

Queensland



**COASTAL PROTECTION
AND MANAGEMENT BILL
1995**

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1995

A BILL

FOR

**An Act about the protection and management of the coast, and for
related purposes**

The Parliament of Queensland enacts— 1

CHAPTER 1—PRELIMINARY 2

PART 1—INTRODUCTION 3

Short title 4

1. This Act may be cited as the *Coastal Protection and Management Act 1995*. 5
6

Commencement 7

2. This Act commences on a day to be fixed by proclamation. 8

PART 2—OBJECT OF ACT 9

Object of Act 10

3. The object of this Act is to— 11

(a) provide for the protection, conservation, rehabilitation and 12
management of the coast, including its resources and biological 13
diversity; and 14

(b) have regard to the goal, core objectives and guiding principles of 15
the National Strategy for Ecologically Sustainable Development 16
in the use of the coastal zone; and 17

(c) provide, in conjunction with other legislation, a coordinated and 18
integrated management and administrative framework for the 19
ecologically sustainable development of the coastal zone; and 20

- (d) encourage the enhancement of knowledge of coastal resources and the effect of human activities on the coastal zone. 1
2

How coastal management is to be achieved 3

4. Coastal management is to be achieved by coordinated and integrated planning and decision making, involving, among other things, the following— 4
5
6

(a) Coastal management plans¹ 7

- Preparing coastal management plans that— 8
 - state principles and policies for coastal management 9
 - identify key coastal sites and coastal resources in the coastal zone and planning for their long term protection or management 10
11
12
 - are developed in consultation with the public 13
 - have regard to Aboriginal tradition and Island custom of Aboriginal and Torres Strait Islander people particularly concerned with land affected by the plans. 14
15
16

(b) Control districts² 17

- Declaring control districts in the coastal zone as areas requiring special development controls and management practices. 18
19
20

(c) Use of other legislation 21

- Using other relevant legislation wherever practicable to achieve the object of this Act. 22
23

¹ Chapter 2, part 2 deals in detail with coastal plans.

² Chapter 2, part 3 deals in detail with control districts.

PART 3—INTERPRETATION

1

Division 1—Standard definitions

2

Dictionary

3

5.(1) The dictionary³ in schedule 2 defines particular words used in this Act.

4

5

(2) Definitions found elsewhere in the Act are signposted⁴ in the dictionary.

6

7

Division 2—Key definitions

8

Coast

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6. The “**coast**” is all areas within or neighbouring the foreshore.

10

Coastal management

11

7. “**Coastal management**” includes the protection, conservation, rehabilitation, management and ecologically sustainable development of the coastal zone.

12

13

14

Coastal resources

15

8. “**Coastal resources**” means the natural and cultural resources of the coastal zone.

16

17

³ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—see *Acts Interpretation Act 1954*, section 14.

⁴ The signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where these definitions can be found. For example, the definition ‘ “coast” see section 6’ tells the reader that the term “coast” is defined in section 6.

Coastal waters	1
9. “Coastal waters” are Queensland waters to the limit of the highest astronomical tide.	2 3
Coastal wetlands	4
10. “Coastal wetlands” include tidal wetlands, estuaries, salt marshes, melaleuca swamps (and any other coastal swamps), mangrove areas, marshes, lakes or minor coastal streams regardless of whether they are of a saline, freshwater or brackish nature.	5 6 7 8
Coastal zone	9
11. The “coastal zone” is—	10
(a) coastal waters; and	11
(b) all areas to the landward side of coastal waters in which there are physical features, ecological or natural processes or human activities that affect, or potentially affect, the coast or coastal resources.	12 13 14 15
Ecologically sustainable development	16
12. “Ecologically sustainable development” has the meaning given by the National Strategy for Ecologically Sustainable Development.	17 18
<i>Division 3—General</i>	
Aboriginal people and Torres Strait Islanders particularly concerned with land	20 21
13. Aboriginal people and Torres Strait Islanders are particularly concerned with land if—	22 23
(a) they are members of a group that has a particular connection with land under Aboriginal tradition or Island custom; or	24 25
(b) they live on or use the land or neighbouring land.	26

PART 4—APPLICATION OF ACT

1

Act binds all persons

2

14. This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

3

4

5

CHAPTER 2—COASTAL MANAGEMENT

6

PART 1—ADVISORY BODIES

7

Division 1—Coastal Protection Advisory Council

8

Establishment of advisory council

9

15. The Coastal Protection Advisory Council is established.

10

Functions of advisory council

11

16.(1) The functions of the advisory council are to advise the Minister about coastal management including the following issues—

12

13

- (a) areas of the coastal zone needing special coastal management;
- (b) coastal plans and their relationship with other plans, prepared by a State agency or local government, for the coastal zone;
- (c) appropriate preventive and remedial measures for coastal management;
- (d) assistance local governments and other management agencies need in the application of coastal management techniques;
- (e) developing public and community programs for coastal management;

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Coastal Protection and Management

(f) research and other studies relating to the coastal zone and disseminating information about coastal management;	1 2
(g) submissions received on coastal management plans.	3
(2) The measures mentioned in subsection (1)(c) may relate to—	4
(a) preventing a thing having an unacceptable effect on the coastal zone; and	5 6
(b) mitigating damage to property from erosion or encroachment by tidal water.	7 8
(3) In performing its functions, the advisory council must, as far as practicable—	9 10
(a) monitor the integration of coastal zone management; and	11
(b) have regard to Aboriginal tradition and Island custom of Aboriginal and Torres Strait Islander people particularly concerned with land in the coastal zone; and	12 13 14
(c) liaise and consult with Aboriginal people and Torres Strait Islanders particularly concerned with land in the coastal zone; and	15 16
(d) have regard to the existing tenure of, interests in, and rights to land in the coastal zone.	17 18
 Membership of advisory council	 19
17.(1) The advisory council consists of the chief executive and 11 other members appointed by the Minister.	20 21
(2) The appointed members must include representatives from the community recognised for their experience in, and knowledge of, coastal zone management.	22 23 24
 Chairperson	 25
18. The chief executive is the chairperson of the advisory council.	26

Division 2—Regional consultative groups

1

Establishment of regional consultative group

2

19. The Minister must appoint a regional consultative group to assist during the preparation of a regional plan.

3

4

Functions of regional consultative group

5

20.(1) The functions of the regional consultative group are to—

6

(a) advise the Minister about the preparation of the regional plan; and

7

(b) make recommendations on issues, management strategies and areas requiring special coastal management to achieve ecological sustainable development of the coastal zone covered by the plan.

8

9

10

(2) The regional consultative group must seek community involvement during the preparation of the plan.

11

12

Membership of regional consultative group

13

21. The members of the regional consultative group must include representatives of local government, tourism, conservation, industry, and Aboriginal and Torres Strait Islander interests.

14

15

16

Chairperson

17

22. The Minister must nominate a chairperson for the regional consultative group.

18

19

Division 3—General

20

Member's fees and allowances

21

23. Each member of the advisory council or a regional consultative group is entitled to be paid the fees and allowances decided by the Governor in Council.

22

23

24

Chief executive may provide administrative assistance

1

24. The chief executive may provide the advisory council or a regional consultative group with departmental services necessary for it to perform its functions.

2

3

4

PART 2—COASTAL MANAGEMENT PLANS

5

Division 1—State coastal management plan

6

State plan must be prepared

7

25. The Minister must prepare a State coastal management plan for the coastal zone.

8

9

Content of State plan

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26.(1) The State plan must describe how the coastal zone is to be managed.

