

First print



New South Wales

Coastal Protection Amendment Bill 1997

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.

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 and 2.

Clause 4 is a formal provision giving effect to the amendment to the *Local Government Act 1993* set out in Schedule 3.

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

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 [3] 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. 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 [4] 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 [6] and [7] contain savings and transitional provisions.

Schedule 1 [2] and [5] contain consequential amendments.

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

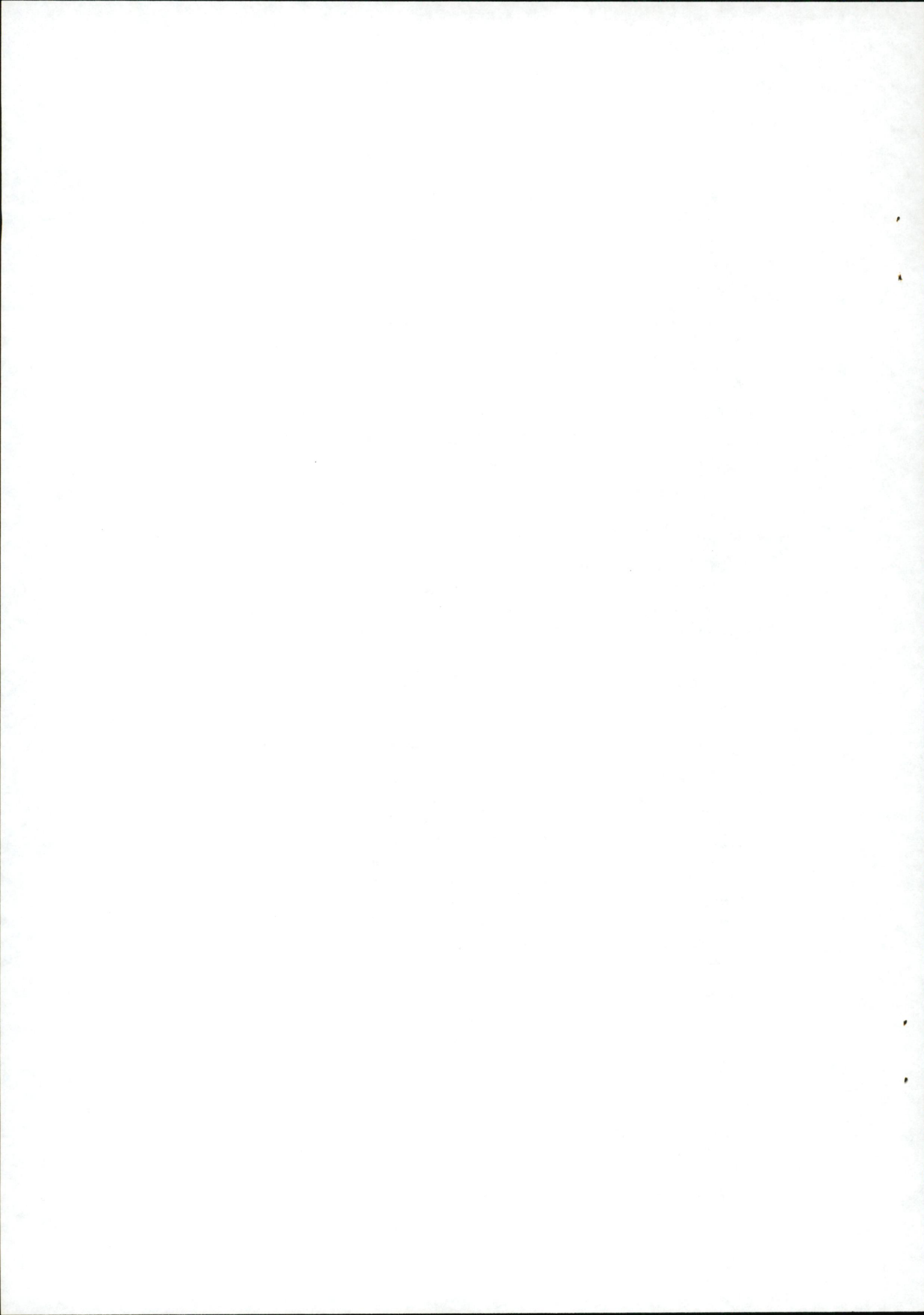
Coastal Council

Schedule 2 [2] expands the membership of the Coastal Council from 10 to 20. The members of the Council will be drawn from nominations made by Ministers with portfolios concerning coastal matters, environmental groups, 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]–[8] contain consequential amendments.

Schedule 3 Amendment of Local Government Act 1993

Schedule 3 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*.





