



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 49 of 1972

An Act to make provision for the conservation and protection of the beaches and coast of this State; and for other purposes.

[Assented to 27th April, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Coast Protection Act, 1972". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. This Act is arranged as follows: Arrangement of Act.
 - PART I—PRELIMINARY
 - PART II—ADMINISTRATION
 - PART III—COAST PROTECTION DISTRICTS
 - PART IV—POWERS OF BOARD
 - PART V—CONTROL OF DEVELOPMENT

PART VI—FINANCIAL PROVISIONS

PART VII—MISCELLANEOUS

Interpretation.

4. In this Act, unless the contrary intention appears—

“appointed member” of the Board means a member of the Board appointed by the Governor under paragraph (d) or paragraph (e) of subsection (1) of section 8 of this Act:

“coast” means all land that is—

(a) within the mean high water mark and the mean low water mark on the seashore at spring tides;

(b) above and within one hundred metres of that mean high water mark;

(c) below and within three nautical miles of that mean low water mark;

(d) within any estuary, inlet, river, creek, bay or lake and subject to the ebb and flow of the tide;

or

(e) declared by regulation to constitute part of the coast for the purposes of this Act:

“coast facility” means any building, structure or works—

(a) for the use or enjoyment of those who may resort to the coast;

or

(b) of a kind declared by regulation to constitute a coast facility:

“consultative committee” means a consultative committee constituted under Part II of this Act:

“owner” in relation to private land, means the holder of an estate or interest in the land:

“private land” means—

(a) land lawfully granted or contracted to be granted for an estate of freehold by or on behalf of the Crown;

or

(b) land subject to a perpetual lease lawfully granted by or on behalf of the Crown:

“storm repairs” means works for the repair of damage to the coast caused by storm or pollution, but does not include the repair of a coast facility:

“the Board” means the Coast Protection Board constituted under Part II of this Act:

“the Court” means the Land and Valuation Court:

“the Planning Appeal Board” means the Planning Appeal Board constituted under the Planning and Development Act:

“works of a prescribed nature” means building, construction, mining or excavation of a kind or extent declared by regulation to constitute works of a prescribed nature for the purposes of this Act or works changing the nature, configuration or use of the coast in a manner or to an extent prescribed by regulation.

5. This Act binds the Crown.

Act to bind the
Crown.

PART II

PART II

ADMINISTRATION

6. (1) There shall be a Board entitled the “Coast Protection Board”.

Establishment
of Board.

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal;

PART II

(b) shall be capable of acquiring, holding, selling and otherwise disposing of real and personal property;

(c) shall be capable of acquiring or incurring any other legal rights and liabilities, and of suing and being sued;

and

(d) shall hold its property on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Board was duly affixed to that document.

Control and direction of Board.

7. The Board shall be subject to the control and direction of the Minister.

Membership of Board.

8. (1) The Board shall consist of five members of whom—

(a) one shall be the Director of Planning;

(b) one shall be the Director of Marine and Harbors or his nominee;

(c) one shall be the Director of the South Australian Government Tourist Bureau, or his nominee;

(d) one shall be a person who is, in the opinion of the Governor, qualified for membership of the Board by reason of extensive knowledge of, and experience in, local government and has been appointed a member of the Board by the Governor;

and

(e) one shall be a person who is, in the opinion of the Governor, qualified for membership of the Board by reason of extensive knowledge of, and experience in, the technical problems of coast protection and has been appointed a member of the Board by the Governor.

(2) The Director of Planning shall be the chairman of the Board.

(3) Subject to this Act, an appointed member of the Board shall be appointed for such term of office, not exceeding four years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, shall be eligible for re-appointment.

(4) If any member of the Board is unable, or fails for any reason, to act in his capacity as a member of the Board, the Governor may appoint a suitable person to be a deputy of the member, and such

a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(5) The Governor may remove an appointed member of the Board from office for—

- (a) mental or physical incapacity;
 - (b) neglect of duty;
 - (c) dishonourable conduct;
- or
- (d) any other cause considered sufficient by the Governor.

(6) The office of an appointed member of the Board shall become vacant if—

- (a) he dies;
 - (b) his term of office expires;
 - (c) he resigns his office by written notice addressed to the Governor;
- or
- (d) he is removed from office by the Governor pursuant to subsection (5) of this section.

(7) Upon the office of an appointed member of the Board becoming vacant, a person shall be appointed in accordance with this Act, to the vacant office, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

9. (1) Three members of the Board shall constitute a quorum of the Board, and no business shall be transacted unless a quorum is present. Quorum, etc.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board, shall be a decision of the Board.

(3) The chairman shall preside at a meeting of the Board, and in the event of an equality of votes, shall have a second or casting vote.