11

12

(2) The State plan may include—

13

(a) a statement of the principles and policies by which the coastal zone and its designated areas are to be managed; and

14

15

(b) a map or series of maps showing coastal resource information.

16

(3) The State plan may make provision about anything about which a regulation may be made under this Act, and, in particular—

17

18

(a) prescribing offences for contraventions of the plan; and

19

(b) fixing a maximum penalty of a fine of not more than 165 penalty units for the contravention.

20

21

Public notice inviting submissions on draft State plan

22

27.(1) The Minister must give public notice when a draft State plan has been prepared.

23

24

- (2) The notice must— 1
- (a) be published in— 2
- (i) a newspaper circulating generally throughout Queensland; 3
and 4
- (ii) any other newspapers the Minister considers appropriate; 5
and 6
- (b) state where copies of the draft plan may be inspected and, on 7
payment of a fee, purchased; and 8
- (c) invite written submissions from the public; and 9
- (d) state a day (not earlier than 40 business days from the publication 10
of the notice) by which submissions may be made and the place 11
where the submissions may be made. 12
- (3) The Minister must send a copy of the notice— 13
- (a) and draft plan to each local government and port authority within 14
the area covered by the draft plan; and 15
- (b) to any other group or person the Minister considers appropriate. 16
- (4) A local government or port authority receiving a copy of the draft 17
plan must make the copy available for inspection by the public. 18
- Submissions to be considered when preparing final State plan** 19
- 28.(1)** When the final State plan is being prepared, the Minister must 20
consider— 21
- (a) all submissions properly made on the plan; and 22
- (b) the advisory council’s advice about the submissions. 23
- (2) If, when making a submission, a person asks the Minister for a 24
response on the submission, the Minister must advise the person in writing 25
whether the submission was accepted or rejected and, if it was rejected, the 26
reasons for the rejection. 27

Approval of final State plan

1

29. The final State plan is subordinate legislation and does not have effect until it is approved by the Governor in Council.

2

3

Division 2—Regional coastal management plans

4

Regional plans may be prepared

5

30. The Minister must prepare regional coastal management plans for parts of the coastal zone as soon as practicable.

6

7

Content of regional plans

8

31.(1) A regional plan must describe how the region covered by the plan is to be managed and show the control districts in the region.

9

10

(2) A regional plan may—

11

(a) describe the principles, policies and requirements by which the coastal zone in the region will be managed, including, for example, the relationship between public and private infrastructure; and

12

13

14

15

(b) describe a scheme of coastal management works, including maintenance of the works by a local government, port authority or statutory authority; and

16

17

18

(c) identify key coastal sites requiring special coastal management; and

19

20

(d) include a map or series of maps showing coastal resource information.

21

22

(3) For subsection (2)(c), identification must be based on, but not limited to, coastal resources.

23

24

(4) A regional plan may make provision about anything about which a regulation may be made under this Act, and, in particular may—

25

26

(a) prescribe offences for contraventions of the plan; and

27

(b) fix a maximum penalty of a fine of not more than 165 penalty units for the contravention.

28

29

Public notice of proposal to prepare draft regional plan

32.(1) The Minister must give public notice when the Minister proposes to prepare a draft regional plan.

(2) The notice must—

(a) be published in—

(i) a newspaper circulating generally throughout the region; and

(ii) any other newspapers the Minister considers appropriate; and

(b) invite written submissions from the public; and

(c) state a day (not earlier than 40 business days from the publication of the notice) by which submissions may be made and the place where the submissions may be made.

(3) The Minister must send a copy of the notice to—

(a) each local government and port authority within the area covered by the draft regional plan; and

(b) any other group or person the Minister considers appropriate.

Preparation of draft regional plan

33. When a proposed draft regional plan is being prepared, the Minister must consider—

(a) all submissions properly made about the preparation of the plan; and

(b) the advisory council's advice about the submissions; and

(c) the regional consultative group's advice about the submissions.

Public notice inviting submissions on draft regional plan

34.(1) The Minister must give public notice when a draft regional plan has been prepared.

(2) The notice must—

(a) be published in—

Coastal Protection and Management

- (i) a newspaper circulating generally throughout the region; and 1
- (ii) any other newspapers the Minister considers appropriate; 2
- and 3
- (b) state where copies of the draft plan may be inspected and, on 4
- payment of a fee, purchased; and 5
- (c) invite written submissions from the public; and 6
- (d) state a day (not earlier than 40 business days from the publication 7
- of the notice) by which submissions may be made and the place 8
- where the submissions may be made. 9
- (3)** The Minister must send a copy of the notice— 10
- (a) and draft plan to each local government and port authority within 11
- the area covered by the draft plan; and 12
- (b) to any other group or person the Minister considers appropriate. 13
- (4)** A local government or port authority receiving a copy of the draft 14
- plan must make the copy available for inspection by the public. 15

- Submissions to be considered when preparing final regional plan** 16
- 35.(1)** When a final regional plan is being prepared, the Minister must 17
- consider— 18
- (a) all submissions properly made on the plan; and 19
- (b) the advisory council’s advice about the submissions; and 20
- (c) the regional consultative group’s advice about the submissions. 21
- (2)** If, when making a submission, a person asks the Minister for a 22
- response on the submission, the Minister must advise the person in 23
- writing— 24
- (a) whether the submission was accepted or rejected and, if it was 25
- rejected, the reasons for the rejection; and 26
- (b) if the person is an owner of land in a control district included in 27
- the final regional plan—the reason why the land was included in 28
- the district; and 29

- (c) if a coastal building line is fixed for the land—the reason for fixing the line. 1
2

Approval of final regional plan 3

36. A final regional plan is subordinate legislation and does not have effect until it is approved by the Governor in Council. 4
5

Division 3—Review of coastal plans 6

Minister must review coastal plans 7

37. The Minister must review each coastal plan within 7 years of its commencement. 8
9

Public notice of proposal to review coastal plan 10

38.(1) The Minister must give public notice when the Minister proposes to review a coastal plan. 11
12

(2) The notice must— 13

(a) be published in— 14

(i) if a State plan is being reviewed—a newspaper circulating generally throughout the State; or 15
16

(ii) if a regional plan is being reviewed—a newspaper circulating generally throughout the region; and 17
18

(iii) any other newspapers the Minister considers appropriate; and 19
20

(b) invite written submissions from the public; and 21

(c) state a day (not earlier than 40 business days from the publication of the notice) by which submissions may be made and the place where the submissions may be made. 22
23
24

(3) The Minister must send a copy of the notice to— 25

-
- (a) each local government and port authority within the area covered by the draft plan; and 1
2
 - (b) any other group or person the Minister considers appropriate. 3

Minister prepares draft coastal plan 4

39. If after considering the advice of the advisory council about all submissions properly made on the review, the Minister considers a new coastal plan should be prepared, the Minister— 5
6
7

- (a) may prepare a new draft coastal plan; and 8
- (b) if a new regional plan is to be prepared—must appoint a new regional consultative group. 9
10

Public notice inviting submissions on new draft coastal plan 11

40.(1) The Minister must give public notice when a new draft coastal plan has been prepared. 12
13

(2) The notice must— 14

- (a) be published in— 15
 - (i) if a State plan is being reviewed—a newspaper circulating generally throughout the State; or 16
17
 - (ii) if a regional plan is being reviewed—a newspaper circulating generally throughout the region; and 18
19
 - (iii) any other newspapers the Minister considers appropriate; and 20
21
- (b) state where copies of the draft plan may be inspected and, on payment of a fee, purchased; and 22
23
- (c) invite written submissions from the public; and 24
- (d) state a day (not earlier than 40 business days from the publication of the notice) by which submissions may be made and the place where the submissions may be made. 25
26
27

