

<b>Policy Title:</b>	<b>SHORELINE EROSION PROTECTION STRUCTURES – CONTRIBUTION AND COST RECOVERY</b>
Policy Subject:	Environment
Policy No:	#2260297v6 – CP064
Directorate:	Infrastructure Services
Department:	Infrastructure Planning
Section:	Infrastructure Planning
Responsible Officer:	Executive Manager Infrastructure Planning
Authorised by:	Director Infrastructure Services
Adopted Date:	19/09/2012
Review Date:	Two-Yearly 18/02/2018 (As per Reporting Standard Page 6 of this Policy)
Amended Date:	18/02/2016
Risk Assessment:	Low

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**OBJECTIVE:**

To establish the circumstances under which Council may be willing to act as lead agent for the design, construction and maintenance of shoreline erosion protection measures.

Where Council elects to take this lead agency role, the policy outlines the cost sharing arrangements which will apply. It allows for Council to meet the initial cost of the works and to recover its expenditure via a special rate or charge.

Each specific case will be dealt with on its merits in terms of apportionment of costs and establishment of scheme beneficiaries.

**POLICY:****Philosophy**

Coastal land between the High Water Mark and a private property boundary may be retained in public ownership in order to provide access to and from the water, and to provide erosion buffer zones for adjacent property.

More extensive areas of coastal land may be developed as structured parkland to meet public demand for recreational facilities adjacent to the foreshore, and this land is generally gazetted as “Esplanade” or “Recreational Reserve” or “Beach Protection Reserve” or “Environmental Reserve”, or otherwise as “Unallocated State Land”. In some cases the land may also be owned by Council in freehold.

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Fraser Coast Regional Council also has council-control over a range of *foreshores*<sup>1</sup> within the Local Government area, although authority over these areas usually rests with the State's Department of Environment and Heritage Protection (DEHP). Establishment of shoreline protection structures on these foreshore areas or coastal land above high water mark is therefore subject to various State controls and permits, which are required prior to the construction or implementation of any erosion protection measures.

DEHP acknowledges a long-term recession of this coastal land through the calculation of Erosion Prone Areas, but also considers coastal erosion as a natural (cyclical) process. Consequently DEHP has historically demonstrated a preference to allow natural processes to occur, or otherwise to utilise beach nourishment programs rather than constructing permanent structures to control erosion.

Other State Government departments, including Fisheries and Marine Parks, similarly identify preferences for shoreline erosion management within their respective management policies and regulations.

The historical challenge on the Fraser Coast has been to identify a management option that is acceptable to all approval agencies, the Council, and the Community. To address this issue, the Fraser Coast Regional Council established a Steering Group, with representatives from all relevant approvals agencies, to guide the development of the Fraser Coast Shoreline Erosion Management Plan (SEMP), in order to determine council's policy on shoreline erosion management across the Local Government area.

### **Role**

This Council Policy provides clarity on Council priorities for shoreline protection, and on the instances when council would consider providing assistance to private property owners.

The Policy incorporates the following Policy Principles:

**Policy Principle 1:** Shoreline erosion protection measures will only be utilised to protect *essential constructed public infrastructure*<sup>2</sup> where it is both economic to do so and where there is limited opportunity to relocate the infrastructure at risk.

**Policy Principle 2:** Shoreline erosion protection measures will only be utilised to protect *public (esplanade or parkland) areas*<sup>4</sup> in instances where Council considers the protection of such an area as being overwhelmingly in the public interest based on the multi-assessment criteria and ranking in the SEMP (e.g. Areas recognised as providing high social and tourism benefits to residents and visitors alike) and where the intention for future management of this coastal land is supported by other adopted Council planning documents (e.g. Town Planning Scheme, Foreshore Management Plan, Land Management Plan).

**Policy Principle 3:** Council will provide technical support to private land holders wishing to protect private property by facilitating coastal protection works where specific conditions are met.

### **Authorities & Responsibilities**

Chapter 4, Part 1, Section 92 of the Local Government Act 2009 gives Council the authority to impose a special rate or charge.

To impose a lawful rate or charge under Chapter 4, Part 1, Section 92 of the Local Government Act 2009, the rate must be for services, facilities and activities that have a special association with the particular land because:

- 1) the land or its occupier
  - a) specifically benefits from the service, facility or activity; or
  - b) has or will have special access to the service, facility or activity; or
- 2) the land is or will be used in a way that specially contributes to the need for the service, facility or activity; or
- 3) the occupier of the land specially contributes to the need for the service, facility or activity.

