply with an order in force under this Part is guilty of an offence.
Maximum penalty:
 - (a) in the case of a corporation—2,000 penalty units and 200 penalty units for each day the offence continues, or
 - (b) in any other case—1,000 penalty units and 100 penalty units for each day the offence continues.
- (2) If a person does not comply with the requirements of an order under this Part within the time specified (whether that person has been convicted of an offence in respect of the order or not), the Coastal Authority concerned may, where the order required the doing of any act or thing, do the act or thing. Any costs incurred by the Coastal Authority under this subsection may be recovered in a court of competent jurisdiction from the person who is the subject of the order as a debt due to the Coastal Authority.

55W Appeals

- (1) A person aggrieved by a decision of a Coastal Authority (other than a decision of the Minister or the Minister administering the *Crown Lands Act 1989*) to make an order under this Part may appeal against the decision to the Land and Environment Court within 30 days of the giving of the order.
- (2) The lodging of an appeal does not, except to the extent that the Land and Environment Court otherwise directs in relation to the appeal, operate to stay action on the decision appealed against.
- (3) A decision of the Minister or the Minister administering the *Crown Lands Act 1989* under this Part is final and is not subject to appeal or review.

[24] Section 56A Restoration orders

Insert “or following” after “during” in section 56A (2).

[25] Section 58 Penalties

Omit “100 penalty units” from section 58 (1).

Insert instead “2,000 penalty units (in the case of a corporation) and 1,000 penalty units (in any other case)”.

[26] Section 59 Proceedings for offences

Insert “(other than an offence against section 55Q (4) or Part 4D)” after “this Act”.

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[27] Section 59 (2)

Insert at the end of the section:

- (2) Proceedings for an offence against section 55Q (4) or Part 4D of this Act may be taken before the Land and Environment Court.

[28] Section 59A

Insert after section 59:

59A Continuing offences

- (1) A person who is guilty of an offence because the person contravenes a requirement made by or under this Act or the regulations (whether the requirement is imposed by an order or otherwise) to do or cease to do something (whether or not within a specified period or before a particular time):
 - (a) continues, until the requirement is complied with and despite the fact that any specified period has expired or time has passed, to be liable to comply with the requirement, and
 - (b) is guilty of a continuing offence for each day the contravention continues.
- (2) This section does not apply to an offence if the relevant provision of this Act or the regulations does not provide for a penalty for a continuing offence.
- (3) This section does not apply to the extent that a requirement of an order is revoked.

[29] Sections 63 and 64

Insert after section 62:

63 Delegation

The Minister may delegate the exercise of any function of the Minister under this Act (other than a function of the Minister as a Coastal Authority or this power of delegation) to:

- (a) any member of staff of the Department of Environment, Climate Change and Water, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

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64 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the *Coastal Protection and Other Legislation Amendment Act 2010*.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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Schedule 2 Amendment of Local Government Act 1993 No 30

Schedule 2 Amendment of Local Government Act 1993 No 30

[1] Section 124 What orders may be given, in what circumstances and to whom?

Insert after item 12 of the Table to section 124:

13	To repair or make safe, or both, coastal protection works (including temporary coastal protection works)	The coastal protection works present a public safety risk	Owner or occupier of land (other than a Minister or a public authority)
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[2] Section 496B

Insert after section 496A:

496B Making and levying of annual charges for coastal protection services

- (1) If a council provides coastal protection services that benefit any parcel of rateable land in the council's area, being services that relate to coastal protection works that were (or are being) constructed by owners or occupiers, or previous owners or occupiers, of the parcels of land, the council must, in accordance with this Act and the regulations, make and levy an annual charge for those services.
- (2) A council may, in accordance with this Act and the regulations, make and levy an annual charge for the provision by the council of coastal protection services for each parcel of rateable land that benefits from the services, being services that relate to coastal protection works that were (or are being) constructed jointly by:
 - (a) owners or occupiers, or previous owners or occupiers, of the parcels of land, and
 - (b) a public authority or a council.
- (3) An annual charge for the provision of coastal protection services must be calculated so as to not exceed the reasonable cost to the council of providing those services.