(3) The Minister must send a copy of the notice— 28

- (a) and draft plan to each local government and port authority within 29

the area covered by the draft plan; and	1
(b) to any other group or person the Minister considers appropriate.	2
(4) A local government or port authority receiving a copy of the draft plan must make the copy available for inspection by the public.	3 4
Submissions to be considered when preparing final coastal plan	5
41.(1) When a final State plan is being prepared, the Minister must consider—	6 7
(a) all submissions properly made on the plan; and	8
(b) the advisory council's advice about the submissions.	9
(2) When a final regional plan is being prepared, the Minister must consider—	10 11
(a) all submissions properly made on the plan; and	12
(b) the advisory council's advice about the submissions; and	13
(c) the regional consultative group's advice about the submissions.	14
(3) If, when making a submission, a person asks the Minister for a response on the submission, the Minister must advise the person in writing—	15 16 17
(a) whether the submission was accepted or rejected and, if it was rejected, the reasons for the rejection; and	18 19
(b) if the person is an owner of land in a control district included in a final regional coastal plan—the reason why the land was included in the district; and	20 21 22
(c) if a coastal building line is fixed for the land—the reason for fixing the line.	23 24
Approval of final coastal plan	25
42. A final coastal plan is subordinate legislation and does not have effect until it is approved by the Governor in Council.	26 27

<i>Division 4—Miscellaneous</i>	1
Implementation of coastal plans	2
43.(1) The chief executive must implement coastal plans.	3
(2) However, the chief executive may arrange with a local government, port authority or statutory authority to carry out or maintain works necessary to implement a coastal plan.	4 5 6
Amendment of coastal plans	7
44.(1) A regulation may make a minor amendment to a coastal plan to—	8
(a) correct an error in the plan; or	9
(b) make a change (other than a change of substance) in the plan; or	10
(c) if the plan or a regulation provides that an amendment of a stated type may be made to the plan by amendment under this subsection—make an amendment of that type.	11 12 13
(2) A coastal plan may be amended by a later coastal plan only if the procedures applying to the preparation and approval of the plan under this part are followed for the later plan.	14 15 16
(3) However, if the later plan is a regional plan, the following sections do not apply to its preparation and approval—	17 18
• section 32 (Public notice of proposal to prepare draft regional plan)	19 20
• section 33 (Preparation of draft regional plan).	21
Public inspection and purchase of coastal plans	22
45.(1) The chief executive must keep each coastal plan or draft coastal plan available for inspection by the public during office hours on business days at the head office and each regional office of the department.	23 24 25
(2) The chief executive may keep each coastal plan or draft coastal plan available for inspection by the public during office hours on business days at other places the chief executive considers appropriate.	26 27 28

(3) On payment of a fee, a person may buy a copy of a coastal plan or draft coastal plan. 1
2

(4) The fee for a copy of a coastal plan or draft coastal plan must not be more than the reasonable cost of publishing the copy. 3
4

Planning schemes may be amended 5

46.(1) A regulation may amend a planning scheme to ensure the planning scheme is consistent with a regional coastal plan. 6
7

(2) Before the amendment is made, the Minister must give the local government concerned, and any owner of land whose zoning will be changed by the amendment, a reasonable opportunity to make submissions to the Minister about the proposed amendment. 8
9
10
11

(3) If the amendment changes the zoning of land, the owner of the land is taken to be an owner mentioned in section 86(1) and the remaining provisions of chapter 5, part 1 apply. 12
13
14

PART 3—CONTROL DISTRICTS 15

Division 1—Declaration, amendment, amalgamation and abolition of control districts 16 17

Declaration of control districts 18

47.(1) An area may be declared as a control district under— 19

(a) a regional plan; or 20

(b) if the area is not covered by a regional coastal plan and the Minister considers the area requires protection or management—a regulation. 21
22
23

(2) In addition, the Minister may, by written notice, declare an area to be a control district, or part of an existing control district, only if the Minister considers the area requires immediate protection or management. 24
25
26

- (3) The notice is subordinate legislation and, unless it is earlier repealed, expires 6 months after it commences. 1
2
- (4) A regulatory impact statement under the *Statutory Instruments Act 1992* need not be prepared for the notice. 3
4
- (5) A control district may be assigned a name or number, or both. 5
- (6) The boundaries of a control district are not affected by a change in the high water or low water mark of tidal water. 6
7
- (7) The chief executive must give each owner of land in an area declared to be a control district written advice that the land is in the district. 8
9

Where control districts may be declared 10

48.(1) A control district may be declared— 11

- (a) over coastal waters; or 12
- (b) over a foreshore and over land up to 400 m inland from the high water mark along the foreshore; or 13
14
- (c) at a river mouth or estuarine delta—over land up to 1000 m inland from the high water mark at the river mouth or estuarine delta; or 15
16
17
- (d) along tidal rivers, saltwater lakes and other bodies of internal tidal water—over land up to 100 m from the high water mark along the river, lake or body of water; or 18
19
20
- (e) over an island in coastal waters. 21

(2) Despite subsection (1), a control district may also include all or part of a coastal wetland, dune system or key coastal site and up to 100 m from the wetland, system or site. 22
23
24

Things to be considered when declaring control districts 25

49. The following things must be considered before an area is declared as a control district— 26
27

- (a) the area's vulnerability to erosion by the sea or to wind induced effects; 28
29

-
- | | |
|--|--------|
| (b) whether the area should be kept in an undeveloped state to maintain or enhance the coast or coastal resources; | 1
2 |
| (c) public access to the area; | 3 |
| (d) foreseeable human impacts and natural hazards in the area; | 4 |
| (e) the existing tenure of, interests in, and rights to, land in the area; | 5 |
| (f) Aboriginal tradition and Island custom of Aboriginal and Torres Strait Islander people particularly concerned with land in the area; | 6
7 |
| (g) planning and development management of the area. | 8 |

Notice declaring, changing or abolishing control district 9

50.(1) Before a regulation is made declaring, changing the boundaries of or abolishing a control district, the chief executive must give public notice of the proposed declaration, change or abolition (the “**proposal**”). 10
11
12

(2) The notice must— 13

- | | |
|--|----------------|
| (a) be published in a newspaper circulating generally throughout the control district; and | 14
15 |
| (b) state where copies of the plan showing the proposal may be inspected and, on payment of a reasonable fee, purchased; and | 16
17 |
| (c) invite written submissions from the public; and | 18 |
| (d) state a day (not earlier than 40 business days from the publication of the notice) by which submissions may be made and the place where the submissions may be made. | 19
20
21 |

(3) The chief executive must send details of the proposal to each local government and port authority within the area covered by the district. 22
23

(4) The Minister must consider all submissions properly made about the proposal. 24
25

(5) If, when making a submission, a person asks the Minister for a response on the submission, the Minister must advise the person in writing— 26
27
28

- | | |
|---|----------|
| (a) whether the submission was accepted or rejected and, if it was rejected, the reasons for the rejection; and | 29
30 |
|---|----------|

Coastal Protection and Management

- (b) if the person is an owner of land in the control district—the reason why the land was included in the district; and 1
2
- (c) if a coastal building line is fixed for the land—the reason for fixing the line. 3
4

Amendment, amalgamation and abolition of control districts 5

51.(1) This section applies to a control district declared under a regulation. 6
7

(2) A regulation may— 8

- (a) change the boundaries of the district; or 9
- (b) amalgamate the district with 1 or more other districts; or 10
- (c) abolish the district. 11

