

# Attachment 1: Summary of submissions and responses to issues raised

## Consultation on the Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper

### Glossary

SCP	State Coastal Policy 1996
EMPCA	<i>Environment Management and pollution Control Act 1994</i>
SPPA	<i>State Policies and Projects Act 1993</i>
Commission	Tasmanian Planning Commission
TasCAT	Tasmanian Civil and Administrative Appeals Tribunal
TPS	Tasmanian Planning Scheme
TPPs	Tasmanian Planning Policies
SoE Report	State of the Environment Report

Submission Reference No	Issue raised in submission	Response
<b>General issues</b>		
1, 4, 46, 82, 97, 128, 131	Support for removing blanket prohibition of all development on 'actively mobile landforms'	Noted and supported, subject to development meeting criteria.
1, 2,3, 46, 82, 97, 124, 132, 134, 135	In principle support for performance-based policy response as outlined in the Position Paper	Noted and supported.

Submission Reference No	Issue raised in submission	Response
<p>5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 98, 99, 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 122, 123, 125, 126, 127, 129, 130, 133</p>	<p>The proposed amendment is not supported on the basis that it will weaken the protection of 'actively mobile landforms' which have high conservation value</p>	<p>The amendment has been modified to strengthen the consideration of coastal values and natural coastal processes associated with 'actively mobile landforms' by requiring that the impacts of any use and development must be managed in accordance with the objectives, principles and outcomes of the SCP.</p> <p>Refer to section 5.2 of the Report on Consultation for further details.</p>

Submission Reference No	Issue raised in submission	Response
5, 6, 7, 8,10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 78, 79, 80, 81, 85, 86, 87, 88, 89, 90, 91, 92, 93, 96, 98, 101, 102, 103, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 122, 123, 126, 127, 129, 130, 133, 100	There is no justification for amending the SCP. With the impacts of climate change we should be strengthening the State Coastal Policy	Refer to section 5.1 of the Report on Consultation for detailed discussion on the justification for the amendment to the SCP.
9, 134	No comment	Noted.
26, 80, 94, 106, 107	The changes have been proposed to fast track wind farms	The proposed amendment has no bearing on the speed of wind farms obtaining planning approval.
52, 99, 92, 94, 106, 107	Review prompted by Robbins Island Windfarm	Correct. It was acknowledged in the Position Paper that the review of development of actively mobile landforms was prompted by legal proceedings regarding the proposed Robbins Island windfarm.

Submission Reference No	Issue raised in submission	Response
123, 125,	No amendment should be made to the State Coastal Policy until the Supreme Court has made a ruling on Robbins Island windfarm	Because the Robbins Island windfarm proposal has been granted a permit by TasCAT, the <i>Validation (State Coastal Policy) Act 2024</i> has already validated the permit insofar as any contravention of Outcome 1.4.2 of the SCP. Therefore, the proposed amendment to the SCP does not impact Supreme Court proceedings insofar as the application of Outcome 1.4.2.
14	The definition of mobile coastal landform is self-evident and needs no further clarification	The submissions received during consultation suggest otherwise. Expert advice from leading geomorphologists submit that it is an ambiguous term that has no clear meaning. Clarification is needed to help inform the application of the policy.  Refer to section 5.3 of the Report on Consultation for further details.
<b>Issues with amendment</b>		
31, 47, 52, 99, 120	The proposed amendments to the State Coastal Policy introduce uncertainty and vagueness, significantly undermining the effectiveness of preventing developments and protecting the coastal zone.	The amendment removes ambiguities associated with the definition of 'actively mobile landforms' thereby creating greater certainty for the application of the provision.  The amendment allows for certain development to occur on 'actively mobile landforms' while ensuring that impacts associated with that development are managed in accordance with the objectives, principles and outcomes of the SCP.
123	Any amendment to the State Coastal Policy needs to be consistent with the overarching principles that the natural and cultural values of coastal areas shall be protected.	Supported. The amendment has been modified to provide explicit reference to the application of the objectives, principles and outcomes of the SCP that protect coastal values.

