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## **Coastal Protection - The removal of Coastal Land and Water rights**

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**In the name of marine protection, coastal protection, natural resource management and now global warming the rights of fishers, farmers and ordinary citizens are being eroded and removed.**

**I have likened what is happening to farmer's right to what has been happening in Zimbabwe under President Mugabe.**

**The South Australian State government is dictating what will happen to coastal land and water but abdicating its responsibilities – financially and physically. The costs and responsibility for the coastal areas are being shifted to volunteer boards and committees, individual owners and their local councils. What was a whole of State responsibility has shifted without being properly funded nor compensation or recognition of past efforts given.**

**Of real concern too is the Federal Government's standing committee's proposal to give greater federal powers in deciding coastal land use. Their framework outlines how beachfront development will take place with every council's planning affected.**

As the local member of parliament I have been using every means available to draw attention to what is happening in my region to the rights of the people who live there and what we are likely to see everywhere in coming years. I have put speeches and questions into the parliament, written letters to Ministers both State and Federal. I have put in submissions to many relevant enquiries and in to Boards and Committees while involving the media, written, radio and television wherever possible. However most of the people directly affected are in isolation and usually just give up and go away. There is not enough of them at any one time and they are too isolated to be of great importance to governments and bureaucracies but the principle of what is happening is against what I believe are their rights in a democracy like ours.

The Electorate of Flinders that I represent in the west of South Australia covers 55,000 square kilometres and has 2,565 kilometres of coastline (approximately one half in length of the coastline of the state). While it only contains about 3% of the State's 1.6 million people the region produces 30- 40% of the State's grain harvest, 65% of the State's seafood exports and 80% of the State's mining exploration as well

as being the most visited tourist region in the State. As they say it punches above its weight and is a fantastic place to live and work.

However as it is sparsely populated it is an easy target for government neglect and experimentation. Members of the nine local Councils and my staff and I have the job of fighting the erosion of our constituent's land and water rights against a government and bureaucracy that appears to be hell bent on removing them without compensation. While there is often consultation it doesn't follow that this helps at all as the consultants only have to listen and only have the authority to compromise and compensate within the government's policy which is often a one size has to fit all.

The government's track record of looking after natural resources is poor. The region is totally reliant on underground water basins which under the authority of the relevant bureaucracies have been critically overdrawn. Ten of the nineteen new State marine parks are located along the Eyre Peninsula coast with great concern being felt by both commercial and recreational fishers, thousands of square kilometres of land has been acquired under the National parks and Wildlife Act - all without the people and means to look after them. In addition we have suffered compulsory freeholding upon the sale of land that was traditionally leasehold and most recently the removal of the rights to use this freehold land by changes in planning regulations under the guise of coastal protection. While freeholding and the removal of land usage rights affect all landholders, those in coastal areas are being most severely disadvantaged.

### **Perpetual Leases**

During the early years of European settlement of South Australia, perpetual leases were created to expedite settlement. They provided an alternative to purchase of freehold which was costly and did not encourage settlement at the desired rates and research indicates that the original intent was for leases to remain in existence in perpetuity (for ever).

In 2002 the State Labor Government proposed amendments to the Crown Lands Act that would set the minimum rent on a perpetual lease of \$300 and the cost to freehold was to be \$6,000 (being 20 times the rent).

The Accelerated Freeholding Process was then introduced which offered a discount freehold rate for those who got their freehold applications in before 30 September 2003. Under the Accelerated Freeholding Process offer, the price for freeholding each lease was \$2,000 or 20 times the annual rent, whichever if the greater. After 30 September 2003, the price would revert to \$6,000 or 20 times the annual rent whichever is greater.

The big stick used was that the **transfer of a perpetual lease wouldn't be permitted after 30 September 2003 without the lease first being freeholded. However the complexity of the issues saw this dated extended to 30 September 2005. With this freeholding became compulsory.** Numerous small country halls, sporting and

church facilities were caught in this process until provisions were made to allow the land to be dedicated as a reserve.

The offer sounded simple and attractive but as leaseholders soon discovered the policy was complicated and full of inequities. Anomalies included water frontage survey costs; contiguous land issues, multiple lease holders; 20 times the annual rent and heritage agreement properties and more. Land owners had to get permission and pay costs to transfer their land to freehold from anyone who had an easement on their property, including powers lines, water and gas pipelines when the infrastructure was benefiting the whole community.