Division 2—Coastal protection and tidal works notices 12

Coastal protection notices 13

52.(1) This section applies only to activity in a control district. 14

(2) The chief executive may give a notice (a “**coastal protection notice**”) to a person directing the person, within the time stated in the notice— 15
16
17

- (a) to take the action stated in the notice to protect land; or 18
- (b) to stop, or not start, an activity stated in the notice, if the chief executive is satisfied the activity is likely to— 19
20
 - (i) have a significant effect on coastal management; or 21
 - (ii) cause wind erosion. 22

(3) If the name of the person who started or is about to start the activity is not known, the notice may be given— 23
24

- (a) in a newspaper circulating generally throughout the district; or 25
- (b) if the notice is about activity over land—by displaying it in a prominent position on the land. 26
27

(4) Without limiting subsection (2), the notice may require the person—	1
(a) to build or maintain works; or	2
(b) to plant, cultivate or preserve, or not damage, vegetation native to the control district; or	3 4
(c) not to alter the geographical features of land; or	5
(d) to do anything else necessary to protect land from wind erosion; or	6 7
(e) to restore land; or	8
(f) to remove stock from land.	9
(5) The notice must state that the person may appeal against the decision to give the notice within the period stated in the notice. ⁵	10 11
(6) The person must comply with the notice.	12
Maximum penalty for subsection (6)—3 000 penalty units.	13
Tidal works notices	14
53.(1) If, in the chief executive’s opinion, works in, on, or over the foreshore or land under tidal water need repair, are abandoned or should be removed, the chief executive may give the person responsible for the works or for the maintenance of them a notice (a “ tidal works notice ”).	15 16 17 18
(2) If the name of the person is not known, the notice may be given—	19
(a) in a newspaper circulating generally throughout the control district; or	20 21
(b) by displaying it in a prominent position on the land.	22
(3) The notice may direct the person within the reasonable time stated in the notice to—	23 24
(a) repair the works to the chief executive’s reasonable satisfaction; or	25 26
(b) remove the works and restore the site, as nearly as practicable, to its former condition.	27 28

⁵ Appeals are dealt with in chapter 5.

(4) The notice must state that the person may appeal against the decision to give the notice within the period stated in the notice.⁶ 1
2

(5) The person must comply with the notice. 3

Maximum penalty for subsection (5)—3 000 penalty units. 4

Chief executive may take required action 5

54.(1) If a person fails to comply with a coastal protection or tidal works notice requiring particular action to be taken (the “**required action**”), the chief executive may take the required action. 6
7
8

(2) For subsection (1), the chief executive, or a person authorised by the chief executive, may, without any further authority apart from this subsection— 9
10
11

(a) enter and re-enter land at all reasonable times; and 12

(b) remain on the land for the time that is necessary and reasonable; and 13
14

(c) take onto, and keep on, the land the vehicles, materials, equipment and other things that are necessary and reasonable. 15
16

(3) The chief executive may recover, as a debt, from the person to whom the notice is directed, the costs and expenses reasonably incurred in taking the required action. 17
18
19

Forfeiture of property 20

55.(1) This section applies if a coastal protection or tidal works notice is given to a person in relation to property that belongs to the person and is on unallocated State land. 21
22
23

(2) If the person does not comply with the notice, or appeals against the giving of the notice, then— 24
25

(a) if an appeal is not made against the giving of the notice within the period stated in the notice—the property is forfeited to the State at the end of the stated period; or 26
27
28

⁶ Appeals are dealt with in chapter 5.

- (b) if an appeal is made but is dismissed—the property is forfeited to the State when the final decision on the appeal is made. 1
2

Record of coastal protection or tidal works notice in land registry 3

56.(1) This section applies if a coastal protection or tidal works notice is given in relation to land other than unallocated State land. 4
5

(2) As soon as practicable after giving the notice, the chief executive must give written notice to the registrar of titles of the giving of the notice. 6
7

(3) The registrar must keep records that show the notice has been given. 8

(4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the notice has been given. 9
10
11

(5) As soon as practicable after the notice has been complied with, the chief executive must give written notice to the registrar of compliance with the notice. 12
13
14

(6) As soon as practicable after receiving the notice of compliance, the registrar must remove the particulars of the notice from the registrar's records. 15
16
17

Owner of land and builder jointly liable 18

57.(1) If a coastal protection or tidal works notice is served on both the owner of land and the person responsible for works on the land or for the maintenance of them, they are jointly and severally bound by the requirements of the notice. 19
20
21
22

(2) In this section— 23

“**owner of land**” includes the occupier of the land. 24

Notice binding on purchaser 25

58.(1) This section applies if land or works subject to an undischarged coastal protection or tidal works notice are sold. 26
27

(2) The seller must give the buyer written advice of the undischarged notice not less than 14 days before settlement of the sale. 28
29

- (3) However, if settlement of the sale is made less than 14 days after the agreement to sell is made, the seller must give the buyer written advice of the undischarged notice on the day the agreement is made. 1
2
3
- Maximum penalty for subsections (2) and (3)—150 penalty units. 4
- (4) If the seller complies with subsection (2) or (3), the buyer is bound by the undischarged notice as if it had been given to the buyer. 5
6
- (5) If the seller does not comply with subsection (2) or (3), the agreement is of no effect unless the buyer— 7
8
- (a) by written advice given to the seller before settlement, states the intention to settle despite the non-compliance; or 9
10
 - (b) by written advice given to the seller within 30 days after settlement, affirms the sale despite the non-compliance. 11
12

Division 3—General 13

Coastal building line 14

59.(1) A regional plan, regulation or notice that declares a control district may fix a line (a “**coastal building line**”) for the district. 15
16

(2) An approval to build under the *Building Act 1975* must not be given to build a structure completely or partly seaward of the coastal building line. 17
18

(3) However, the Minister may, in writing, state that subsection (2) does not apply to a structure, if the Minister is satisfied— 19
20

- (a) the structure is not contrary to the coastal plan for the district; and 21
- (b) the building of the structure is not likely to have a detrimental impact on coastal management. 22
23

Placing signs on unallocated State land 24

60.(1) The chief executive may place a sign on unallocated State land, within or on the boundary of a control district, indicating— 25
26

- (a) particulars of the district; or 27
- (b) anything prohibited or authorised in the district. 28

-
- (2) A person must not, without lawful authority, destroy, pull down, erase, remove, deface or otherwise damage or interfere with the sign. 1
2
Maximum penalty—100 penalty units. 3
- Temporary occupation of land** 4
- 61.(1)** The chief executive may, to implement a coastal plan, temporarily occupy and use land in a control district for the purpose of building, maintaining or repairing works, and may— 5
6
7
- (a) take from it stone, gravel, sand, earth, and other material; and 8
 - (b) deposit materials on it; and 9
 - (c) form and use temporary works on it, including, for example, roads; and 10
11
 - (d) build structures of a temporary nature on it. 12
- (2) Before occupying land under this section, the chief executive must give the occupier and the owner of the land not less than 7 days written notice of the intention to occupy. 13
14
15
- (3) However, subsection (2) does not apply in urgent circumstances. 16
- (4) The notice must state the use proposed to be made of the land and the approximate period during which the use is expected to continue. 17
18
- (5) The owner of the land or any other person having an interest in the land may, at any time during the occupation or within 3 months after the occupation, give written notice to the chief executive claiming compensation. 19
20
21
22
- (6) If the land is not resumed, the owner of the land and all persons having an interest in it may recover compensation for the occupation and use. 23
24
25
- (7) The total compensation payable under this section in relation to land may not be more than the compensation that would have been payable had the land been resumed. 26
27
28
- (8) Compensation is not payable under this section for anything done under this section, if the right or authority to do the thing is given under another Act, or a State grant, or other instrument, even though conditions imposed under the Act, grant, or instrument for doing the thing have not 29
30
31
32

been performed. 1

(9) The amount of the compensation payable is the amount agreed 2
between the claimant and chief executive or, failing agreement, decided by 3
the Planning and Environment Court. 4

