

Legislative Council (2016-05-04)**Classification: Bills****COASTAL MANAGEMENT BILL 2016***First Reading*

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell, on behalf of the Hon. John Ajaka.

Second Reading

The Hon. SARAH MITCHELL (12:38): On behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

The Coastal Management Bill 2016 is an important part of the New South Wales Government's coastal management reforms. It will establish a simpler, more contemporary legislative framework for the management of the coast. It is the first part of a coastal reform package that will better equip coastal communities to respond effectively to existing and emerging coastal challenges and opportunities.

The much-needed and long-awaited coastal management reforms establish the legislative and policy settings and the practical tools that resilient coastal communities need to protect and enhance the natural values of the coast; ensure ongoing public access, use and enjoyment of our beaches and foreshores; and prepare for and respond to existing and emerging coastal hazards and threats.

This bill is the result of extensive consultation and collaboration between the State Government and local governments up and down the coast as well as coastal experts and coastal communities. At the NSW Coastal Conference held at Forster in November 2015, the Minister for Planning released a draft bill for public consultation together with key elements of a draft coastal manual and an explanation of the intended effect of a new coastal management State environmental planning policy.

I am pleased to say that the response during the three-month consultation period was overwhelmingly positive and constructive. The approximately 450 submissions that were received expressed a range of views raised issues and concerns and proposed suggestions. The bill that I put before the House today has been shaped and improved as a result of the extremely valuable input from councils, community members and experts. I thank all the stakeholders who contributed to this process for their time and attention.

The reasons for this reform are to make the system simpler by replacing and improving the outdated and complex web of laws managing our coast; to enable us to resolve the issues arising from past settlement patterns and to manage the unique environmental, social and economic values of the coast in a planned and strategic way; and to provide better support for local councils as the custodians of our coast.

The current Coastal Protection Act is to be replaced by a new Coastal Management Act that will enable more strategic management of coastal life. The current Act is complex and difficult to navigate. Its one size-fits-all approach is no longer fit for purpose. Since the original Coastal Protection Act was enacted in 1979 our understanding of coastal processes has improved dramatically. We know our coastline is not a fixed object but a dynamic, ever-changing environment with a range of natural processes.

The new legislation, the Coastal Management Bill 2016, is easier to navigate and more helpful in managing our coast. The bill provides the architecture for strategic management of our coastal areas. It will assist councils and communities to manage current and future risks to our natural and built coastal assets, in the interests of current and future generations. We need to look ahead and adopt a proactive management approach to our coastline and this bill provides the architecture for integrated and coordinated coastal planning, management and reporting.

I turn now to the specific provisions of the bill. The Coastal Management Bill contains new statutory objects to better communicate the State's vision for coastal management. Consistent with the principles of ecologically sustainable development, the objects integrate economic and environmental considerations for the social, cultural and economic wellbeing of the people of the State. The objects recognise the vital natural social, cultural and economic values of our coastal areas. Importantly, the new statutory objects will recognise natural coastal processes and the locally and regionally dynamic character of the coast and will promote land use planning decisions that accommodate them.

The bill recognises the importance of the State's saltwater economy and supports sustainable coastal economies. Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone are also

recognised. The new statutory objects will ensure coordinated planning and management of the coast and will support public participation in those activities. The promotion of plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future is also featured. The objects will also support the aims of the Marine Estate Management Act 2014, as the coastal zone forms part of the marine estate.

The New South Wales coast is a treasure trove of unique and inter-related landforms and environments. These environments are linked to diverse cultural, economic and social values. Our coast is special to so many families, communities, businesses and the nation as a whole. For many, the coast is a place for sport, recreation and tourism. The great Australian summer holiday is based around a trip to a coastal area for surfing, fishing, boating or simply relaxing on the sand. The coast is also a place of business and prosperity.

Tourism, primary industries and a vast array of small businesses rely on the coast every day for their livelihoods. We do not think of the coast as one single homogenous place, so it does not make sense for our coastal legislation to do so either. Under the Coastal Management Bill, the coastal zone will be defined in a nuanced way so that our objectives for the coast can be targeted to the right areas. Under the bill, the new coastal zone is to be divided into four coastal management areas to accommodate the different and unique features and specific needs of those different areas.