(4) In the absence of the chairman or a deputy of the chairman from a meeting of the Board, the members present shall elect one of their number to be chairman for that meeting, and a member so elected shall perform and discharge the functions and obligations of the chairman for that meeting.

PART II

(5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

Validation of acts of Board.

10. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly appointed.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge, of his or its duties under this Act.

Allowances and expenses.

11. An appointed member of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Secretary.

12. (1) The Governor may, subject to, and in accordance with the Public Service Act, appoint a suitable person to be secretary to the Board.

(2) A person so appointed shall hold office subject to the provisions of the Public Service Act.

(3) The office of secretary to the Board may be held in conjunction with any other office in the Public Service of the State.

Officers and servants.

13. (1) The Governor may, subject to, and in accordance with the Public Service Act, appoint such officers and servants as may be necessary or expedient for the due administration of this Act.

(2) A person so appointed shall hold office subject to the provisions of the Public Service Act.

(3) With the consent of the Minister administering any Department of the Public Service, the Board may make use of the services of the officers of that Department.

General duties of the Board.

14. (1) The duties of the Board are as follows:—

- (a) to protect the coast from erosion, damage, deterioration, pollution and misuse;
- (b) to restore any part of the coast that has been subjected to erosion, damage, deterioration, pollution or misuse;
- (c) to develop any part of the coast for the purpose of aesthetic improvement, or for the purpose of rendering that part of the coast more appropriate for the use or enjoyment of those who may resort thereto;

- (d) to report to the Minister upon any matters that the Minister may refer to the Board for advice;
- (e) to carry out research, to cause research to be carried out, or to contribute towards research, into matters relating to the protection, restoration or development of the coast;
- and
- (f) to carry out such other duties as are imposed upon the Board by or under this Act.

(2) The Board may prepare and issue bulletins, memoranda, maps and plans for the information of the public.

Consultative Committees

15. (1) Where a coast protection district has been established under this Act, the Minister shall appoint a consultative committee in respect of that district.

Constitution of consultative committees.

(2) A council for any area comprising any portion of the coast protection district shall be entitled to nominate a person for appointment as a member of the committee.

(3) Where a council has been requested by instrument in writing under the hand of the Minister to make a nomination under this section, and fails to make a nomination in accordance with the request within one month of the date of the request, or such longer period as may be allowed by the Minister, the Minister may appoint a suitable person to be a member of the consultative committee in lieu of a nominee of that council.

16. (1) The term of office of a member of a consultative committee shall be such term, not exceeding three years, as may be fixed by the Minister in the instrument of his appointment.

Terms and conditions of office.

(2) A member of a consultative committee shall hold office upon such terms and conditions as may be determined by the Minister.

17. The duties of a consultative committee are as follows:—

Duties of consultative committee.

- (a) to advise the Board upon any matters referred to the consultative committee for advice;
- and
- (b) to consider any matters pertinent to the protection, restoration or development of any portion of the coast within the coast protection district in respect of which the

PART II

committee is established, and to advise the Board on any matters that should in the opinion of the committee be considered by the Board.

*Advisory Committees***Advisory
Committees.**

18. (1) The Board may appoint such advisory committees as the Board considers necessary for the purpose of providing the Board with expert advice on matters pertinent to the protection, restoration or development of the coast.

(2) A member of an advisory committee shall hold office upon such terms and conditions as may be determined by the Minister.

PART III

PART III

COAST PROTECTION DISTRICTS

**Constitution of
coast
protection
districts.**

19. (1) Subject to subsection (2) of this section, the Governor may, by proclamation—

(a) constitute any part of the coast defined or described in the proclamation as a coast protection district;

(b) assign a name to a coast protection district so constituted;

(c) amalgamate any two or more coast protection districts;

or

(d) vary or revoke a previous proclamation under this section.

(2) A proclamation shall not be made under this section except upon the recommendation of the Board.

(3) The Board shall not make a recommendation under this section until it has invited representations from the councils (if any) for the areas comprising any portion of the proposed coast protection district, and has forwarded to the Minister a report upon any representations made by any such council in respect of the proposals to constitute the coast protection district.

20. (1) The Board shall in respect of any coast protection district constituted under this Part, make an investigation, or cause an investigation to be made, in order to determine the most appropriate measures to be taken to protect, restore or develop the coast comprised in the coast protection district in the best interests of the public.

(2) In preparing a management plan, the Board shall consult with, and take into account the interests of, any council whose area comprises the whole or any part of the coast protection district.

(3) Upon completion of an investigation, the Board shall prepare a management plan setting forth in general terms the measures that the Board considers necessary or expedient for the protection, restoration or development of the coast comprised in the coast protection district.