CHAPTER 3—INVESTIGATION AND ENFORCEMENT 5 6

PART 1—ADMINISTRATION GENERALLY 7

Appointment of authorised persons 8

62. The chief executive may appoint any of the following persons as 9
authorised persons— 10

- (a) officers of the public service; 11
- (b) employees of the department; 12
- (c) other persons of a class prescribed under a regulation. 13

Qualifications for appointment 14

63. A person may be appointed as an authorised person only if— 15

- (a) in the chief executive's opinion, the person has the necessary 16
expertise or experience to be an authorised person; or 17
- (b) the person has satisfactorily finished training approved by the 18
chief executive. 19

Conditions and terms of appointment 20

64.(1) An authorised person holds office on the conditions stated in the 21
instrument of appointment. 22

(2) An authorised person appointed under section 62(c)— 23

(a)	is appointed for the term stated in the instrument of appointment; and	1 2
(b)	may resign by signed notice given to the chief executive.	3
(3)	An authorised person ceases to hold office—	4
(a)	if the authorised person was appointed under section 62(a) or (b)—if the authorised person ceases to be an officer of the public service or employee of the department; or	5 6 7
(b)	if the authorised person was appointed under section 62(c)—if the authorised person ceases to be a member of the class of persons.	8 9
 Powers of authorised persons		10
65.(1)	An authorised person has the powers given under this or another Act.	11 12
(2)	Subsection (1) has effect subject to any limitations—	13
(a)	stated in the authorised person’s instrument of appointment; or	14
(b)	prescribed under a regulation; or	15
(c)	stated in a notice given to the authorised person by the chief executive.	16 17
(3)	Notice under subsection (2)(c) may be given orally, but must be confirmed in writing as soon as practicable.	18 19
 Issue of identity cards		20
66.(1)	The chief executive must issue an identity card to each authorised person.	21 22
(2)	The identity card must—	23
(a)	contain a recent photograph of the authorised person; and	24
(b)	be signed by the authorised person; and	25
(c)	identify the person as an authorised person; and	26
(d)	include an expiry date.	27

(3) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts. 1
2

Production or display of identity card 3

67.(1) An authorised person may exercise a power in relation to someone else (the “other person”) only if the authorised person— 4
5

(a) first produces his or her identity card for the other person’s inspection; or 6
7

(b) has his or her identity card displayed so it is clearly visible to the other person. 8
9

(2) However, if, for any reason, it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person’s inspection at the first reasonable opportunity. 10
11
12

Failure to return identity card 13

68. A person who ceases to be an authorised person must return the person’s identity card to the chief executive as soon as possible (but within 21 days) after ceasing to be an authorised person, unless the person has a reasonable excuse. 14
15
16
17

Maximum penalty—50 penalty units. 18

Protection from liability 19

69.(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act. 20
21

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State. 22
23

(3) In this section— 24

“official” means— 25

(a) an authorised person; or 26

(b) a person acting under the direction of an authorised person. 27

PART 2—INSPECTION AND OTHER POWERS

1

Division 1—Power of entry

2

Power to enter land

3

70.(1) An authorised person may enter land at any reasonable time to—

4

- (a) inspect or survey the land or works on the land; or
- (b) dig and bore into the land to find out the nature of the soil; or
- (c) do everything necessary for paragraphs (a) and (b), including, for example—
 - (i) measuring, photographing or filming anything on the land; or
 - (ii) taking samples of or from anything on the land.

5

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(2) The power to enter land includes power to—

12

- (a) re-enter the land; and
- (b) remain on the land for the time that is reasonable and necessary for the purpose of the entry; and
- (c) take assistants, vehicles, materials, equipment or things that are reasonable and necessary for the purpose of the entry.

13

14

15

16

17

(3) Before entering land, the authorised person must—

18

- (a) obtain the agreement of the occupier or, if there is no occupier, the owner of the land; or
- (b) give at least 7 days notice to the person mentioned in paragraph (a) of—
 - (i) the authorised person's intention to enter the land; and
 - (ii) the reason for entering the land; and
 - (iii) the day and time when the authorised person proposes to enter the land.

19

20

21

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23

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(4) However, subsection (3) does not apply if, because of urgent circumstances, entry is required to take action to protect the coastal zone.

27

28

(5) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable. 1
2
3

(6) This section does not authorise the entry of a structure, or part of a structure, used for residential purposes. 4
5

(7) In this section— 6
“**occupier**”, of land, includes a person who reasonably appears to be the occupier, or in charge, of the land. 7
8

Authorised person to give notice of damage 9

71.(1) This section applies if an authorised person, or a person assisting an authorised person, damages anything in the exercise of a power under this division. 10
11
12

(2) The authorised person must promptly give written notice of the particulars of the damage to the person who appears to be the owner of the thing. 13
14
15

(3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened. 16
17
18
19

(4) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the authorised person’s control, the authorised person may state this in the notice. 20
21
22

(5) This section does not apply to damage the authorised person reasonably believes is trivial. 23
24

(6) In this section— 25
“**owner**”, of a thing, includes the person in possession or control of the thing. 26
27

Compensation 28

72.(1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this division. 29
30
31

- (2) Compensation may be claimed and ordered in a proceeding for— 1
- (a) compensation brought in a court of competent jurisdiction; or 2
- (b) an offence against this Act brought against the person making the claim for compensation. 3
4
- (3) The court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case. 5
6
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order. 7
8

Division 2—General investigative powers 9

Power to require name and address 10

- 73.(1)** This section applies if an authorised person— 11
- (a) finds a person committing an offence against this Act; or 12
- (b) finds a person in circumstances that lead the authorised person to reasonably suspect the person has just committed an offence against this Act; or 13
14
15
- (c) has information that leads the authorised person to reasonably suspect a person has just committed an offence against this Act. 16
17
- (2) The authorised person may require the person to state the person’s name and residential address. 18
19
- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person’s name or residential address, unless the person has a reasonable excuse. 20
21
22
- (4) The authorised person may require the person to give evidence of the correctness of the stated name or address if the authorised person reasonably suspects the stated name or address is false. 23
24
25
- (5) A requirement under subsection (2) or (4) is called a “**formal details requirement**”. 26
27

Failure to give name or address

74.(1) A person of whom a formal details requirement is made must comply with the requirement, unless the person has a reasonable excuse for not complying.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

- (a) the person was required to state the person's name and address by an authorised person who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

Division 3—General**False or misleading statements**

75.(1) A person must not—

- (a) state anything to an authorised person the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—50 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

False, misleading or incomplete documents

76.(1) A person must not give an authorised person a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving

the document—	1
(a) tells the authorised person, to the best of the person’s ability, how it is false, misleading or incomplete; and	2 3
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.	4 5
(3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person’s knowledge.	6 7 8

Obstructing authorised persons 9

77. A person must not obstruct an authorised person in the exercise of a power, unless the person has a reasonable excuse for the obstruction.	10 11
Maximum penalty—100 penalty units.	12

Impersonating authorised persons 13

78. A person must not pretend to be an authorised person.	14
Maximum penalty—50 penalty units.	15

CHAPTER 4—LEGAL PROCEEDINGS 16

PART 1—EVIDENCE 17

Evidentiary provisions 18

79.(1) This section applies to a proceeding under or in relation to this Act.	19 20
(2) It is not necessary to prove the appointment of an authorised person or the authority of an authorised person to do anything under this Act.	21 22
(3) A signature purporting to be that of the chief executive or an authorised person is evidence of the signature it purports to be.	23 24

-
- (4) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
- (a) a specified document is a copy of a notice given under this Act;
 - (b) on a day mentioned in the certificate, a specified person was given a notice under this Act.
- (5) A statement in a complaint starting the proceeding of any of the following matters is evidence of the matter—
- (a) that the matter of the complaint came to the knowledge of the complainant on a specified day;
 - (b) that the place where the offence was committed was in a specified control district.

