

## INQUIRY INTO THE COAST PROTECTION BOARD AND LEGISLATION

### Submission to The Parliamentary Officer, Environment Resources and Development Committee

Personal details withheld (confidential)

I would like the opportunity to present to the parliamentary inquiry in person.

#### **The structure, functions and powers of the Coast Protection Board in accordance with the *Coast Protection Act 1972*;**

As per Section 8 (1) of the Coast Protection Act 1972, the Coast Protection Board is comprised of six members, two of whom are appointed by virtue of experience and expertise that actually protects the coast:

- one being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, the technical problems of coast protection
- one being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, biological sciences and environmental protection

It is not explicitly stated in the Coast Protection Act that the remaining four members are appointed to the board by virtue of experience and expertise in protecting the coast. For example:

- one being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, local government

With no assumption made in relation to the current member fulfilling this role, it can only be implied that this member, now and in future, will serve the functions of the board stated in Section 14 (1) of the Coast Protection Act 1972:

- 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

Likewise, it can only be implied that the remaining three members have experience, expertise and **inclination** to protect the coast.

This means the composition of the Coast Protection Board is structurally inadequate to protect the coast by default.

Furthermore, while the functions of the Coast Protection Board as per Section 14 include development for aesthetic purposes, use and enjoyment and the Coast Protection Board may be comprised of members with little or no experience and expertise in coastal protection, there exists the possibility that development for aesthetic or recreational purposes may be take precedence over coastal protection. This is an unacceptable risk to the purpose of the Coast Protection Act, 1972: “An Act to make provision for the conservation and protection of the beaches and coast of this State”.

A recent example is the proposed Witton Bluff Basetrail, a \$5.5 Million infrastructure project jointly funded by the Onkaparinga Council and State Government. This project involves construction of a 400m dual carriageway for bicycles and pedestrians including a bridge across a beach between the high and low tide marks plus elevated sections drilled into the wavecut shelf, again below the high tide mark. The entire length is subject to routine damage during winter storms, will exacerbate erosion by increasing reflective wave energy and is adjacent to the sensitive marine park sanctuary zone of Port Noarlunga. Yet, it has been stated by the Onkaparinga Council as a recreational path and appears to be proceeding without regard for protection of the Coast as per the purpose of the Coast Protection Act 1972: “An Act to make provision for the conservation and protection of the beaches and coast of this State”.

The July 2020 minutes of the Coast Protection Board state a meeting took place between the Onkaparinga Council Mayor, an elected member of the Onkaparinga Council and Coast Protection Board Presiding Member, himself a former CEO of the Onkaparinga Council during various iterations of the Witton Bluff concept development. Preceding this meeting the stated intention of the Onkaparinga Council Mayor was to refer this infrastructure project to the Coast Protection Board due to its location across a “complex land tenure, sensitive wavecut shelf and soft cliff base”. After the meeting the Onkaparinga Council stated that they will not be referring the project to the Coast Protection Board for direction. Is this merely a coincidence? Is a pet infrastructure project being pursued at the expense of the coast? These are fair questions to ask given the Coast Protection Board is not necessarily comprised of members with experience and expertise in coastal protection, the Coast Protection Board’s functions may serve aesthetic and recreational development and some members of the Coast Protection Board may have a perceived or actual conflict of interest in various matters as time goes by.

In light of these matters, I recommend that:

- the membership of the Coast Protection Board be limited to those with experience and expertise in protecting the coast, and;
- the functions of the Coast Protection Board be limited to the functions that serve the conservation and protection of the beaches and coast of this State, as per the purpose of the Coast Protection Act, 1972.

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**The authority of the Coast Protection Board in accordance with Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017*, and criteria or triggers for referral;**

Schedule 3, Section 5 of the *Planning, Development and Infrastructure (General) Regulations 2017* defines the following as a form of development:

- Any excavating or filling (or excavating and filling)— (a) within coastal land; or (b) within 3 nautical miles seaward of the coast measured from mean high water mark on the sea shore at spring tide, which involves the excavating or filling (or excavating and filling) of a volume of material which exceeds 9 m<sup>3</sup> in total.