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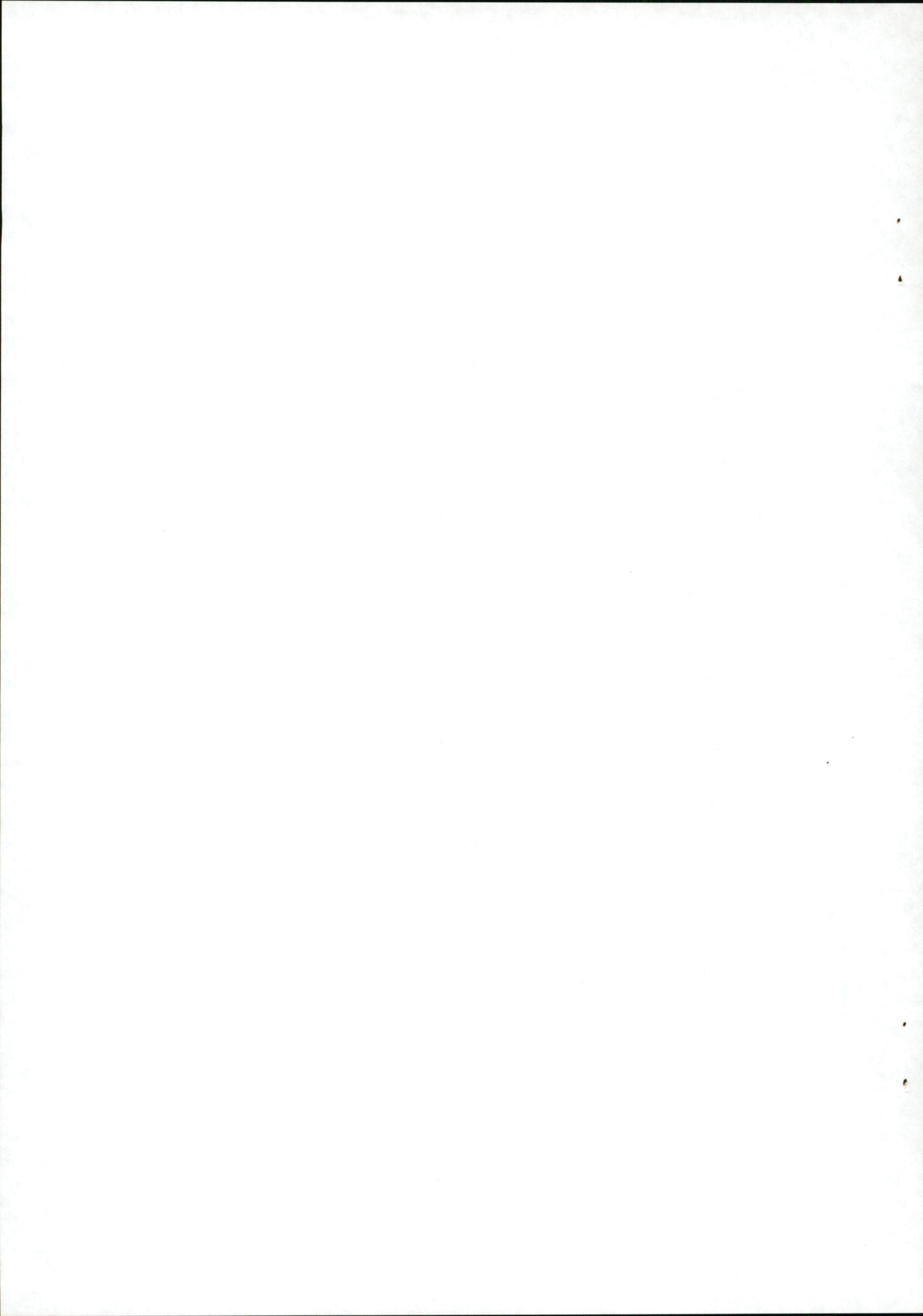
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New South Wales

Coastal Protection Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *Coastal Protection Act 1979* to redefine the coastal zone and to reconstitute the Coastal Council; and to amend the *Local Government Act 1993* consequentially.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coastal Protection Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Coastal Protection Act 1979 No 13

The *Coastal Protection Act 1979* is amended as set out in Schedules 1 and 2.

4 Amendment of Local Government Act 1993 No 30

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The *Local Government Act 1993* is amended as set out in Schedule 3.

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

(Section 3)

[1] Section 4 Definitions 5

Omit the definition of *coastal zone* from section 4 (1).
Insert instead:

coastal zone means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and 10
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and 15
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

Note. The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State. 20

[2] Section 4 (3) 25

Insert after section 4 (2):

- (3) A reference in this Act to the maps outlining the coastal zone is a reference to:
 - (a) the maps approved for the purposes of this Act by the Minister administering Part 2, and 30
 - (b) if those maps are amended or replaced by further maps so approved by the Minister administering Part 2, the maps as so amended or replaced.