(4) The Board shall, upon completion of a management plan—

(a) send, or cause to be sent, to each council whose area comprises any portion of the coast protection district, a copy of the management plan;

(b) arrange for the display of the management plan in an office or offices readily accessible to members of the public; and

(c) cause an advertisement to be published in a newspaper circulating generally throughout the State stating that the management plan may be inspected at the office or offices specified in the advertisement and that representations may be made to the Board in respect of the proposals contained in the plan at any time within two months after the date of the advertisement.

(5) Any council to which a notice is sent under subsection (4) of this section, and any other person, may within two months after receipt of the management plan, or publication of the advertisement, make written representations to the Board in respect of the proposals contained in the management plan.

(6) The Board shall consider the representations and may alter the management plan in such manner as it thinks fit.

(7) The Board shall, after consideration of the representations (if any) made in respect of the management plan, refer the statement with a summary of the representations, and the amendments (if any) made to the plan, to the Minister.

(8) The Minister may submit the management plan to the Governor.

PART III

(9) The Governor may, by proclamation, declare a management plan submitted to him under this section to be an approved management plan.

(10) An approved management plan may be varied or revoked by a subsequent management plan prepared and approved in accordance with this section.

(11) The Board shall supply each council whose area comprises any portion of a coast protection district with a copy of the management plan relating to that district, and shall at the request of any other person, and upon payment of the prescribed fee, supply him with a copy of a management plan.

PART IV

PART IV

POWERS OF BOARD

Authorized works.

21. (1) The Board is hereby authorized to execute all works in relation to land constituting or forming part of a coast protection district, as may be necessary or expedient for the purpose of implementing an approved management plan.

(2) The Board is hereby authorized to execute any works that are in the opinion of the Board necessary or expedient for the purpose of repairing or restoring any damage to any portion of the coast resulting from a storm, or from pollution.

Powers of acquisition.

22. (1) Where the Board is satisfied that it is necessary or expedient for the purpose of execution works authorized under this Act to acquire any part of the coast the Board may, with the approval of the Minister, acquire any land constituting or forming part of, that part of the coast.

(2) The Land Acquisition Act shall apply in respect of the acquisition of land under subsection (1) of this section.

23. (1) For the purposes of this Act, any member of the Board, or any person authorized by the Board may—

Powers of entry.

- (a) enter and remain on any land with any assistants, vehicles, machinery or equipment;
 - (b) make any inspection necessary for the purposes of this Act;
 - (c) affix or establish any trigonometrical stations, survey pegs, marks or poles and from time to time alter, remove or re-instate them;
- and
- (d) dig or bore into the land.

(2) At least seven days before any private land is entered pursuant to subsection (1) of this section, the Board must serve on the occupier of the land, or where there is no occupier, the owner of the land, a notice of intention to enter the land.

(3) A person who—

- (a) wilfully and without authorization from the Board, interferes with any trigonometrical stations, survey pegs, marks or poles;
- or
- (b) wilfully obstructs any person acting in accordance with this section,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

24. (1) For the purposes of this Act, a person authorized in writing by the Board may occupy and use any land constituting or forming part of the coast and may carry out upon that land any works authorized by this Act.

Temporary occupation.

(2) The Board shall, at least seven days before private land is occupied pursuant to subsection (1) of this section, serve upon the occupier of the land, or if there is no occupier, upon the owner of the land, notice of its intention to exercise its powers of temporary occupation in relation to the land.

(3) A person interested in the land may apply to the Court for an order that the authority acquire his interest in the land.

(4) The Court, if satisfied that it is just to do so, may order the Board to acquire the interest upon such terms and conditions as may be determined by the Court, and may make such incidental or consequential orders as the Court thinks fit.

PART IV

Compensation
for entry or
temporary
occupation.

25. (1) A person interested in land that is entered or temporarily occupied pursuant to this Part may, at any time before the expiration of three months from the day on which the Board, or any person authorized by the Board, was last in occupation of, or upon, the land, by notice in writing served upon the Board, claim compensation.

(2) If after the expiration of three months from the day on which a notice was served under subsection (1) of this section, the Board and the claimant are not agreed upon the amount of compensation that should be paid, either the Board or the claimant may refer the matter to the Court for determination.

(3) The Court shall, upon the reference of any such matter, determine the amount of compensation that should be paid by the Board, and order the payment of that amount to the claimant.

(4) The compensation shall be determined in accordance with the appropriate provisions of the Land Acquisition Act.

PART V**PART V****CONTROL OF DEVELOPMENT**

Approval for
works of
prescribed
nature.

26. (1) No works of a prescribed nature shall be carried out in a coast protection district without the approval in writing of the Board.

(2) A person who carries out works of a prescribed nature in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable to a penalty of five hundred dollars and a further penalty of fifty dollars for every day for which the offence continues.

(3) The works to which this section apply may be prescribed generally in relation to a coast protection district, or coast protection districts, or in relation to any specified part or parts of a coast protection district, or coast protection districts.

PART V

Application for approval.