Some of those most affected were owners of coastal property. In 1996, 30 metres from the high water mark was included in Crown reserve. **In 2006 the surveyed boundary was increased to 50 metres or more if the property included high conservation wetlands or was affected coastal processes. Lessees were required to arrange and pay for the survey. Each application to freehold a waterfront lease had to be investigated by an Assessment Officer. This resulted in some property owners having to surrender land more than a kilometre inland.**

This policy has resulted in some bizarre circumstances where the Crown reserve boundary runs in front of the sand dune on one property, which had been freeholded years before, and on the neighbouring property it is behind the sand dune. **The latter, a property at Port Neill, lost half of their 30 hectares property and paid more than \$3,000 survey costs plus fencing.**

**A landowner at Ceduna contacted my office concerned that he was going to lose up to 20 kilometres of coastal frontage with surveying costs of nearly \$30,000. Another at Smoky Bay lost 5-6 km of coastline – the equivalent of two thirds of their total landholding.**

Numerous attempts were made to make the Government accountable and offer compensation or assistance with surveying and fencing costs to no avail.

**The Coast Protection Board determined the amount of land that was to be surrendered and stated that pest control in these areas would be carried out by local NRM Boards.**

The Government doesn't have enough resources to look after the parks they already have and concerns have been raised about the ability of the NRM Boards to manage such large tracts of land.

Perpetual lease landholders, many of whom spent considerable time and money regenerating and protecting coastal area of these leases, say that without sufficient management weeds and vermin will once again become prolific in these areas.

### **Heritage Agreements**

The Heritage Agreement Scheme is a program to encourage and assist landholders to conserve native vegetation and wildlife habitat on their properties. A "Heritage

Agreement' is a contract between a landholder and the State Government for the protection in perpetuity of a particular area of native vegetation. In signing the agreement the landowners eligible to receive financial assistance for the management of the land, a rate rebate of the Heritage Agreement land and fencing assistance if required. The Heritage Agreement is registered on the title and the land remains the property of the person who holds title to it. The Heritage Agreement is transferred with the ownership of the land.

### **Climate Change**

The Coastal Protection Board is recommending that on top of the 100-year average return interval extreme water level (calculated by taking into account site specific factors such as wave set-up, run-up and stormwater heights during extreme tides), a mid-range sea level rise of 0.3 m by the year 2050 be adopted for more coastal planning and design, which represents a continuation of the present rate rise.

In May 2007 an application was referred to the Coastal Protection Board, who advised it had no objection to the proposal, subject to a coastal reserve of 50 metres width with an 'additional erosion buffer', to allow for 100 years of coastal retreat being achieved. The additional erosion buffer was to be determined by a geotechnical expert experienced in coastal processes.

However at a recent meeting with the Minister for Planning and representatives from the local council and the developer, the Coastal Protection Board advised that the implications of a 200 year long term erosion had to be taken into consideration and that in addition, the use of the long standing 'mean' high water mark was no longer relevant, rather "the landward side of the frontal dune or the top edge of an escarpment" was to be used!

I am aware of an application to subdivide land located **8kms inland** with parts of the land **20 to 30 metres above sea level** has been refused because of **potential flooding**.

The data available and the current modelling used are not precise and it is concerning that vast tracts of land are currently being mooted as unacceptable on data that cannot be substantiated.

### **Planning**

Currently coastal land holders are being subjected to the removal of rights of use for their freehold land under the guise of coastal protection by changes to planning legislation.

Planning SA's interpretation of the Eyre Peninsula Coastal Development Strategy, developed by members of the Eyre Peninsula Local Government Association to provide uniformity for their decisions, has resulted in large tracts of coastal freehold land effectively being annexed.

The introduction of a **Coastal Conservation Zone and its prescriptive planning controls, which encompasses the entire length of Eyre Peninsula's coastline, will negate possible future alternate use of coast land** effectively taking away owners right to use the freehold land they own, again no mention of compensation. Instead this land will become a defacto conservation area with the expectation that private individuals will be responsible for pest plant and animal control without recompense.

The Coastal Conservation Zone's 'Principles of development controls' advise that only form of development envisaged are conservation works, interpretive signage and facilities and isolated nature based eco tourist accommodation. Therefore any subdivision, change of land use, future development access to the coast will be very difficult.

The Coastal Conservation Zone has very prescriptive regulations with a comprehensive list of non-complying developments. The result is the land holder is still the 'owner' of the land however the future options for alternative use of their land included in this zone is very limited any subdivision, change of land use, future development access to the coast will be very difficult.

Planning SA appeared to have taken an 18<sup>th</sup> Century approach and drawn straight lines across a map using features such as main roads as boundaries. No consideration has been given to current land use or the future of the property owners. This is supposedly for the benefit of many without compensation or consideration given to individuals or farming families who, while they live in a beautiful area, are struggling with long distances, fewer services and choices.