In total, it is proposed that the coastal zone be a combination of four coastal management areas: a coastal wetlands and littoral rainforests area; a coastal vulnerability area, being an area subject to coastal hazards such as beach erosion, shoreline recession and tidal inundation; a coastal environment area, which contains coastal features including coastal waters, estuaries, coastal lakes, coastal lagoons, headlands and rock platforms; and a coastal use area, being an area of land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is present or may be carried out in the future. These four areas are defined in the bill and will be identified in due course, following additional public consultation, for all coastal local government areas in New South Wales and mapped as part of a coastal management State environmental planning policy.

The legislation establishes clear, outcome-oriented management objectives for each area to ensure councils apply the best management tools and development controls. The management objectives for the coastal wetlands and littoral rainforests area are a strong statement about the Government's commitment to the protection of these environmentally important areas. Coastal wetlands and littoral rainforests are to be protected in their natural state, including their biological diversity and ecosystem integrity.

The management objectives also seek to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests and improve the resilience of these areas. The management objectives for the coastal vulnerability area are focused on ensuring that activities on land that is subject to coastal hazards ensure public safety and prevent risks to human life. Coastal managers are to manage these areas so as to mitigate current and future risk from coastal hazards. Importantly, public access, amenity and use of beaches and foreshores are to be maintained.

Coastal management strategies that reduce exposure to coastal hazards are, in the first instance and wherever possible, to restore or enhance natural defences, including coastal dunes, vegetation and wetlands. If natural strategies are not sufficient to reduce exposure to coastal hazards, other actions should be taken to reduce exposure. The management objectives contain strong measures to ensure that coastal management actions to reduce exposure to coastal hazards avoid significant degradation or disruption to natural environmental processes as well as to beach and foreshore amenity. The management objectives call for the restoration of a beach if any increased erosion of the beach or adjacent land is caused by actions to reduce exposure to coastal hazards.

The third area is the coastal environment area, which covers land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms. The management objectives for this area are to protect and enhance the coastal environmental values and natural processes of the area and to enhance natural character, scenic value, biological diversity and ecosystem integrity. Water quality and estuary health is also captured in this management area.

The final coastal management area is the coastal use area, which is land adjacent to coastal waters and other features and where development may be carried out now or in the future. The management objectives for this area are focused on protecting and enhancing the scenic, social and cultural values of the coast to ensure our beautiful coastline will always look beautiful, while accommodating appropriate development that supports local economic activity. Where these management areas overlap the management objectives will be combined, and the bill provides a hierarchy in case there are any inconsistencies.

The Coastal Management Bill establishes requirements for the preparation of coastal management programs [CMPs]. Over time CMPs will replace current coastal zone management plans. The purpose of a CMP is to set the long-term strategy for the coordinated management of land within the coastal zone. Under the bill a local council may, and must if directed to do so by the Minister, prepare a CMP in accordance with the legislation. The council's CMP will need to consider and promote the objects of the Act and give effect to the management objectives for the coastal management areas.

The bill establishes the key requirements that a coastal management program must meet. These are: to identify the coastal management issues affecting the areas to which the program is to apply; to identify the actions required to address those coastal management issues in an integrated and strategic manner; to identify how and when those actions are to be implemented; to identify the costs of those actions and proposed cost-sharing arrangements and other viable funding mechanisms for those actions to ensure the delivery of those actions is consistent with the timing of their implementation under the coastal management program; and, if needed, to include a coastal zone emergency action sub-plan that outlines the roles and responsibilities of all public authorities in response to coastal zone emergencies, such as beach erosion.

In developing a CMP a council must consult with the community and relevant public authorities. These requirements are to ensure councils develop coastal management programs that are feasible, proportionate to risk and able to be resourced. When developing a coastal management program, councils are required to consider a range of options and will need to work closely with their communities to decide the best option for a particular area. It will also be important to ensure that councils and other public authorities with a role in the coastal zone collaborate to ensure that actions at all levels reflect the objects of the bill and are compatible with the long-term strategy for the coast.

Importantly, the bill recognises that water-borne sand and other sediment move on a scale larger than local government boundaries within areas known as sediment compartments. Consultation should be at the scale of these sediment compartments and also where an estuary is within two or more local government areas so that coastal management activities can take into account strategic issues on a regional scale.

The Coastal Management Bill links coastal zone management planning with the planning that councils already invest in for their mainstream asset management and community service delivery functions. The new coastal management programs will have a strong emphasis on implementation. The bill does this by requiring coastal management programs to be given effect within the local government Integrated Planning and Reporting [IP and R] framework.