[3] Section 4A

Insert after section 4:

4A Inspection of maps outlining coastal zone

- (1) The Director-General of the Department of Urban Affairs and Planning must ensure that: 5
- (a) the maps outlining the coastal zone are available for inspection during normal office hours at the principal office of the Department, and
- (b) at each of the relevant regional offices of the Department, such of the maps outlining the coastal zone that relate to the region are available for inspection during normal office hours. 10
- (2) The Director-General of the Department of Land and Water Conservation must ensure that, at each of the relevant regional offices of the Department, such of the maps outlining the coastal zone that relate to the region are available for inspection during normal office hours. 15
- (3) The council of a local government area that is within, or partly within, the coastal zone must ensure that such of the maps outlining the coastal zone that relate to that area or a part of that area are available for inspection during normal office hours at the principal office of the council. 20

[4] Section 37 Definitions

Insert in alphabetical order in section 37 (1): 25

coastal zone includes any area of water (and the seabed and the subsoil beneath and the airspace above any such area) adjoining the westward boundary of the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987*: 30

- (a) that is not within a local government area, and
- (b) that is not subject to an environmental planning instrument within the meaning of the *Environmental Planning and Assessment Act 1979* other than a State environmental planning policy. 35

[5] Section 56 Amendment of Schedule 1

Omit the section.

[6] Section 62

Insert after section 61:

62 Savings, transitional and other provisions

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Schedule 1 has effect.

[7] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Savings, transitional and other provisions

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(Section 62)

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

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- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

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- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

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

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

2 Definition of coastal zone

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Any order, concurrence, condition, authorisation or notice made or given under this Act as in force immediately before the commencement of Schedule 1 [4] to the *Coastal Protection Amendment Act 1997* has effect after that commencement, but only in relation to land or waters within the coastal zone (within the meaning of Part 3) after that commencement.

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

(Section 3)

- [1] **Section 7 Definitions** 5
- Omit the definition of *Chairman*. Insert instead:
- Chairperson* means the Chairperson of the Coastal Council appointed under section 9 (2) (a).
- [2] **Section 9 Members** 10
- Omit section 9 (1) and (2). Insert instead:
- (1) The Coastal Council is to consist of 20 members appointed by the Minister.
 - (2) The members of the Coastal Council are to consist of the following:
 - (a) an expert in coastal protection who is to be the Chairperson of the Coastal Council, 15
 - (b) a member of Parliament,
 - (c) a person nominated by the Minister administering the *Environmental Planning and Assessment Act 1979*, 20
 - (d) a person nominated by the Minister for Land and Water Conservation,
 - (e) a person nominated by the Minister administering the *National Parks and Wildlife Act 1974*,
 - (f) a person nominated by the Minister administering the *Mining Act 1992*, 25
 - (g) a person nominated by the Minister administering the *Fisheries Management Act 1994*,
 - (h) a person nominated by the Minister administering the *Local Government Act 1993*, 30

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- (i) a person nominated by the Minister administering the *Protection of the Environment Administration Act 1991*,
- (j) a person nominated by the Minister for Aboriginal Affairs, 5
- (k) a person nominated by the Minister for State and Regional Development,
- (l) a person nominated by the Minister for Tourism,
- (m) a person nominated by the Minister for Sport and Recreation, 10
- (n) a person nominated by the Minister administering the *Ports Corporatisation and Waterways Management Act 1995*,
- (o) a person selected by the Minister from a panel of 3 persons nominated by an environmental group with an interest in coastal matters, approved by the Minister, 15
- (p) a person selected by the Minister from a panel of 3 persons nominated by an industry group with an interest in coastal matters, approved by the Minister, 20
- (q) a person selected by the Minister from a panel of 3 persons nominated by a professional organisation with an interest in coastal matters, approved by the Minister, 25
- (r) 3 persons, each being a member of a council for a local government area within or partly within the coastal zone, nominated by the Local Government and Shires Associations and approved by the Minister. 30

[3] Section 9 (3)

Omit "(b), (c), (e), (f), (g) and (i)".
Insert instead "(o), (p), (q) or (r)".

[4] Section 9 (3)

Omit "person entitled". Insert instead "body entitled".

[5] Section 10 Chairman

Omit the section.

[6] Sections 13, 17 and 18

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Omit "Chairman" wherever occurring.
Insert instead "Chairperson".

[7] Section 15 Vacation of office

Omit "section 9 (2) (a)-(g) or (i)" from section 15 (g).
Insert instead "section 9 (2) (b) or (r)".

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[8] Section 20 Quorum

Omit "five". Insert instead "eleven".

**Schedule 3 Amendment of Local Government Act
1993**

(Section 4)

**Section 733 Exemption from liability—flood liable land and land
in coastal zone**

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Insert “, and includes land previously in the coastal zone under that
Act” after “*Coastal Protection Act 1979*” in section 733 (8).