

LAKE WONBOYN COASTAL AWARENESS GROUP

OBJECTION TO

NSW STAGE TWO COASTAL MANAGEMENT REFORM LEGISLATION

The residents of Lake Wonboyn in south eastern NSW have received no information from either the NSW Government directly or through OEH or the Bega Valley Shire Council, our council. We became aware of this proposed legislation one week ago. There has been no engagement and consultation and an unrealistic time period for property owners to prepare their submissions.

The Federal Productivity Commission Inquiry Report (the Report) on Regulatory and Policy Barriers to Effective Climate Change Adaptation 2012.

The report stated “wide-ranging and inclusive public consultation was required to build consensus around options for managing climate change risks to existing settlements”. There has been no options offered other than the unacceptable Planned Retreat. It is expected that legislation should be clear and understandable. This legislation is very complex and copious, requiring superior comprehension with considerable time spent by individuals to try to understand the legal and technical information provided. Many have needed to seek legal advice to understand the proposed bill.

The Coastal Management Bill

.Objects of this Act - States “The objects of this Act are to manage the coastal environment of New South Wales consistent with the principles of ecologically sustainable development for the social cultural and economic well-being of the people of the State, and in particular”.

Although twelve individual and detailed objects are set out to address the social, cultural, economic and environmental principles of ecologically sustainable development, *nowhere* in this propose legislation do any of these principles address the legacy issue of existing development and how this Act will protect the livelihood, culture, wellbeing and social structure of existing settlements.

Definitions

There are noticeable subtle change to the definitions.

We are particularly affected by the changed definition of “a **beach**”, for instance, which further reduces the potential for using marine sand for beach nourishment after storm events, the use of geotextile sand bags, and the reconstruction of lost dunal systems. This changed definition alone provides only more constraints on development and the ability to actually protect land from coastal hazards including erosion, inundation and flooding.

Many of the definitions are themselves described using language that requires further definition such as beach profile.

The term “coastal environment” in the first sentence under **3 Objects of the Act**, fails to adequately make it clear what land is affected and is ambiguous.

Coastal vulnerability area

This section unfairly addresses the issue of existing development by mandating that if coastal management strategies are implemented, they must use natural defences in the first instance. Where these cannot be used, an excessive number of constraints are imposed in the form of conditions that must be met before any, other than natural defences are used.

Much of the proposed legislation is written from the point of rising sea levels and does not appear to consider the ramifications of significant storms and cyclones, such as Winston, that wrought such horrific damage to Fiji and following rough seas have affected coastal NSW with many beaches being closed. Further, it fails to consider the actions of councils in restricting/diverting water flow from perennial coastal streams resulting in insufficient flow and the build up of sand and silt causing estuarine barriers and shoals.

Planned Retreat

This section alone allows the NSW State Government to introduce an unstated policy of “planned retreat”. It will be impossible for any development proposals for existing developed properties in the Coastal Vulnerability Area to meet these conditions. The same constraints cannot be placed on existing residential land, property owners and existing development in need of extension or renovation or complete reconstruction. Planned retreat, is discriminatory and robs the property owner of fair compensation for their loss and provides the Government with land for no cost.

There is a significant bias to the protection of the environment at all cost, while ignoring the dilemma of the economic, social and property rights of property owners that are already located in the Coastal Vulnerability area. This entire section of the proposed legislation, could be imposed on existing settlements in a way that impacts on their wellbeing, livelihood and social values. There is a complete imbalance between the consideration of what is suggested to be the ramifications of climate change and existing coastal developments and the values of both.

Much of the lively coastal town of Merimbula in the Bega Valley Shire would be lost, causing extraordinary hardship to the residents. The social fabric of the small community of Lake Wonboyn would render a substantial number of the residents lose their properties and destroy the nature of this small community. Some of the property owners are elderly not in a financial position to be able to satisfy the proposed legislation extraordinary inappropriate Planned Retreat.

Expropriatory legislation is presumed to require the payment of compensation, an important 'rule of political ethics'.

Coastal Mapping.

The NSW coastline will be mapped by the OEH to create the overlays that will identify the various environmental management areas to form the basis of a new SEPP. NSW coastal mapping is being carried out by local councils, the OEH, and now after the Paris climate change conference, the Federal Government. Will all of these be different? Logic, common sense and practicability says that the three levels of government should fund one properly planned and organised mapping exercise. In terms of "modern reform" modernity must be applied to how the taxpayer/ratepayer's funds are used and this further emphasises the arrogance of the NSW Government and it's inability to work with other levels of Government, let alone the property owners.

Management

The management component of the proposed legislation is void of detail in regard to protection of existing "urban use areas" in the coastal zones. Responsibility for future protection of the coastal environment is passed on to local councils.. "Planned Retreat" is seen as the only acceptable low cost adaptation option.

It is disingenuous to promise future investigation into the legal rights of affected property owners, but not frame it in the legislation.

Coastal property owners are mindful of the effects of man- made climatic changes, which the NSW Governments expects property owners in the coastal zone to bear. In a democratic country, why would any government expect a mix of differing property owners to bear the expense of climate change for the benefit of the nation.

Governance Issues

The Coastal Council which is proposed to advise the Minister, is not subject to review; there are no performance or governance guidelines and no operational procedures regarding conduct of the Council audits, pecuniary interest disclosures, code of conduct, nor representation from coastal property owners.

the Minister, who is also able to delegate his responsibilities under the Act. The Minister controls the Coastal Council totally and is not therefore at arms length. These provisions do not set the scene for good governance.

There appears to be no governance in regard to how the local councils execute their powers under this proposed legislation. At this point in time and in the foreseeable next two decades, there are no current conditions which necessitate providing local government with these wide ranging powers. Much can well change in twenty years including different assessments of climate change and the sciences attached to it. The biggest threat to most property owners at the moment, is this legislation and giving councils the power to prevent the property owner protecting their property and forcing the demolition of a home or business.

The reform package is so excessively draconian as to be invalid at common law.

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