Schedule 9, Section 3, Part A (3) defines the Coast Protection Board as the Referral Body for development in a coastal area. Its function is direction.

The above provides a trigger for referral to the Coast Protection Board for infrastructure projects such as the \$5.5 Million Witton Bluff Basetrail.

Yet, the Onkaparinga Council has stated they will not refer this Infrastructure Project to the Coast Protection Board. This is due to the fact that the Onkaparinga Council has been able to refer to Schedule 4, Exclusions from definition of development, Section 20:

- Recreation paths (1) The following development undertaken by or on behalf of the Crown, a council or other public authority: (a) the construction, reconstruction, alteration, repair or maintenance of a recreation path (including on coastal land); (b) any ancillary development in connection with such a path, including— (i) excavation, importation of fill and other earthworks; and (ii) footings and other support structures; and (iii) landscaping; and (iv) the installation of— (A) safety features; and (B) directional signs, information boards, lighting, seating, weather shelters, rubbish bins or other street furniture.

When a Council is able to state that a \$5.5 Million Infrastructure Project such as the Witton Bluff Basetrail in between high and low tide marks, comprised of a 400m elevated dual carriageway path and bridge is not development and therefore does not trigger referral to the Coast Protection Board then the obvious questions are:

- When is the construction of a boardwalk or recreation path in coastal land able to be scrutinised by the Coast Protection Board?
- How is the Coast Protection Board able to protect the coast and beaches when Councils can construct between the high and low tide marks without any direction from the Coast Protection Board?
- Does the definition of a construction as a recreation path or boardwalk, hence exempt from classification as development, mean that this type of construction can be unlimited in its impact on the coast and beaches?

As a result of the ambiguity the Onkaparinga Council is proceeding with the Witton Bluff Basetrail Infrastructure Project that will:

- require large scale excavation
- increase beach erosion
- create permanent damage to the wavecut shelf
- increase pollution
- create negative impact on nesting birds
- negatively impact on marine species in the adjacent sanctuary zone
- increase vandalism

Furthermore, this project contradicts to a number of stated aims in the Council's own Development Plan for the land in which it sits (Coastal Conservation Zone), however this contradiction is rendered moot by the fact that the project is not being defined as development.

- The coast should be protected from development that would adversely affect the marine and onshore coastal environment, whether by pollution, erosion, damage or depletion of physical or biological resources, interference with natural coastal processes or any other means.
- Development should not be located in delicate or environmentally-sensitive coastal features such as sand dunes, cliff tops...
- Development should not be undertaken where it will create or aggravate coastal erosion, or where it will require coast protection works which cause or aggravate coastal erosion.
- Development and its site should be protected against the standard sea flood risk level which is defined as the 1-in-100 year average return interval flood extreme sea level (tide, stormwater and associated wave effects combined), plus an allowance to accommodate land subsidence until the year 2100.
- Development that requires protection measures against coastal erosion, sea or stormwater flooding, sand drift or the management of other coastal processes at the time of development, or in the future, should only be undertaken if all of the following apply: (a) the measures themselves will not have an adverse effect on coastal ecology, processes, conservation, public access and amenity (b) the measures do not nor will not require community resources, including land, to be committed (c) the risk of failure of measures such as sand management, levee banks, flood gates, valves or stormwater pumping, is acceptable relative to the potential hazard resulting from their failure (d) binding agreements are in place to cover future construction, operation, maintenance and management of the protection measures

I recommend that the *Planning, Development and Infrastructure (General) Regulations 2017* be modified to contain an unambiguous trigger for referral to the Coast Protection Board for any construction between the high and low tide marks and/or immediately adjacent to the high or low tide mark.