The IP and R framework is established under chapter 13 of the Local Government Act 1993 and is the main mechanism by which councils comprehensively plan for and report on their asset management and service delivery responsibilities within a local government area. This means that coastal management programs and identified coastal management activities are aligned with broader community strategic plans and reflect community priorities and are feasible, financially viable and able to be resourced.

The bill provides the Minister with the authority to certify or refuse to certify that a council's coastal management program has been prepared in accordance with the legislation's requirements. The bill creates the NSW Coastal Council, which will be a new statutory advisory body to replace the NSW Coastal Panel. The Minister may seek advice from the NSW Coastal Council, which will be made up of people with expertise in areas relevant to coastal management, such as coastal land use planning, coastal physical sciences, economics and social science.

The NSW Coastal Council may also be tasked by the Minister to audit the performance of a local council's implementation of its coastal management program. This will enable the Minister to determine whether coastal management programs are being implemented effectively. The bill also includes a provision for the Minister to publish a coastal management manual to establish mandatory requirements and provide guidance in connection with the preparation, development, adoption, amendment, review and contents of coastal management programs.

The manual will be an invaluable resource for coastal communities as they plan their future on the coast. It will provide clear instructions and step-by-step guidance for councils to meet the requirements of the legislation. Under the bill, compliance with the manual will ensure that councils fulfil their good faith obligations under the Local Government Act 1993. The manual builds on existing guidelines and fills critical gaps that councils have identified. At its core, the manual will promote collaboration and consultation to ensure that management programs are developed by the community for the community. In particular, the bill outlines that the manual is to include the following:

- technical information and guidance on matters such as hazard mapping, ecological health, cost benefit analysis and implementation and funding tools,

- requirements relating to the consultation that must be undertaken in connection with the preparation, development or review of coastal management programs, and
- a risk management process that local councils are to follow when preparing their coastal management programs, including a process of identifying and assessing risks to environmental social and economic values and benefits and evaluating and selecting management actions to address those risks.

The manual and related technical information will provide coastal communities with the best available scientific information about coastal processes and the potential impacts of a changing climate on coastal areas, including changes in sea levels, severe weather events and flooding. The provisions of section 55M of the existing Coastal Protection Act dealing with the granting of development consent for coastal protection works will be included in the new Act. The Coastal Management Bill includes heads of consideration designed to protect beaches and headlands from the impacts of coastal protection works. Provisions relating to conditions of consent have been incorporated into the Environmental Planning and Assessment Act.

Provisions for temporary coastal protection works are not included in the Coastal Management Bill. This is because the new framework requires significant proposals for coastal management to be considered strategically through the development of a coastal management program. An important part of this approach is that the interests of local communities are best served by thinking ahead and planning for likely hazard events, such as extreme storm events. Where temporary or emergency works are installed without appropriate planning, there is a greater risk of exacerbating erosion problems elsewhere.

Shorter-term works by public authorities are included in emergency work provisions in the bill. This will allow for instances where a public authority needs to respond to beach erosion, coastal inundation or cliff instability as a result of storm activity. Private landowners can continue to seek consent for coastal protection works, whether temporary or longer-term. There is currently significant overlap between the compliance and enforcement provisions in the Coastal Protection Act and the Environmental Planning and Assessment Act in relation to unauthorised works and development in the coastal zone.

For this reason, the proposed Coastal Management Act will not include offences and enforcement powers. To reduce regulatory overlap, enforcement of the new legislative arrangements will occur under the Environmental Planning and Assessment Act 1979. The bill includes amendments to that Act to ensure it provides the provisions necessary to address cases of unauthorised works on beaches, dunes or foreshores. This approach simplifies the legal framework by integrating unauthorised coastal development into the existing enforcement framework for other unauthorised development.

The application of the compliance and enforcement regime in the Environmental Planning and Assessment Act will ensure that unauthorised coastal protection works are treated the same as other unauthorised development and that any enforcement action follows a transparent and established process. This will be of particular benefit to local councils, as they understand and utilise the compliance and enforcement mechanisms under the Environmental Planning and Assessment Act on a daily basis and are generally the first point of call for members of the public with a complaint. Enforcement provisions under other legislation will continue to apply and will further support the powers under the Environmental Planning and Assessment Act. I commend the bill to the House.

Debate adjourned.