PART 2—PROCEEDINGS FOR OFFENCES

Indictable and summary offences

- 80.(1)** An offence against section 52, 53, 84 or 85 is an indictable offence.
- (2)** Any other offence against this Act is a summary offence.

Proceedings for indictable offences

- 81.(1)** A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
- (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment.
- (2)** A magistrate must not hear an indictable offence summarily if—
- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
 - (b) the magistrate considers that the charge should be prosecuted on indictment.

-
- (3) If subsection (2) applies— 1
- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and 2
3
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and 4
5
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and 6
7
8
9
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b). 10
11
12
- (4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units. 13
14

Limitation on who may summarily hear indictable offence proceedings 15
16

- 82. (1)** A proceeding must be before a magistrate if it is a proceeding— 17
- (a) for the summary conviction of a person on a charge for an indictable offence; or 18
19
 - (b) for an examination of witnesses for a charge for an indictable offence. 20
21
- (2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*. 22
23
24
25

Limitation on time for starting summary proceedings 26

- 83.** A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start— 27
28
- (a) within 1 year after the commission of the offence; or 29

- (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the commission of the offence. 1
2
3

PART 3—RESTRAINT ORDERS 4

Restraint of contraventions of Act etc. 5

84.(1) A proceeding may be brought in the Planning and Environment Court for an order to remedy or restrain an offence against this Act, or a threatened offence against this Act, by— 6
7
8

- (a) the Minister; or 9
(b) the chief executive; or 10
(c) someone whose interests are affected by the subject matter of the proceeding; or 11
12
(d) someone else with the leave of the court (even though the person does not have a proprietary, material, financial or special interest in the subject matter of the proceeding). 13
14
15

(2) In deciding whether or not to grant leave to a person under subsection (1)(d), the court— 16
17

- (a) must be satisfied— 18
(i) harm has been or is likely to be caused to the coastal zone; 19
and 20
(ii) the proceeding would not be an abuse of the process of the court; and 21
22
(iii) there is a real or significant likelihood that the requirements for the making of an order under this section would be satisfied; and 23
24
25
(iv) it is in the public interest that the proceeding should be brought; and 26
27
(v) the person has given written notice to the Minister asking the 28

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Minister to bring a proceeding under this section and the Minister has failed to act within a time that is a reasonable time in the circumstances; and	1 2 3
(vi) the person is able to adequately represent the public interest in the conduct of the proceeding; and	4 5
(b) may have regard to other matters the court considers relevant to the person's standing to bring and maintain the proceeding.	6 7
(3) However, the court must not refuse to grant leave merely because the person's interest in the subject matter of the proceeding is no different from someone else's interest in the subject matter.	8 9 10
(4) The court may grant leave subject to conditions, including, for example—	11 12
(a) a condition requiring the person to give security for the payment of costs of the proceeding that may be awarded against the person; or	13 14 15
(b) a condition requiring the person to give an undertaking about damages.	16 17
(5) If the court is satisfied—	18
(a) an offence against this Act has been committed (whether or not it has been prosecuted); or	19 20
(b) an offence against this Act will be committed unless restrained;	21
the court may make the orders it considers appropriate to remedy or restrain the offence.	22 23
(6) An order—	24
(a) may direct the defendant—	25
(i) to stop an activity that is or will be a contravention of this Act; or	26 27
(ii) to do anything required to comply with, or to cease a contravention of, this Act; and	28 29
(b) may be in the terms the court considers appropriate to secure compliance with this Act; and	30 31
(c) must specify the time by which the order is to be complied with.	32

-
- (7) The court's power to make an order to stop an activity may be exercised whether or not— 1
2
- (a) it appears to the court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or 3
4
 - (b) the person has previously engaged in an activity of that kind; or 5
 - (c) there is danger of substantial damage to the coastal zone if the person engages, or continues to engage, in the activity. 6
7
- (8) The court's power to make an order to do anything may be exercised whether or not— 8
9
- (a) it appears to the court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or 10
11
 - (b) the person has previously failed to do a thing of that kind; or 12
 - (c) there is danger of substantial damage to the coastal zone if the person fails, or continues to fail, to do the thing. 13
14
- (9) Without limiting the powers of the court, the court may make an order— 15
16
- (a) restraining the use of plant or equipment or a place; or 17
 - (b) requiring the demolition or removal of plant or equipment, a structure or another thing; or 18
19
 - (c) requiring the rehabilitation or restoration of the coastal zone. 20
- (10) The court must order a plaintiff to pay costs if the court is satisfied the proceeding was brought for obstruction or delay. 21
22
- (11) The court's power under this section is in addition to its other powers. 23
24
- (12) A person who contravenes an order commits an offence against this Act. 25
26
- Maximum penalty for subsection (12)—3 000 penalty units. 27

Power of court to make order pending final decision in proceeding 28

- 85.(1)** This section applies if a proceeding has been brought by a person in the Planning and Environment Court under section 84 and the court has 29
30

- not finally determined the proceeding. 1
- (2) On the person's application, the court may make an order of a kind 2
mentioned in section 84 ending determination of the proceeding if it is 3
satisfied it would be proper to make the order. 4
- (3) The court's power to make an order to stop an activity may be 5
exercised whether or not— 6
- (a) it appears to the court the person against whom the order is made 7
intends to engage, or to continue to engage, in the activity; or 8
 - (b) the person has previously engaged in an activity of that kind; or 9
 - (c) there is an imminent danger of substantial damage to the coastal 10
zone if the person engages, or continues to engage, in the activity. 11
- (4) The court's power to make an order to do anything may be exercised 12
whether or not— 13
- (a) it appears to the court the person against whom the order is made 14
intends to fail, or to continue to fail, to do the thing; or 15
 - (b) the person has previously failed to do a thing of that kind; or 16
 - (c) there is an imminent danger of substantial damage to the coastal 17
zone if the person fails, or continues to fail, to do the thing. 18
- (5) The court's power under this section is in addition to its other 19
powers. 20
- (6) A person who contravenes an order commits an offence against this 21
Act. 22
- Maximum penalty for subsection (6)—3 000 penalty units. 23

CHAPTER 5—ADMINISTRATION

1

PART 1—COMPENSATION

2

When compensation is payable

3

86.(1) The owner of an interest in land (the “**owner**”) is entitled to be paid compensation only if the existing use that may be made of the land is changed by a prohibition imposed by a coastal plan or the declaration of a control district.

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7

(2) However, for land other than rural land, the owner is entitled to compensation only if—

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9

(a) the owner was the owner at the time of the change; and

10

(b) the owner makes an application for the land; and

11

(c) the application is made within 2 years of the change; and

12

(d) the application clearly indicates that a compensation claim may be made if the application is refused; and

13

14

(e) the application is refused only because this Act applies to the application.