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Amendment of Local Government Act 1993 No 30

Schedule 2

- (4) In determining the reasonable cost to the council of providing a coastal protection service, a council is to have regard to the average of the following amounts:
- (a) the projected cost of providing the service in the year the charge is to be levied,
 - (b) the projected cost of providing the service in each of the 2 years following the year the charge is to be levied,
 - (c) the actual cost of providing the service in each of the 2 years preceding the year the charge is to be levied (if any).
- (5) If a person is aggrieved by the amount of the annual charge, the person may appeal to the Land and Environment Court and that Court may determine the amount.
- (6) For the avoidance of doubt, a parcel of land benefits from the provision of coastal protection services even if:
- (a) the services relate to private coastal protection works (such as a seawall) wholly on the parcel or on a neighbouring parcel of private land, or
 - (b) the services are carried out on land that is outside the council's area.
- (7) Subsections (1) and (2) do not authorise or permit a council to make or levy an annual charge for the provision of coastal protection services for rateable land that is:
- (a) owned by the Crown, and
 - (b) held under a lease for private purposes granted under the *Aboriginal Housing Act 1998* or the *Housing Act 2001*.

Note. Section 555 (1) (a) provides that land owned by the Crown is not rateable land unless it is held under a lease for a private purpose.

[3] Section 505 Application of Part

Insert after section 505 (a) (v):

- (vi) annual charges for coastal protection services, and

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Schedule 2 Amendment of Local Government Act 1993 No 30

[4] Chapter 15, Part 5, Division 3

Insert after Division 2 of Part 5 of Chapter 15:

Division 3 Coastal protection service charges

553B Restriction on levying coastal protection service charges

- (1) A council must, on request, provide a person who would be liable to pay an annual charge for coastal protection services in relation to proposed coastal protection works with an estimate of the person's liability for that annual charge (if the council were to make such a charge) for each of the following 5 years.
- (2) A request for an estimate under subsection (1) must include any information required by the council in order to make the estimate, including but not limited to, information relating to proposed coastal protection works such as the location and type of works and their expected on-site and off-site impacts.
- (3) A council must provide the estimate within 30 days of the submission of the request (including the required information).
- (4) If a council has failed to comply with subsection (3) in relation to a person, the council, during the first 4 years after making such an annual charge, may only levy on the person's land the following percentage of the charge that the council would otherwise have levied on that land:
 - (a) during the first year—0%,
 - (b) during the second year—25%,
 - (c) during the third year—50%,
 - (d) during the fourth year—75%.
- (5) Subject to subsection (4), an estimate provided by the council does not bind or limit the council in the making or levying of a charge for coastal protection services under this Act.

[5] Section 733 Exemption from liability—flood liable land and land in coastal zone

Insert after section 733 (3) (a):

- (b) the preparation or making of a coastal zone management plan, or the giving of an order, under the *Coastal Protection Act 1979*, and

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Schedule 2

[6] Section 733 (3) (f2)–(f5)

Insert in appropriate order in section 733 (3):

- (f2) anything done or omitted to be done regarding beach erosion or shoreline recession on Crown land, land within a reserve as defined in Part 5 of the *Crown Lands Act 1989* or land owned or controlled by a council or a public authority, and
- (f3) the failure to upgrade flood mitigation works or coastal management works in response to projected or actual impacts of climate change, and
- (f4) the failure to undertake action to enforce the removal of illegal or unauthorised structures on Crown land, land within a reserve as defined in Part 5 of the *Crown Lands Act 1989* or land owned or controlled by a council or a public authority that results in beach erosion, and
- (f5) the provision of information relating to climate change or sea level rise, and

[7] Section 733 (4)–(6)

Insert “or guidelines” after “manual” wherever occurring.

[8] Section 733 (8)

Insert “and land that adjoins the tidal waters of the Hawkesbury River, Sydney Harbour and Botany Bay, and their tributaries” after “that Act”.

