



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: EP&D:JvdPIb090922

9 September 2022

Director, Coastal Design Team
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Via submission portal

Dear Sir/Madam,

Coastal Design Guidelines

The Law Society appreciates the opportunity to comment on the “NSW Coastal Design Guidelines – draft update” The Law Society’s Environmental Planning and Development Committee contributed to this submission.

We support the updated Guidelines, which are generally drafted using clear and simple language, making the guidance accessible and easy to use for the range of stakeholders it is designed to assist.

However, we suggest that in some instances the drafting should more closely reflect the language used in the *Coastal Management Act 2016* (Act) and the relevant subordinate legislation. In our view, the statutory obligation to protect and manage the coastal environment does not appear to be adequately reflected in the draft Guidelines, in some instances.

In Chapter 3, ‘Key outcomes for planning proposals in the coastal zone’, in outcome A.1, we suggest that while it is necessary as a first step to ‘identify sensitive coastal systems ...,’ (mandatory outcome (b)) the use of the word ‘protect’ should also be included to more accurately reflect the aims of the relevant legislation, which in this instance states:

Objects of this Act

The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular—

- (a) to **protect and enhance** natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience,... (emphasis added)¹

¹ *Coastal Management Act 2016* (NSW) s 3(a)

Similarly, in mandatory outcome (a) of outcome A.2, protection should be included in addition to the requirement to 'identify coastal wetlands'. Mere identification alone in these cases does not give effect to the aims of the legislation.²

In outcomes C.2 and C.3, similarly, using concepts like 'avoid reducing public amenity' and 'avoid development that will overshadow...' should be replaced by a stronger obligation, such as 'ensure that public amenity is protected', using the wording of the Act for guidance.³

Given the current focus on coastal erosion, risks and climate change, we suggest that some of the recommended outcomes in section E, 'Support sustainable coastal economies' should be designated as mandatory, for instance, E.3 (a), E.4 (a), and E.5.

General Comments

The Law Society appreciates the opportunity to participate in the reform process. If you have any questions about this submission, please contact Gabrielle Lea, Policy Lawyer, at gabrielle.lea@lawsociety.com.au or on (02) 9926 0375.

Yours sincerely,



Joanne van der Plaats
President

² Ibid ss 3(a), 3(g), 6(2).

³ Ibid ss 3(b), 8(2)(f).