15

16

(3) However, for rural land, the owner is entitled to compensation only if—

17

18

(a) the owner was the owner at the time of the change; and

19

(b) the land was regularly used as rural land during the 2 previous years; and

20

21

(c) the owner makes a written application to the chief executive for compensation.

22

23

(4) In this section—

24

“application for the land” means—

25

(a) an application to build a structure, the proposed use of which was as of right under the planning scheme as it applied immediately before the change; or

26

27

28

(b) an application for the subdivision of land that is consistent with the provisions of the planning scheme that regulated the subdivision of land immediately before the change.	1 2 3
“existing use” includes a lawful as of right use that may have been made of the land immediately before the change.	4 5
“primary producer” means a person whose major source of income is from primary production.	6 7
“rural land” means land used only by a primary producer for grazing stock or cultivating crops.	8 9
Matters for which compensation is not payable	10
87.(1) To remove any doubt, the owner is not entitled to be paid compensation—	11 12
(a) for development, or an activity, unlawfully carried out; or	13
(b) if the change merely requires the development, or an activity, to be carried out on a different part of the land to that preferred by the owner.	14 15 16
(2) If compensation is payable under another Act, the claim for compensation must be made under the other Act.	17 18
How to claim compensation	19
88.(1) A claim for compensation must be lodged with the chief executive within 6 months—	20 21
(a) if section 86(2) applies—of the refusal of the application; or	22
(b) if section 86(3) applies—the change of use.	23
(2) The chief executive or the Planning and Environment Court may, in special circumstances, allow a longer period under subsection (1).	24 25
(3) A claim for compensation is to be taken to have been made on the day when it is received by the chief executive.	26 27

Deciding compensation payable

89.(1) The chief executive must decide the reasonable compensation payable under the claim within 60 days after the day the claim is received.

(2) In deciding the claim, the chief executive may decide—

(a) the reasonable compensation payable; or

(b) to reject the claim; or

(c) to acquire the interest.

(3) The chief executive must, within 10 days after deciding the claim, notify the claimant of the decision and advise the claimant that the claimant may appeal to the Planning and Environment Court against a decision under section 89(2)(a) or (b).

(4) If the chief executive fails to decide the claim within 60 days of receiving the claim, the owner may appeal to the court as if the chief executive had decided to reject the claim.

What is reasonable compensation

90.(1) Reasonable compensation is (subject to subsections (2), (3) and (4)) an amount equal to the difference between the market value of the interest immediately after the change and what would have been the market value of the interest if the change had not been made.

(2) Any benefit the owner obtains from the change is to be taken into account in calculating the reasonable compensation.

(3) If the owner owns land adjacent to the land for which the payment of compensation is sought, the payment of compensation must also take into account any benefit accruing to the adjacent land because of the change.

(4) If the land for which compensation is claimed has, since the change, become or ceased to be separate from other land, the amount of compensation is not to be increased because it has become or ceased to be separate from other land.

Payment of compensation

91. The compensation must be paid within 30 days after the last day an

appeal could be made or, if an appeal is made, within 30 days after the day
the appeal is decided. 1
2

Time for starting appeal 3

92. If the owner appeals under section 89, the appeal must be made
within 30 days of the making of the decision. 4
5

Decision by court 6

93.(1) In making its decision, the Planning and Environment Court must
have regard to any difference in the value of the land because of the change. 7
8

(2) Subsection (1) does not limit the things to which the court may have
regard in making its decision. 9
10

Payment of compensation to be recorded 11

94.(1) As soon as practicable after the compensation is paid, the chief
executive must give the registrar of titles written notice that the land is
affected by chapter 5, part 1.⁷ 12
13
14

(2) The notice must be in a form approved by the registrar. 15

(3) The registrar must keep the information stated in the notice as
information under the *Land Title Act 1994*, section 34. 16
17

PART 2—APPEALS 18

Who may appeal 19

95. A person who is dissatisfied with the chief executive's decision to
give the person a coastal protection or tidal works notice may appeal against
the decision to the Planning and Environment Court. 20
21
22

⁷ Chapter 5 (Administration), part 1 (Compensation).

How to start appeal	1
96.(1) An appeal is started by—	2
(a) filing written notice of the appeal with the registrar of the court; and	3 4
(b) complying with the rules of court applicable to the appeal.	5
(2) The notice of appeal must—	6
(a) be filed within—	7
(i) if the coastal protection or tidal works notice is given under section 52(3) and 53(2)—60 days after the notice is given; or	8 9
(ii) if subparagraph (i) does not apply—30 days after the person receives the coastal protection or tidal works notice; and	10 11
(b) state fully the grounds of the appeal and the facts relied on.	12
 Appellant to give notice of appeal	 13
97. Within 7 days after filing a notice of appeal, the appellant must serve notice of the appeal on the chief executive.	14 15
 Stay of operation of decision	 16
98.(1) The court may grant a stay of the decision appealed against to secure the effectiveness of the appeal.	17 18
(2) A stay may be granted on conditions the court considers appropriate and has effect for the period stated by the court.	19 20
(3) The period of a stay must not extend past the time when the court decides the appeal.	21 22
(4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.	23 24
 Hearing procedures	 25
99.(1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.	26 27 28

(2) An appeal is by way of rehearing, unaffected by the chief executive's decision. 1
2

Powers of court on appeal 3

100.(1) In deciding an appeal, the court may— 4

(a) confirm the decision appealed against; or 5

(b) vary the decision appealed against; or 6

(c) set aside the decision appealed against and make a decision in substitution for the decision set aside. 7
8

(2) If on appeal the court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the chief executive. 9
10

PART 3—MISCELLANEOUS 11

Delegation by chief executive 12

101. The chief executive may delegate the chief executive's powers under this Act to an officer of the public service, a local government, port authority or statutory authority. 13
14
15

State of the coastal zone report 16

102.(1) The chief executive must prepare and publish a report on the state of the coastal zone at least every 4 years. 17
18

(2) The report must— 19

(a) include an assessment of the condition of major coastal resources; and 20
21

(b) identify significant trends in coastal values; and 22

(c) review significant programs, activities and achievements of persons and public authorities in relation to the protection, restoration and enhancement of the coastal zone; and 23
24
25

- (d) evaluate the efficiency and effectiveness of coastal management strategies implemented to achieve the object of this Act. 1
2

(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it. 3
4

Regulation making power 5

103.(1) The Governor in Council may make regulations under this Act. 6

(2) A regulation may make provision for coastal management, including, for example, provisions about any of the following matters— 7
8

(a) access to unallocated State land in a control district; 9

(b) the use or development of land in a control district; 10

(c) activities in a control district; 11

(d) the presence and use of vehicles and vessels in a control district; 12

(e) the impounding, removal and disposal of vehicles, vessels, aircraft or property found abandoned in a control district; 13
14

(f) the matters for which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay the fees, costs and charges, when the fees, costs and charges are payable, and the recovery of any amount of the fees, costs and charges not paid; 15
16
17
18
19

(g) giving effect to, and enforcing compliance with, coastal plans, including, for example, giving a notice about a contravention of a coastal plan and the effect of failure to comply with it; 20
21
22

(h) exemption from compliance with provisions of a coastal plan. 23

(3) A regulation may prescribe offences for contraventions of a regulation, and fix a maximum penalty of a fine of not more than 165 penalty units for the contravention. 24
25
26

Transition of control districts 27

104. For this Act— 28

(a) each coastal management control district and erosion prone area 29

Coastal Protection and Management

under the *Beach Protection Act 1968* is taken to be a control district under this Act; and

- (b) each setback requirement as specified in the plans listed in the table in the *Coastal Management Control Districts (Requirements for Buildings or Other Structures) Regulation 1984*, is taken to be a coastal building line under this Act.