Submission Reference No	Issue raised in submission	Response
95, 97	Clarification sought around tolerable risk threshold and public benefit test.	<p>The modified amendment includes a definition for 'Tolerable risk' which is consistent with the definition used in the draft TPPs and TPS. Refer to sections 5.2 and 5.3 of the Report on Consultation for further information.</p> <p>It is difficult to quantify the 'benefit to the public' as it is a matter for the decision maker to determine based on what is being proposed and the local circumstances.</p>
97	Suggest a framework for determining tolerable risk based on explicit reference to climate change projections, particularly with regard to sea level rise and more frequent weather events, which are regularly reviewed.	Much of this work has been done to identify coastal erosion and coastal inundation hazard band mapping which are used to apply the provisions of the hazard codes in the TPS.
99	Remove the proposed broad discretion and replace with clear, measurable, and legally enforceable outcomes.	The amended provision is intended to set the policy for the subordinate planning instruments. The clear, measurable and legally enforceable outcomes are delivered through the planning scheme.
31, 47, 52, 99, 92	Lack of clarity leaves the proposed amendment to the State Coastal Policy open to interpretation by users. For example, terms such as 'necessary', 'appropriately consider', 'tolerable', 'maintained' and 'benefits' need to be defined. Need for more prescriptive, measurable provisions.	These terms are often used in the expression of policy and is consistent with the use of other terms that exist in the SCP.
52	Lack of certainty results in additional costs to administer.	Noted. The amendment seeks to clarify the provision which contributes to greater certainty.

Submission Reference No	Issue raised in submission	Response
31	The amendment to the State Coastal Policy is inconsistent with the principles of the Policy.	<p>Three principles guide the SCP outcomes including;</p> <ul style="list-style-type: none"> <li>- Protection of natural and cultural values,</li> <li>- Sustainable use and development of the coast, and</li> <li>- Integrated management and protection of the coastal zone is a shared responsibility.</li> </ul> <p>Outcome 1.4.2 falls under the first principle.</p> <p>The amendment has been modified to give explicit reference to the impact of use and development on coastal values and natural processes which are to be managed in accordance with the objectives, principles and outcomes of the SCP.</p>
46, 82,	Support for introducing criteria for coastally dependent development that has a community benefit similar with outcome 2.1.6 of the State Coastal Policy.	Noted and supported.
46, 82, 132, 135	<p>Support for introducing criteria where use and development can demonstrate:</p> <ul style="list-style-type: none"> <li>– dependency on coastal location;</li> <li>– protect coastal values and processes;</li> <li>– meet an acceptable level of risk;</li> <li>– be of public benefit</li> </ul>	Noted and supported.
97	Amendment should include policy around planned retreat for development that cannot maintain an acceptable risk under future climatic conditions.	Noted however, this issue is outside the scope of the review and the problem that the amendment is addressing.

Submission Reference No	Issue raised in submission	Response
47	No mention of avoiding or minimising risks to coastal values and processes in the proposed amendment	The amendment has been modified to require that the impacts of use and development on coastal values and natural processes associated with 'actively mobile landforms' are to be managed in accordance with the objectives, principles and outcomes of the SCP.
52, 92	No confidence in the application of 'tolerable risk' test.	The 'tolerable risk' test is already applied through all the hazard codes of the TPS.
100, 121	The proposed amendment does not solve the issue of ambiguity around the identification of actively mobile landforms.	<p>The amendment has been modified to identify and refer to the natural coastal processes and hazards listed in Outcome 1.4.1 which are considered to represent 'actively mobile landforms'.</p> <p>Refer to section 5.3 of the Report on Consultation for further information.</p>
123, 124	Existing limitations on development on actively mobile landforms should be retained or strengthened.	For reasons outlined in section 5.2 of the Report on Consultation, the existing limitations on 'development' are unreasonably restrictive. The amendment allows consideration of development provided the impact on natural coastal values can be managed and a 'tolerable risk' can be achieved and maintained.
135	The changes remove ambiguity in the policy and support efficient approval of appropriately located development.	Noted and supported.
<b>"Actively mobile landforms"</b>		
1, 3, 4, 31, 46,47, 83, 97,	The term 'actively mobile landforms' is ambiguous and does not provide certainty for the application of the policy	Noted and supported.
1, 4, 31, 46, 47, 82, 83, 97, 132,	There is a demonstrated need to clearly define what is an 'actively mobile landform'.	Noted and supported.