27. (1) An application for the approval of the Board in respect of proposed works of a prescribed nature must be made in a manner and form determined by the Board.

(2) An applicant must furnish the Board with such plans and specifications in relation to the proposed works as the Board may require.

(3) The Board may approve the proposed works with or without conditions, or may refuse to approve the proposed works.

(4) The Board shall not refuse its approval for any proposed works, unless, in the opinion of the Board—

(a) those works are inconsistent with, or would prejudice the proper implementation of, an approved management plan;

or

(b) those works would otherwise adversely prejudice the proper protection, restoration or development of the coast.

28. (1) Any person aggrieved by a decision of the Board under this Part may appeal against the decision to the Planning Appeal Board.

Appeal to Planning Appeal Board.

(2) The Planning Appeal Board may upon the hearing of an appeal under this section reverse or vary the decision of the Board.

 PART VI
PART VI

FINANCIAL PROVISIONS

29. (1) There shall be a fund entitled the "Coast Protection Fund".

Coast Protection Fund.

(2) The fund shall be established and maintained at the Treasury.

(3) The following moneys shall be paid into the fund:—

(a) all moneys appropriated by Parliament for the purposes of the fund;

and

(b) all moneys received or recovered by the Board in pursuance of the provisions of this Act.

(4) The fund shall be applied by the Board towards the costs incurred by the Board in the administration of this Act.

Power to borrow.

30. (1) The Board may borrow moneys—

(a) from the Treasurer;

or

(b) with the consent of the Treasurer, from any other person.

(2) The Treasurer may guarantee the repayment of any moneys borrowed by the Board under paragraph (b) of subsection (1) of this section, and any interest thereon.

(3) The Treasurer is hereby authorized, without further appropriation, to satisfy any liability arising under any such guarantee out of the General Revenue of the State.

Accounts and audit.

31. (1) The Board shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Board.

Contribution towards works to be performed by council.

32. (1) Where a council proposes to carry out works for the protection, restoration or development of any part of the coast and seeks a grant from the Board under this section, it shall apply to the Board for its approval of the proposed works.

(2) Where the Board approves the proposed works it may make a grant to the council under this section.

(3) The amount of the grant shall be determined by the Board subject to the following provisions:—

(a) where the works consist in storm repairs, the grant may cover the whole or any portion of the cost to be incurred by the council;

(b) where the works consist in the provision or repair of a coast facility, the grant may cover up to one-half of the costs to be incurred by the council;

and

(c) in any other case, the grant may cover up to four-fifths of the costs to be incurred by the council.

PART VI

33. (1) Where the Board carries out works within the area of a council or the areas of two or more councils, or benefiting that area or those areas, for the protection, restoration or development of any part of the coast within a coast protection district the Board may recover, as a debt, from the council or councils contribution towards the expense incurred in carrying out those works.

Contribution
to works of the
Board.

(2) The amount of the contribution shall be determined by the Board subject to the following provisions:—

(a) where the works consist in the provision of a coast facility, the contribution may be an amount of up to one-half of the expense incurred by the Board;

and

(b) in any other case the contribution may be an amount of up to one-fifth of the expense incurred by the Board.

(3) Where the works are carried out in the areas of two or more councils, or benefit the areas of two or more councils, the contribution to which the Board is entitled under this section may be apportioned between the councils in such manner as the Board may determine.

PART VII

PART VII

MISCELLANEOUS

34. (1) The Minister may, by notice published in the *Gazette*, declare any part of a coast protection district to be a restricted area.

Restricted area.

(2) No declaration shall be made under subsection (1) of this section in respect of private land, or land constituting a public road.

(3) The notice may contain such prohibitions and restrictions upon access to the area as the Minister thinks fit.

(4) The Board shall cause notices to be erected upon or in the vicinity of a restricted area informing the public of the prohibitions or restrictions upon access to the area.

(5) A person who enters or remains upon a restricted area in contravention of any such prohibition or restriction shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

PART VII**Report.**

35. (1) The Board shall on or before the thirty-first day of October in each year submit a report to the Minister upon the administration of this Act during the year ended on the preceding thirtieth day of June in that year.

(2) The Minister shall cause a copy of a report under this section to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days after the commencement of the next session of Parliament.

Inquiry.

36. (1) The Minister may require the Board to make such inquiries pertinent to the administration of this Act as he considers necessary or expedient.

(2) The Board shall comply with any requirement under this section.

Regulations.

37. (1) The Governor may make such regulations as are contemplated by this Act, or as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

(a) regulate the meetings and procedure of the Board and consultative committees;

(b) prescribe the practice and procedure to be observed in relation to an appeal to the Planning Appeal Board under this Act;

(c) prescribe and provide for the recovery of fees for the purposes of this Act;

and

(d) prescribe penalties not exceeding one hundred dollars for breach of, or non-compliance with, any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Governor's Deputy