PART 4—CONSEQUENTIAL AMENDMENTS

Acts amended

- 105.** Schedule 1 amends the Acts mentioned in it.

SCHEDULE 1	1
BEACH PROTECTION ACT 1968	2
section 105	3
1. Section 3, definition “coast”, ‘mean high-water mark at spring tides of any tidal water’—	4
<i>omit, insert—</i>	5
‘the highest astronomical tide mark’.	6
2. Section 15—	8
<i>omit, insert—</i>	9
‘Delegation	10
‘15. The authority may delegate its powers to an officer or employee of the department.’.	11
3. After section 41B—	13
<i>insert—</i>	14
‘Mandatory condition for rezoning approvals	15
‘41C.(1) This section applies if—	16
(a) a person applies under the <i>Local Government (Planning and Environment) Act 1990</i> for approval to amend an existing planning scheme by the rezoning of land (the “ relevant land ”);	17
and	18
(b) all or part of the relevant land is in a coastal management control district or is included in an area to which an erosion prone area plan relates.	19
and	20
(b) all or part of the relevant land is in a coastal management control district or is included in an area to which an erosion prone area plan relates.	21
and	22
(b) all or part of the relevant land is in a coastal management control district or is included in an area to which an erosion prone area plan relates.	23
‘(2) In this section—	24
“surrender” , of land, means surrender of the land free of charge to the	25

SCHEDULE 1 (continued)

State for beach protection and coastal management.	1
‘(3) Within 2 days after lodging the application with the local government, the person must give a copy of the application to the Beach Protection Authority.	2 3 4
‘(4) Subsection (3) is a relevant procedure that must be included in the applicant’s statutory declaration mentioned in the <i>Local Government (Planning and Environment) Act 1990</i> sections 4.3(10) and 4.6(10).	5 6 7
‘(5) If the Beach Protection Authority is satisfied the relevant land should be protected by the surrender of part of the land, it must—	8 9
(a) advise the applicant and the local government that a condition of the approval should be that a specified part of the relevant land be surrendered; and	10 11 12
(b) give the local government written advice about the condition within 30 days of receiving the copy of the application from the applicant.	13 14 15
‘(6) If the Governor in Council is satisfied the relevant land should be protected by the surrender of land, the Governor in Council may require, as a condition of the approval, that land be surrendered.	16 17 18
‘(7) To remove any doubt, the surrender requirement only applies to the part of the land in an area to which an erosion prone area plan relates.	19 20
‘(8) No appeal lies against the surrender requirement and no compensation is payable for the surrender.	21 22
‘(9) If land has been previously surrendered under this section, this section does not apply if the remaining land is subject to a further application mentioned in subsection (1).’	23 24 25
4. Section 45—	26
<i>insert—</i>	27
‘(10) In this section—	28

SCHEDULE 1 (continued)

“coastal management control district” includes land in an area to which
an erosion prone area plan relates.’. 1
2

TRANSPORT INFRASTRUCTURE ACT 1994 3

1. Section 236(8), ‘2’— 4

omit, insert— 5

‘4’. 6

7

SCHEDULE 2	1
DICTIONARY	2
section 5	3
“advisory council” means the Coastal Protection Advisory Council.	4
“alter” includes add to, remove from, maintain, or change in any way, and includes starting or continuing to alter.	5 6
“authorised person” means a person appointed as an authorised person under this Act.	7 8
“biological diversity” see <i>Nature Conservation Act 1992</i> , section 10.	9
“build” includes—	10
(a) move from one position to another position, whether on the same or another allotment; and	11 12
(b) re-build (with or without alteration) whether on the same or another allotment.	13 14
“coast” see section 6.	15
“coastal building line” see section 59.	16
“coastal management” see section 7.	17
“coastal plan” means the State plan or a regional plan.	18
“coastal protection notice” see section 52.	19
“coastal resources” see section 8.	20
“coastal waters” see section 9.	21
“coastal wetlands” see section 10.	22
“coastal zone” see section 11.	23
“control district” means a part of the coastal zone declared under this Act as a control district.	24 25
“cultural resources” , of the coastal zone, means the places or objects that	26

SCHEDULE 2 (continued)

have anthropological, archaeological, historical, scientific, spiritual, visual or sociological significance or value, including such significance or value under Aboriginal tradition or Island custom.	1 2 3
“damage” , to vegetation, means remove, fell, cut down, ringbark, dig up, pull out, poison or burn the vegetation or interfere with the natural growth of the vegetation, and includes damage to the vegetation caused by draining land or altering the water table for land.	4 5 6 7
“ecologically sustainable development” see section 12.	8
“fee” includes tax.	9
“foreshore” means the land lying between high water mark and low water mark as is ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.	10 11 12
“high water mark” means the ordinary high water mark at spring tides.	13
“interest” , for land, includes—	14
(a) a mining claim, mineral development licence or mining lease granted under the <i>Mineral Resources Act 1989</i> ; or	15 16
(b) a petroleum lease granted under the <i>Petroleum Act 1923</i> .	17
“key coastal site” means an area identified under a regional plan as a key coastal site.	18 19
“land” includes land that is, or is at any time, covered by Queensland waters.	20 21
“land under tidal water” includes foreshore.	22
“low water mark” means the ordinary low water mark at spring tides.	23
“National Strategy for Ecologically Sustainable Development” means the National Strategy for Ecologically Sustainable Development endorsed by the Council of Australian Governments on 7 December 1992.	24 25 26 27
“natural resources” , of the coastal zone, means the natural and physical features and processes of the zone, including wildlife, soil, water, minerals and air.	28 29 30

SCHEDULE 2 (continued)

“obstruct” includes—	1
(a) hinder or resist; and	2
(b) attempt to obstruct.	3
“owner” , for chapter 5, part 1, see section 86(1).	4
“owner” , of land, means the person for the time being entitled to receive the rent of the land or would be entitled to receive the rent from it if it were let to a tenant at a rent, and includes the holder of a lease, licence or permission from the State, or a person deriving title under it.	5 6 7 8
“place” includes land, a structure, vehicle or other place (even if the place is in a natural or undeveloped state) whether the place is on or under the water or on the bed of any waters.	9 10 11
“planning scheme” see <i>Local Government (Planning and Environment) Act 1990</i> , section 1.4.	12 13
“port authority” see <i>Transport Infrastructure Act 1994</i> , schedule 3.	14
“regional plan” means a regional coastal management plan approved under chapter 2, part 2, division 2.	15 16
“sea” includes bays, arms and inlets of the sea.	17
“seaward” means toward tidal water.	18
“State plan” means the State coastal management plan approved under chapter 2, part 2, division 1.	19 20
“stock” means any grazing animal, and includes commercially farmed birds.	21 22
“structure” includes a building, deck, fence, gazebo, path, pillar, post, road, swimming pool, tennis court and wall.	23 24
“tidal water” means the sea and any part of a harbour or water course ordinarily within the ebb and flow of the tide at spring tides.	25 26
“tidal works notice” see section 53.	27
“unallocated State land” see <i>Land Act 1994</i> , schedule 6.	28

SCHEDULE 2 (continued)

“ vegetation ” includes trees.	1
“ wildlife ” see <i>Nature Conservation Act 1992</i> , section 7.	2
	3