It is inequitable that many coastal property owners were also caught in the costly freeholding program and are now expected to accept this scenario without protest.

*As one land owner wrote – "We have spent a lot of time and significant funds planting native trees, removing boxthorns and controlling rabbits and introduced pest species on the land in question. It is inevitable that feral plant and animal pests will take over when the land is unmanaged on such a large area, to the detriment of native species. I believe the proposition that volunteers will be found to manage the land to be optimistic, and naive."*

I am concerned that small coastal townships and other small settlements in the region will not be able to take advantage of any mining spin offs, as it appears that regional development and growth is going to be stifled. Towns need to be able to sustain vital infrastructure and social fabric that is integral to their community's survival. The retention of essential services such as schools, acute care hospitals, banks, etc is vital to their continuing prosperity and growth. Limiting and restricting development will have a negative effect and will result in higher property and development costs, less volunteers and funding to look after the environment which is a counter productive result.

Coastal infrastructure such as wharves, jetties, boat ramps and the like clearly need to be excluded from the impending restrictions. It is vital an assurance is given by the State Govt to guarantee existing and new coastal infrastructure in regional areas will be possible.

### **NRM Boards.**

**The introduction of the Natural Resource Management Levy has seen a colossal cost and responsibility shifting from the government to NRM Boards and to property owners, volunteers and their local councils.**

Volunteer regional boards are being asked to manage what is primarily a State Government responsibility and the cost has been transferred to rate payers and property owners. The Board's principal sources of funding are the Federal Government 'Caring for our Country' funding and the NRM levy. In comparison the State Government's contribution is nominal.

To add insult to injury the same people who are losing their rights, are being expected to pay the natural resource management levy, the Murray river water levy, the emergency services levy and become volunteers to control the weeds and feral animals, monitor the marine parks and man the Country fire service vehicles and Mariner rescue service vehicles and the ambulance service and put up with city boffins telling them what they are doing wrong, while still earning a living and looking after their families. Many of these people are getting angry and have good reason to be.

The Eyre Peninsula Natural Resource Management Board is being asked to take on an increasing number of responsibilities. The current levy arrangements are inequitable as the levy is a population based levy within individual regions and there is no correlation with the actual tasks, responsibilities and resources of who uses the facilities or visits the area.

Eyre Peninsula has a small population compared to the size and variety of issues the Board is expected to deal with. 46% of EP is covered by native vegetation, has a coast line bigger than Tasmania's but only about 36,000 people. The NRM Levy is steadily increasing with the majority of property owners now paying \$60 to \$80. In comparison ratepayers in the Adelaide Hill and Mt Lofty NRM Region in 2008/2009 paid from \$10 to \$49.

### **National Parks**

Eyre Peninsula has one of the highest levels of remaining natural vegetation cover for agricultural areas in the State.

Since 2002 the Rann Government has created 17 new parks and added land to 18 existing parks under the National Parks and Wildlife Act. South Australia now has 338 parks and reserves covering more than 21 per cent of the state.

According to an article in the *Advertiser* on 30 July 2009, there are less than 100 rangers to manage more than 300 parks in the State, and I understand, that the Department of Environment & Heritage has been warned to reduce overheads by \$12 million in the next couple of years. At least 85 voluntary separation employment packages have been offered this financial year.

Across the Eyre Region, the Department for Environment and Heritage has primary land management and responsibility for 105 parks and reserves (9,521,000 hectares) dedicated under the National Parks and Wildlife Act 1972.

There are currently 14 rangers in the Eyre Region. This includes trainee, graduate and mining rangers but it does not include administration or maintenance staff.

In 2006 there were 5 National Parks (include one marine national park), 48 conservation parks, 22 conservation reserves, 3 wilderness protection areas and 1 recreation park – a total of 79 reserves in the Electorate of Flinders.

On 1 September 2009 the Minister announced the purchase of an additional 1400 hectares near Streaky Bay that would be added to existing parks in the area and that a new Western District office would be opened in Streaky Bay and a District Ranger would be appointed.

The reality is that one District Ranger's position from the Gawler Ranges National Park is to be relocated to Streaky Bay as well as the administration officer who currently based at Ceduna. 3 staff will be left to manage the Far West Region.

### **East meets West NatureLink Program**

The Government plans to add another 10,000 hectares of native ecosystems through their NatureLink program. The East meets West NatureLink is being established to connect habitats, through a comprehensive system of core protected areas that are buffered and linked by lands which have complementary land management objectives.

