

Environmental issues

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Stage 1 Coastal Reforms Q&As

The coastal taskforce

1. Who is on the Coastal Ministerial Taskforce and what is its purpose?

The Ministerial taskforce members are:

- the Minister for the Environment, the Hon Robyn Parker MP (chair)
- the Deputy Premier, the Hon Andrew Stoner MP
- the Minister for Planning and Infrastructure, the Hon Brad Hazzard MP
- the Minister for the Central Coast, the Hon Chris Hartcher MP
- the Minister for Local Government, the Hon Don Page MP.

The Minister for Emergency Services, the Hon Mike Gallagher MP, also works closely with the taskforce.

The taskforce has been established to ensure that NSW has the most appropriate plans, legislation and other arrangements in place to manage coastal erosion and other coastal hazards, both now and into the future. The taskforce is supported by a Coastal Expert Panel.

Sea level rise

2. Why will the Government no longer recommend sea level rise projections for councils?

There is considerable uncertainty in projections of future sea level rise which means that the NSW Government does not consider it appropriate to recommend specific statewide projections for use by councils. Councils need the flexibility to consider local conditions when determining local future hazards. The Government is not intending to release a new sea level rise policy statement.

3. What does the chief scientist's report say about sea level rise projections?

The chief scientist and engineer's report noted that sea levels have risen over the last 100 years but that there is considerable variability in projections for future sea level rise, particularly toward the later part of the 21st century. The report noted the evolving nature of the science and that this will provide a clearer picture of the changing sea levels into the future. The report is available at www.chiefscientist.nsw.gov.au/Home/Reports.aspx.

4. What assistance will the Government provide to councils, including helping councils decide on what sea level rise projections they should adopt?

A key aspect of the taskforce's recommendations relate to providing better support to local councils. The taskforce has been carefully considering what expert advice, technical guidance and other support local councils need to deliver the information that communities need.

The Office of Environment and Heritage (OEH) has links on its [sea level rise](#) web page to make publically available information from reputable sources (e.g. CSIRO) on the range of sea level rise projections. OEH is also developing guidelines for coastal hazard mapping, which underpins the hazard information provided by councils to local communities.

Further information on sea level rise projections is also available in the [chief scientist's report](#). OEH is also developing a business case for the chief scientist's recommendations to establish an independent expert advice centre for councils.

5. What is the Government doing about sea level rise information on section 149 certificates?

It is critical the information contained in these certificates and the underlying mapping is clear and accurate. The Government will issue advice to all councils to guide the preparation and use of section 149 certificates, providing much needed clarity on how they appropriately relate to coastal hazards.

6. How should councils decide on what sea level rise projections to adopt?

Councils should consider information on historical and projected future sea level rise which is widely accepted by competent scientific opinion. This may include information in the [chief scientist's report](#) and information available from the OEH [sea level rise](#) website. Councils may decide that, due to the variability in projections of future sea level rise, it is more appropriate to adopt a range of projections than a single projection. Councils also need to consider the period for their adopted sea level rise projections, which may vary depending on how the projections are used (e.g. related to the life of a development or proposed asset). As well as considering scientific advice, councils may choose to obtain legal advice on what sea level rise projections council should adopt to minimise any future legal liability for council (note: section 733 of the Local Government Act provides an exemption from liability for coastal management and flooding actions by councils which are made in 'good faith').

7. What should councils do in the interim until they have formally adopted sea level rise projections?

Councils may need to make decisions on interim or transitional arrangements until sea level rise projections are formally adopted by council. Options may include adopting interim projections or delaying coastal flood or coastal hazard studies until projections are adopted.

The new legislation – Coastal Protection Amendment Act 2012

8. What will the Coastal Protection Amendment Act 2012 do?

The Act will remove red tape and increases the options available to landowners to deal with coastal hazards. It will allow landowners to more readily place sandbags as a temporary measure to reduce erosion impacts to their properties from smaller storm events. The Act will lift restrictions on landowners placing these sandbags on their land. A new code of practice, to be developed before the Act commences, will further relax the requirements for these works and will be in place before the provisions are commenced.

The Act will also remove requirements for councils to include information on coastal hazard (e.g. erosion) categories from coastal zone management plans on section 149 certificates. The current requirements relating to notations on section 149 certificates under the Environmental Planning and Assessment Act would continue to apply.

9. When will the Act commence?

The Act's amendments to the Coastal Protection Act 1997 will commence late this year, when the related code of practice adopted under the Coastal Protection Regulation is updated.

10. Will landowners be able to place sandbags seawalls higher than the current 1.5 metre limit?

The allowable height of these works will be reviewed by experts at the University of NSW to assess whether higher walls can be allowed without increasing the risk of the walls causing erosion of adjoining land. This advice will be considered when the new code of practice is being prepared.

