



New South Wales

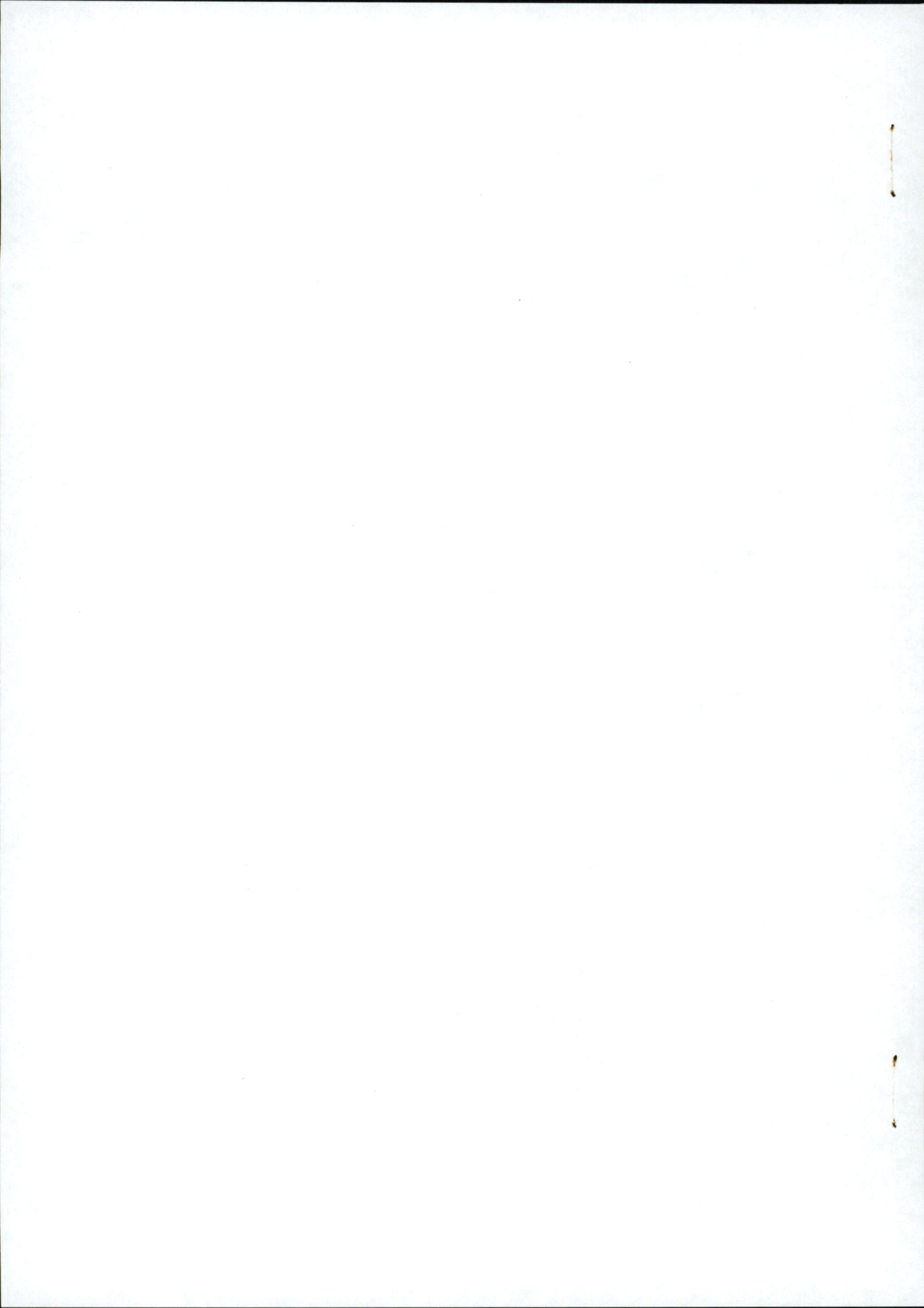
Coastal Protection Amendment Act 1998 No 46

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New South Wales

Coastal Protection Amendment Act 1998 No 46

Act No 46, 1998

An Act to amend the *Coastal Protection Act 1979* to redefine the coastal zone, to reconstitute the Coastal Council to apply the principles of ecologically sustainable development; and to amend the *Local Government Act 1993* consequentially. [Assented to 26 June 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coastal Protection Amendment Act 1998*.