[9] Schedule 6 Regulations

Insert after item 7:

- 7A** Coastal protection services.
Examples. The minimum standards in carrying out such coastal protection services

[10] Dictionary

Insert in alphabetical order:

coastline hazard means the following:

- (a) beach erosion,
- (b) shoreline recession,
- (c) coastal lake entrance instability,
- (d) coastal inundation,
- (e) coastal cliff instability.

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Schedule 2 Amendment of Local Government Act 1993 No 30

coastal protection service means a service:

- (a) to maintain coastal protection works, or
- (b) to manage the impacts of such works (such as changed or increased beach erosion elsewhere),

but does not include a service:

- (c) that relates to temporary coastal protection works, or
- (d) that relates to the maintenance of coastal protection works or the management of the impacts of such works where that maintenance or management (as appropriate) is a condition of an approval or consent under the *Environmental Planning and Assessment Act 1979* relating to the works.

coastal protection works means activities or works to reduce the impact of coastline hazards on land adjacent to tidal waters and includes seawalls, revetments, groynes and beach nourishment.

flooded, in relation to land, means inundated by waters derived from the runoff of rainfall on land.

shoreline recession means the progressive landward movement of the average long term position of the coastline.

temporary coastal protection works has the same meaning as it has in the *Coastal Protection Act 1979*.

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Coastal Protection and Other Legislation Amendment Bill 2010

Amendment of other legislation

Schedule 3

Schedule 3 Amendment of other legislation

3.1 Coastal Protection Regulation 2004

Clause 9

Insert after clause 8:

9 Double concurrence to same development by public authority not required

If:

- (a) a public authority (the *developer authority*) is required to obtain the concurrence of the Minister to carry out any development in the coastal zone under clause 6, and
- (b) the developer authority is required under any law to obtain a grant of a right or consent from another public authority (the *approval authority*) to carry out that development, and
- (c) the approval authority is required to obtain the concurrence of the Minister to the grant of the right or consent under clause 7,

concurrence by the Minister to the carrying out of the development by the developer authority is taken to also be concurrence to the grant of the right or consent by the approval authority.

3.2 Conveyancing (Sale of Land) Regulation 2005

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

section 603 certificate means a certificate issued under section 603 (3) of the *Local Government Act 1993*.

[2] Schedule 1 Prescribed documents

Insert after item 15 of the Schedule:

- 16** If the contract relates to land that is subject to an annual charge for the provision of coastal protection services under the *Local Government Act 1993*, a section 603 certificate.

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Schedule 3 Amendment of other legislation

3.3 Environmental Planning and Assessment Regulation 2000

Clause 228 What factors must be taken into account concerning the impact of an activity on the environment?

Insert after clause 228 (2) (o):

- (p) any impact on coastal processes and coastal hazards, including those under projected climate change conditions.

3.4 Local Government (General) Regulation 2005

[1] Clause 201 Annual statement of council's revenue policy

Insert after clause 201 (3) (d):

- (e) in relation to an annual charge for the provision by the council of coastal protection services (if any)—a map or list (or both) of the parcels of rateable land that are to be subject to the charge.

[2] Clause 217 Additional information for inclusion in annual report

Omit “management plan” wherever occurring in clause 217 (1) (e).

Insert instead “operational plan”.

[3] Clause 217 (1) (e1)

Insert after clause 217 (1) (e):

- (e1) if the council has levied an annual charge for coastal protection services—a comparison of the actual coastal protection services made available by the council during the year (measured in accordance with the criteria set out in the relevant operational plan) with the projected coastal protection services that were proposed to be made available (outlined in the operational plan relating to the year concerned), together with a statement of the reasons for any difference between them,

[4] Part 13 Miscellaneous

Insert after Division 11 of Part 13:

Division 12 Standards of coastal protection services

413B Standards of coastal protection services

- (1) A coastal protection service carried out by a council to maintain coastal protection works must maintain the structural integrity of the works to a reasonable engineering standard.

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Schedule 3

- (2) A coastal protection service carried out by a council to manage the impacts of coastal protection works must ensure that the works do not result in any significant long term coastal erosion impacts on beaches or on adjoining land or any impacts on public access to the adjoining beach.