11. Will these changes impact on our beaches?

Council and Office of Environment and Heritage authorized officers will still have the power to order the removal of any temporary coastal protection works that are either causing erosion of adjoining land or presenting a public safety risk.

12. Will landowners be able to take other actions to protect their property from coastal erosion?

In addition to placing temporary coastal protection works, landowners will still be able to apply for development consent under the Environmental Planning and Assessment Act 1979 for constructing other coastal protection works. For example, when a landowner:

- wants to use sandbags that differ from those allowable for emergency coastal protection works or place the sandbags in a different way to that allowable under the code of practice (e.g. a higher seawall), or
- wants to build longer-term hard engineering works such as seawalls.

The landowner will need to satisfy the consent authority that suitable arrangements will be in place to maintain the works and manage any off-site erosion impacts.

13. Will there be any change to the 'authorised locations' where landowners are allowed to place temporary coastal protection works?

The current requirement in the [Code of Practice under the Coastal Protection Act](#) which limits landowners' ability to place temporary (formerly emergency) coastal protection works at 14 authorised locations will be lifted. Landowners in all coastal erosion prone areas will be able to place these works.

14. What will the new penalties be under the Coastal Protection Act 1979?

For offences relating to the inappropriate use of sandbags as protection works, the maximum penalties will reduce from \$495,000 for a corporation and \$247,500 otherwise to \$247,500 for a corporation and \$123,750 otherwise. The current maximum penalties will remain for offences relating to dumping rocks and debris on beaches. Courts usually impose maximum penalties only for very severe offences.

15. What support will the Government provide to councils to ensure that these temporary works are appropriately used?

OEH will prepare guidelines for council staff that have been appointed as authorised officers under the Coastal Protection Act, to support any regulatory action that these officers need to take relating to inappropriate temporary works. OEH will also continue to provide training for council authorised officers.

16. What is the Government doing to reduce council's potential liability relating to temporary works?

Section 733(3)(f6) of the Local Government Act provides an exemption from liability for councils acting in good faith regarding the negligent placement or maintenance of emergency coastal protection works by a landowner. The Act updates this section to ensure that the same exemption from liability applies for the Act's new arrangements for temporary coastal protection works.

17. Why can't landowners place rocks on beaches to protect their properties in an emergency?

If landowners want to construct a rock seawall, they can lodge a development application. Placing rocks at other times, including when erosion is occurring, can be dangerous and rock seawalls that have not been designed by a coastal engineer can be a public safety risk.

18. Does the Act change anything to do with the coastal panel?

No, the Act does not make any changes relating to the coastal panel established under the Coastal Protection Act 1979.

19. Why isn't the State Emergency Service protecting my property from erosion?

The NSW State Emergency Service (NSW SES) does not have a role in protecting private property from coastal erosion, under the NSW State Storm Plan. The NSW SES' role is to provide warnings, coordinate evacuation of people and the removal of home contents and personal belongings' from vulnerable buildings and coordinate the hand-held sandbagging of properties at-risk from flooding. The NSW SES has no role in constructing hazard mitigation works, whether for floods, coastal erosion or inundation. Under the State Storm Plan, councils may construct works on beaches to reduce erosion impacts. The NSW SES will work with local government to prepare a fact sheet on the roles of the SES and councils in coastal erosion emergency management.

Coastal zone management plans

20. Why has the Minister given councils more time to prepare their coastal zone management plans?

To give councils preparing plans under Ministerial direction time to determine their potential future coastal hazard projections, the Minister for the Environment will give councils an extra 12 months to prepare their coastal zone management plans with their communities.

21. Should councils keep preparing their draft coastal zone management plans?

Yes. The main actions in these plans should be on managing the impacts of current coastal hazards on local communities, although councils can consider future hazards for strategic planning purposes.

Stage 2 reforms

22. What will be the Stage 2 reforms?

It is important for NSW to have the most appropriate plans, legislation and other arrangements in place to deal with coastal risks and protect these valuable natural assets. The taskforce is considering many complex issues with long term implications for coastal management. Managing coastal erosion is very challenging because poorly designed 'solutions' can damage beaches, or transfer erosion problems to other locations.

The NSW Government is developing land use planning and local government reforms. These significant reforms have implications for coastal management. In particular, it is important that coastal management is more effectively integrated with the planning system. As part of the Stage 2 reforms, the Coastal Protection Act 1979 is to be reviewed in context of these reforms.

The broad direction of the Stage 2 reforms will be to improve support for councils and landowners, within the context of these planning and local government reforms. This will include investigating potential funding options for councils and working with the Commonwealth Government on insurance issues for landowners. These reforms will be developed next year.

23. Will the community have an opportunity to comment on the Government's proposed Stage 2 changes?

Yes. There will be consultation, including with local government, on any proposed future legislative or policy amendments.