2 Commencement

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

3 Amendment of Coastal Protection Act 1979 No 13

The *Coastal Protection Act 1979* is amended as set out in Schedules 1–3.

4 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 4.

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

(Section 3)

[1] Section 4 Definitions

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
- (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
- (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.

[2] Sections 4A and 4B

Insert after section 4:

4A Meaning of maps outlining coastal zone

- (1) A reference to 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
 - (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.

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

- (2) The Minister is to ensure, when approving of maps for the purposes of this Act, that the western boundary of the coastal zone is determined in accordance with the principles set out in subsection (3).
- (3) The following principles apply to the determination of the western boundary of the area to be included in the coastal zone as referred to in subsection (2):
 - (a) the boundary is to be generally one kilometre landward of the western boundary of the coastal waters of the State,
 - (b) the boundary is to be generally one kilometre landward around any bay, estuary, coastal lake or lagoon,
 - (c) the boundary is to follow the length of any coastal river inland generally at a distance of one kilometre from each bank of the river:
 - (i) to one kilometre beyond the limit of any recognised mangroves on or associated with the river, or
 - (ii) if there are no such recognised mangroves—to one kilometre beyond the tidal limit of the river,
 - (d) the boundary is to be shown to the nearest cadastral boundary or easily recognisable physical boundary (determined in consultation with relevant councils),
 - (e) the boundary is to exclude the urban regions of Sydney, Newcastle, Illawarra and the Central Coast (extending from Newcastle in the north to Shellharbour in the south).
- (4) In this section, *recognised mangroves* means mangroves shown on maps prepared in 1985 by the Department having the responsibility for the administration of fisheries, as updated by that Department from time to time.

4B Inspection of maps outlining coastal zone

- (1) The Director-General of the Department of Urban Affairs and Planning must ensure that:
 - (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.
- (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.
- (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.

[3] Section 37 Definitions

Insert in alphabetical order in section 37 (1):

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*:

- (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.

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

[4] Section 56 Amendment of Schedule 1

Omit the section.

[5] Section 62

Insert after section 61:

62 Savings, transitional and other provisions

Schedule 1 has effect.

[6] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Savings, transitional and other provisions

(Section 62)

1 Regulations

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

Coastal Protection Amendment Act 1998

- (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:
- (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

- (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

Any order, concurrence, condition, authorisation or notice made or given under this Act as in force immediately before the commencement of Schedule 1 [3] to the *Coastal Protection Amendment Act 1998* 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.

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

(Section 3)

[1] Section 7 Definitions

Omit the definition of *Chairperson*. Insert instead:

Chairperson means the Chairperson of the Coastal Council appointed under section 9 (2) (a).

[2] Section 9 Members

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,
 - (b) a member of Parliament,
 - (c) a person nominated by the Minister administering the *Environmental Planning and Assessment Act 1979*,
 - (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*,
 - (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*,

- (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,
- (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,
- (n) a person nominated by the Minister administering the *Ports Corporatisation and Waterways Management Act 1995*,
- (o) a person approved by the Minister and selected by the Minister from a panel of 3 persons nominated by the Nature Conservation Council,
- (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,
- (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,
- (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.

[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 Chairperson

Omit the section.

[6] 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)".

[7] Section 20 Quorum

Omit "five". Insert instead "eleven".

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

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

principles of ecologically sustainable development means the principles of ecologically sustainable development described in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

[2] Section 27 General

Insert after section 27 (2):

- (3) The Coastal Council, in the exercise of its functions, and the Minister in the exercise of the Minister's functions under this Division, are to have regard to the principles of ecologically sustainable development.

[3] Section 37A

Insert after section 37:

37A Consideration of principles of ecologically sustainable development

In exercising functions under this Part, the Minister is to have regard to the principles of ecologically sustainable development.

[4] Section 54A

Insert after section 54:

54A Consideration of principles of ecologically sustainable development

In exercising functions under this Part, the Minister is to have regard to the principles of ecologically sustainable development.

Schedule 4 Amendment of Local Government Act 1993

(Section 4)

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

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

[Minister's second reading speech made in—
Legislative Assembly on 20 May 1998
Legislative Council on 17 June 1998]

BY AUTHORITY