It is an ambitious program and involves the conservation of entire land and sea scapes rather than individual habitats.

East meets West is characterised by a shift away from managing patches of land and discrete wildlife populations towards holistic land and wildlife management where connectedness and functioning ecosystems are of prime concern. It addresses landscape and ecosystem needs and facilitates the conservation of the processes that support species and ecosystems in the landscape. In this way, East meets West challenges traditional notions of conserving 'exactly what we have now, where it is now' (a static view of biodiversity conservation).

More ambitiously, it attempts to actively protect dynamic and broadscale ecosystem processes and to ameliorate the impacts of changing climatic conditions. It covers a

range of climatic variables, land tenures, land uses, biogeographic regions and spans the coast-ocean continuum.

### **Regional Land Use Framework**

The State Government is also introducing **another layer** of planning – Regional Land Use Framework. The State Government is working, region by region, implementing this program. Eyre Peninsula is yet to be finalised.

However, once finalised the maps, policies and strategies contained in the Regional Framework are to provide statutory direction for Councils when making changes to their local Development Plans and Strategic Directions Reports.

The intention is that the Regional Land Use Framework will provide a ‘bridge’ between broad state-wide planning and local council land use planning and facilitate a consistent and integrated planning approach to land use and development across the region. They are to be reviewed every five years.

The Framework is supposedly going to help with the coordination of the provision of land supply for residential, commercial, industrial, recreational and other purposes. A range of environmental, cultural, economic and socio-demographic issues are to be considered, as well as directions for infrastructure and service delivery. Various elements were mapped using GIS technologies which enable the electronic ‘layering’ of attributes such as native vegetation sites, strategic infrastructure and current land use. This allows ready identification of locations best suited (and those not suited) for future residential, industrial, commercial and other developments, as well as areas where conflicts between desired land uses may occur.

I support planning however I am concerned that planning of this nature does not take into account human factors - not everyone wants to do the same as everyone else. Will future developments which have not considered or even contemplated be allowed?

### **Marine Parks**

The State Government has proclaimed 44% of state waters to be within the outer boundaries of the Marine Parks. 10 of the 19 marine Parks are located along the coastline of Eyre Peninsula.

The seafood industry is critical to Eyre Peninsula and the whole state’s economy, producing 65 percent of the State’s seafood industry income. Over the last 15 years, with the introduction of aquaculture, the industry has provided vital employment security and attracted investment which underpins many of the region’s coastal communities.

The inner boundaries or zones are still to be announced. However **the State Government has intimated that it is going to rely on volunteers to manage and police the marine parks**, - the very people who are going to be shut out of their favourite fishing sport or have their income reduced!



Chris Thomas from the Department of Environment & Heritage stated – “Marine Park establishment provides the incentive for the state NRM Boards to invest in the future management and conservation. **NRM Boards have the ‘funding support’ to implement their obligation and motivation for both landside developments and planning and the conservation of marine parks.’**”

**The Elliston Council has only 800 full paying rate payers but huge areas of national park and a very long coast yet are expected to pay the greatest costs.**

If management or research projects relating to marine parks are to be a local NRM responsibility – it will be the people in the areas where the marine parks are located who will end up paying, not their city counterparts who coastal waters are so degraded they go elsewhere to enjoy the natural beauty and to catch a fish. If the people of SA want a pristine environment on Eyre Peninsula then everyone in the State must pay, not just regional and coastal dwellers living closest to the 10 marine parks.

Past experience demonstrates that Government partnerships generally lead to cost shifting or the project disappears. The Department of Environment and Heritage funding has been slashed in recent budgets and packages have been offered to 89 staff.

## **Conclusion**

I do not believe that staying within all these environmental constraints is the way for our communities to progress and remain vibrant. If our forebears had not ‘pushed the edge’ and challenged the accepted practice of the day we would be extinct like the dinosaurs or still be cave dwellers. Instead humans have adapted, worked with what they had and/or invested a means to overcome any deficiencies. They built dams to collect water, put in weirs to ensure that river levels were maintained, invented aeroplanes, build roads and railways, realised that fertilizer helped crops grow, cleared trees and then recognised that too many trees have been cleared, etc.

I agree that we must ensure that our environment is not decimated however we must keep changing and investigate new technologies that will allow our communities to grow and prosper and enable us to continue to enjoy our lifestyle on Eyre Peninsula. Carbon credits could be considered to provide compensation to all those who have had their ownership and rights removed by government intervention.

**Mrs. Liz Penfold MP**

Member for Flinders