

# Coastal Zone Management and Climate Change Impacts

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# The Layers of Coastal Law

- NSW Coastal Policy 1997.
- *Coastal Protection Act 1979.*
- *Local Government Act 1993, s.733.*
- Coastline Management Manual 1990.
- *Coastline Hazard Policy 1988* (now superseded by Sea Level Rise Policy 2009).
- NSW Government Coastal Management Program.
- National Cooperative Approach to Integrated Coastal Zone Management, Framework and Implementation Plan 2006.

# Planned Retreat

- Planned retreat is a coastal hazards management approach that acknowledges coastal processes and hazards as ongoing natural dynamics.
- In 1988 BSC adopted the Byron LEP 1988 and DCP 1988 which included Part J which contained the policy of Planned Retreat.
- A public hearing was held prior to the adoption of the 1988 planning instruments. Community members, scientists and experts presented to the hearing, and their submissions were taken into consideration prior to the adoption of those planning instruments.

# ZoneControls

- As well as planned retreat DCP - coastal protection zones of 7(f1) Coastal Lands Zone and 7(f2) Urban Coastal Lands Zone as well as provisions that restricted the type of development that could be constructed in these areas.
- LEP Amendment No 66 which was incorporated in the 1988 LEP in 2001 provided specific mapping for these restrictions.

# Planned Retreat & CZMP

- Byron Shire Council's planned retreat policy, forms the basis for the Byron coastal zone management and the CZMP. It details relevant implementation and monitoring requirements.
- Principles, Strategies and Actions for 9 management goals

## 9 Goals

- To protect, rehabilitate and improve the natural environment
- To recognise and accommodate natural processes and climate change
- To protect and enhance the aesthetics qualities of the coastal zone
- To protect and conserve cultural heritage
- To promote ecologically sustainable development & use of resources
- To provide for ecologically sustainable human settlement
- To provide for appropriate public access & use
- To provide information to enable effective management
- To provide for integrated planning and management

# New Precincts

## How Planned Retreat Works

- Coastal Planning Precinct 1 accommodates the immediate coastline hazard and provides a development free buffer 20m wide.
  - Limit of erosion potential for the immediate term
- Coastal Planning Precinct 2 accommodates the extent of the coastline hazards based on the current planning scenario of 0.9m sea level rise by 2100.
  - Limit of erosion potential for next one hundred years

# Difference between DCP and CZMP

- The new approach will simplify the process with a uniform trigger distance of 20 m for relocation for relocatable development.
- This will establish and maintain a buffer to absorb the immediate coastal hazard and accommodate natural coastal processes.
- This is an improvement from the current process, which allows residential property owners to use coastal land for the maximum time before relocation is necessary.

## DCP 2002 Part J planning

- Planning precinct 1 - Immediate coastal hazard
  - Trigger distance for relocation of development – 20 m from the erosion escarpment
  - No buildings to be located within 20 m of escarpment
  - Buildings to be entirely modular and relocatable
- Planning precinct 2 - 50-year coastal hazard
  - Trigger distance for relocation and/or demolition of development – 50 m from the erosion escarpment
  - All Class 1 buildings – (house residential) must be relocatable
- Planning precinct 3 - 100-year coastal hazard
  - Trigger distance for relocation and/or demolition of development – 50 m from the erosion escarpment

# Implementation of Planned Retreat

- Voluntary relocation or removal by property owners.
- Enforcement by Byron Shire Council of development consent conditions, once the specified trigger distances (20 & 50m) have been realised.
- Enforcement by Byron Shire Council (demolition) under recognition of risk to people and the environment from possible dwelling collapse.
- In all cases relocation or removal of a dwelling will occur at the property owner's expense, in accordance with the *Environmental Planning and Assessment Act 1979*.

# Biodiversity

- Liaise with NPWS to protect little terns @ Belongil
- Implement biodiversity strategy actions
- Implement Belongil Estuary Seabird & Shorebird Management Plan
- Weed Programs (seek external funding)
- Conform to Belongil Estuary Management Plan
- Review and Update BSC Veg Management Plans to Reflect CZMP

# Beach Scraping

- Proposed for:
  - South Golden Beach
  - New Brighton
  - Suffolk Park
- To provide dune height to minimise risk of over topping
- Intended not to have adverse impacts on flora and fauna

# NSW **DRAFT** SeaLevel Rise Guidelines

- Apply to all coastal areas of NSW, including the NSW Coastal Zone.
- The term 'coastal areas' is used broadly and includes the coastline, beaches, coastal lakes, estuaries, the tidal reaches of coastal rivers, other low lying land surrounding these areas that may be subject to coastal processes in the future as a consequence of sea level rise.

# 6 Principles

- **Principle 1** – Assess and evaluate coastal risks taking into account the NSW sea level rise planning benchmarks
- **Principle 2** – Advise the public of coastal risks to ensure that informed land use planning and development decision-making can occur
- **Principle 3** – Avoid intensifying land use in coastal risk areas through appropriate strategic and land use planning.

# 6 Principles

- **Principle 4** – Consider options to reduce land use intensity in coastal risk areas where feasible.
- **Principle 5** – Minimise the exposure to coastal risks from proposed development in coastal areas.
- **Principle 6** – Implement appropriate management responses and adaptation strategies, with consideration for the environmental, social and economic impacts of each option.

# Byron's Litigious History

- **1985-86** Court upholds Council refusals and of condition of approval lapsing subject to proximity to escarpment – 54 m, 80 m, (Hogan, Belongil by the Sea, Cooper & Greaves)
- **1988** Demolition orders upheld – Bolens. Trainor
- **1990** Court upholds refusal of large demountable dwelling – Vaughan
- **1991** Challenge s88E Restriction on Use – Court upheld as valid – Veila
- **1996** Court upholds Council refusal of a seawall DA to protect several houses – Scott
- **1999** Council unsuccessful in application for injunction to stop emergency rock works by residents under State Emergency and Rescue Management Act 1999 – Vaughan & others
- **1999** Consent orders – works installed under police emergency notice only 'interim protection works'

- **2003** Appeal against DA refusal for a rock wall dismissed on grounds that the application was 'unclear' as to what effect the construction of the proposed wall would have on adjoining properties and the DA was deemed to be invalid – Parkes
- **2004** Court upholds Council refusal of application for change of use of house to bed and breakfast dismissed – Parkes
- **2004** Application seeking declaration that property has "existing use rights" refused by the Court. The realisation of the coastal erosion trigger in the s88E Restriction of Use rendered the development unlawful and it had no 'existing use rights'. – Kendall St
- **2006** Court upholds refusal of application to replace a previously existing building in the same location dismissed – Van Haandel

# SeaLevel RiseLitigation

- Limitations - *The court's duty is to declare and enforce the law. The court has no jurisdiction to vary or to enlarge the law, such as by imposing different or greater duties to consider or to implement policy to mitigate or to adapt to climate change.*  
(Preston CJ)

# Byrona Leaderin CoastalPlanning!

- The policy adheres to the principles for an environmentally sustainable coast and adaptive risk management.
- These principles have been adopted in the NSW Coastal Policy 1997 and articulated in the DECC draft NSW Sea Level Rise Policy Statement 2009
- Byron Shire Council is seen as a leader in this area and claims that the release of the CZMP is the next step in its commitment to sound, practical and sustainable coastline management.

# HaveYour Say

- Byron Draft CZMP
  - Exhibition till 22 December 2009
- DoP Draft Coastal Planning Guideline:  
Adapting to Sea Level Rise
  - Exhibition till 11 December 2009