### Scope & Activities

#### 1) Protection of Public Infrastructure

For clarity, this section on protection of public infrastructure only applies where shoreline erosion protection measures are solely initiated by Council.

[**Note:** Where construction is initiated by benefiting private landowners, the following section '*Private Infrastructure and Housing*' applies, regardless of the existence of public infrastructure.]

Shoreline erosion protection measures will only be utilised to protect *essential constructed public infrastructure*<sup>2</sup> where it is both economic to do so and where there is limited opportunity to relocate the infrastructure at risk.

Shoreline erosion protection measures will not be utilised to protect *minor constructed public infrastructure*<sup>3</sup>. However, these will instead, and at an appropriate time, be removed or relocated. The timing will be determined in order to minimise the risk to public safety during and/or following an erosion event or in order to minimise the risk of loss of the infrastructure as a result of being located in a hazardous area.

Where Council elects to construct foreshore erosion protection measures to protect *essential constructed public infrastructure*, and in doing so also provides protection to private property, it will apply a special rate or charge to recover a contribution from the benefited private landholders.

In general, it is proposed that the division of cost recovery associated with works of this nature would be established as follows:

- a) **Works for public infrastructure protection only.**
  - i) Costs shall be borne by Council, together with possible grant funds sourced from State and/or Federal Governments.
- b) **Works for public infrastructure protection, and benefiting private landowners.**

- i) Costs shall be borne by Council, private landowners and State / Federal Governments subject to sourcing available grant funds. Determination of contributions breakdown to be determined upon project initiation.
- ii) Costs to be recovered from private landowners shall via a special rate or charge established under Chapter 4, Part 1, Section 92 of the Local Government Act 2009.

## 2) Protection of Public (esplanade or parkland) areas

For clarity, this section on protection of public (esplanade or parkland) areas only applies where shoreline erosion protection measures are solely initiated by Council.

[**Note:** Where construction is initiated by benefiting private landowners, the following section '*Private Infrastructure and Housing*' applies, regardless of the existence of public infrastructure.]

Shoreline erosion protection measures will not be utilised merely to protect *public (esplanade or parkland) areas*<sup>4</sup>, as these exist in part to provide a buffer to natural (cyclical) shoreline erosion processes. However it is provided that construction of coastal erosion protection may be undertaken in any instance where Council considers the protection of such an area as being overwhelmingly in the public interest based on the multi-assessment criteria and ranking in the SEMP (e.g. High social and tourism use areas of the Esplanade), and where the intention for future management of this coastal land is supported by adopted Council planning documents (e.g. Town Planning Scheme, Foreshore Management Plan, Land Management Plan).

Where Council elects to construct shoreline erosion protection measures to protect *public (esplanade or parkland) areas*, and in doing so also provides protection to private property, it will apply a special rate or charge to recover a contribution from the benefited landholders.

In general, it is proposed that the division of cost recovery associated with works of this nature would be established as follows:

- a) **Works for public (esplanade or parkland) areas protection only.**
  - i) Costs shall be borne by Council, together with possible grant funds sourced from State and Federal Governments.
- b) **Works for public (esplanade or parkland) areas protection, and benefiting private landowners.**
  - i) Costs shall be borne by Council, private landowners and State / Federal Governments subject to sourcing available grant funds. Determination of contributions breakdown to be determined upon project initiation.
  - ii) Costs to be recovered from private landowners shall be done so via a special rate or charge established under Chapter 4, Part 1, Section 92 of the Local Government Act 2009.

## 3) Protection of Private Infrastructure and Housing

Coastal erosion affecting private infrastructure or housing predominantly occurs where there is no constructed roadway separating the private land from the water. In these cases public access is limited, it is unlikely that any *public (esplanade or parkland) areas* will be used for significant

structured parkland, the purpose of these areas is to provide some buffer between the water and the privately owned land and will not be overwhelmingly in the public interest to protect based on the multi-assessment criteria.

Consequently, the primary beneficiary from protecting these areas is the private landholders whose properties may be at risk. The responsibility therefore rests with the private landholder to take any necessary action to mitigate such risks, within the confines of their property, and as required under government regulation.

Private individuals who elect to construct or purchase property adjacent to the foreshore often do so in order to obtain the additional amenity associated with such locations. However in making this choice, there is a 'duty of care' on the part of the private individual to make a reasonable determination of risks. In the present day, the issues of climate change, sea-level rise, and shoreline erosion, and the associated risks, have been widely publicised at Federal and State level, and as such, it would be reasonable to expect a private individual to have knowledge of, and to accept the associated risk of shoreline erosion.

Notwithstanding the benefit and responsibility resting with private landholders outlined above, Council may assist with facilitating the construction of shoreline erosion protection measures to the benefit of multiple landowners. That is, where there are multiple individually owned properties at risk, Council may elect to co-ordinate a single solution for a number of private landowners, only where all of the following conditions are met:

- a) The shoreline erosion protection measure is considered by Council and relevant approval agencies as the preferred option and is consistent with the SEMP; and
- b) A majority of all affected landowners agree on the supported erosion protection measure.

Where Council has agreed to facilitate the construction of shoreline erosion protection measures for the benefit of multiple private landholders, costs shall be borne and recovered based on the following:

- c) Costs shall be met by private landowners and recovered from private landowners via a special rate or charge established under Chapter 4, Part 1, Section 92 of the Local Government Act 2009 or alternative mechanism, as determined by Council with the length of period for recovery not to exceed 10 years.
- d) The cost to be recovered from private landowners will be recovered from all private property owners deriving special coastal protection on the basis of the proportion of coastal frontage that each ratepayer or occupier holds as against the total coastal frontage of all properties subject to the special rate or charge.
- e) As part of the determination of the special rate or charge, future maintenance costs over the life of the asset and interest and payments on any loan borrowings shall be included in the assessment of annual costs to be recovered.
- f) Dependent on the type of shoreline protection measure implemented, significant ongoing or additional necessary maintenance costs may be identified during the lifetime of the measure, and may also be subject to costs recovery at a future unspecified date (e.g. a storm event that exceeds the design specification of the measure).

- g) In determining the duration of the recovery period (not to exceed 10 years), Council will give consideration to:
- i) The total cost of the project.
  - ii) Construction material utilised and the anticipated life of the erosion protection measure.
- h) Where there are a number of locations where private landowners have met all conditions, Council will determine the scope of works for the measure and priority for implementation of the measure and in determining this will give consideration to:
- i) The qualitative and quantitative risk assessments within the SEMP Options Assessment Report;
  - ii) The overlay of the 'storm bite' within the SEMP Options Assessment Report on the private infrastructure and housing; and
  - iii) The overlay of the 2030, 2050 & 2100 Erosion Prone Area Width (EPAW) within the SEMP Options Assessment Report on the private infrastructure and housing.
  - iv) In determining the timing of works for the measure, Council will give consideration to the priority of the works, scope and availability of funding

**Reporting Standards**

This policy will be reviewed every 2 years.

**Relationships**

N/A

**HEAD OF POWER:**

- Local Government Act 2009

**RELATED LEGISLATION:**

- Coastal Protection and Management Act 1995
- Coastal Protection and Management Regulation 2003
- Marine Park Act 2004
- Marine Parks Regulation 2006
- Marine Parks (Great Sandy) Zoning Plan 2006
- Fisheries Act 1994
- Fisheries Regulation 2008
- Land Act 1994
- Land Regulation 2009
- Sustainable Planning Act 2009
- Sustainable Planning Regulation 2009
- Environment Protection and Biodiversity Conservation Act 1999
- Vegetation Management Act 1999
- Native Title (Queensland) Act 1993
- Local Government Regulation 2012

- Local Government Act 2009

**RELATED DOCUMENTS (LOCAL LAWS, POLICIES, DELEGATIONS, ETC):**

Fraser Coast Shoreline Erosion Management Plan (SEMP)  
Fraser Coast Shoreline Erosion Management Options Assessment Report  
Fraser Coast Shoreline Erosion Management Gap Analysis Report  
Foreshore Management Plan  
Land Management Plan  
Town Plan

**ATTACHMENT TO POLICY:**

N/A

**DEFINITIONS:**

<sup>1</sup>*foreshore* – that land located between high water mark and low water mark

<sup>2</sup>*essential constructed public infrastructure* – as defined as critical public infrastructure within the Fraser Coast Shoreline Erosion Management Options Assessment Report.

[Note: This may include: water mains and associated pumping infrastructure, sewerage mains and associated pumping infrastructure, roads which provide the only access to occupied properties.]

[Note: This does not include: public toilets, playground equipment, carparks.]

<sup>3</sup>*minor constructed public infrastructure* – individual constructed assets that are considered as “minor works” under the Coastal Act by DEHP, and are therefore excluded from requiring development approval by DEHP, being considered as either temporary or expendable structures

<sup>4</sup>*public (esplanade or parkland) areas* – council-controlled areas identified as esplanade or parkland within Council’s Local Law Council-controlled Areas, Facilities and Roads

**HISTORY:**

Amended: 20/05/13, 15/11/13, 13/01/14