Submission Reference No	Issue raised in submission	Response
4, 46,47, 82, 83, 123	Need to obtain technical advice to clearly define 'actively mobile landforms'	<p>Technical advice was obtained which advised that there was no recognised definition for 'actively mobile landforms' as it is not a term that is used by professional geomorphologists.</p> <p>Some of this advice suggested that the range of processes and hazards listed in Outcome 1.4.1 adequately reflected what might be considered to be 'actively mobile landforms'.</p>
1, 125, 128,	Support the use of the 'present dune mobility' layer from the LIST to identify land that is subject to the policy.	It was submitted that the 'present dune mobility' layer of the LIST was incomplete and not fit for the purpose of applying Outcome 1.4.2.
4, 31, 46,47, 52, 92, 124, 132	Does not support the use of the 'present dune mobility' layer on the LIST due to inaccuracies and not being fit for purpose.	Noted and supported.
31, 101	Need to abandon the term 'actively mobile landforms'	Noted and supported.
5, 6, 7, 8, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 48, 49, 50, 51, 54, 55, 57, 58, 60, 63, 64, 66, 68, 69, 70, 72, 73, 74, 79, 80, 85, 86, 87, 88, 89, 90, 91, 93, 96, 98, 102, 103, 105, 108, 109, 110, 111, 112, 115, 116, 117, 122, 126, 127, 129, 130,	The SCP has operated effectively for 28 years without a definition of 'actively mobile landforms. Planning authorities and experts can work out the geographic application when development assessments are made.	<p>Evidence to the contrary has been presented in submissions.</p> <p>Refer to section 5.3 of the Report on Consultation for further discussion.</p>



Submission Reference No	Issue raised in submission	Response
46	If the concept of 'actively mobile landforms' is to be retained then there needs to be an associated timescale defined to give context to the element of mobility.	The adoption of 'tolerable risk' introduces the timescale of the life of the use and development into the assessment of the use and development.
31, 101,121, 131,	Need for mapping to give effect to amended Outcome 1.4.2 to be contemporary, standardised, complete, reliable, accurate, scaled appropriately and suitable for development assessments and freely available to all stakeholders at all times.	<p>While in principal support for mapping to give effect to outcome 1.4.2, much of the land that is considered to be 'actively mobile' is mapped, however the mapping is not complete and much of it requires verification.</p> <p>In the absence of a complete and accurate map, the approach used in the modified amendment to adopt the list of processes and hazards listed in Outcome 1.4.1 is considered the most appropriate way to address the issue.</p>
47, 128,	Any amendment to the policy should include the processes for generating and maintaining spatial layer for determining hazards and coastal values in the coastal zone to facilitate a more risk-based approach coastal hazards, use and development consideration and more defensible decisions regarding use and development.	The amendment to the SCP provides the policy framework for achieving this outcome, which, in relation to some forms of 'actively mobile landforms, already applies through the hazard codes of the TPS.
52, 92	Suggest 'actively mobile landforms' replaced with 'areas subject to risk from coastal processes and hazards'	Noted and supported.
82	Some 'actively mobile landforms' are recognised as geoconservation sites. Need for regulators to be able to identify landforms.	Agreed, the modified amendment should help with identifying 'actively mobile landforms'.
82	The 'presently active dunes' layer on the LIST is only one component for identifying sites that are the subject of Outcome 1.4.2.	Noted and supported.
82	Some 'actively mobile landforms' extend inland further than the Coastal Zone.	Noted, however the SCP does not apply beyond the Coastal Zone.

Submission Reference No	Issue raised in submission	Response
52, 92	The State Coastal Policy should be strengthened now that it no longer overrides planning schemes where there is an inconsistency between the State Coastal Policy and the planning scheme	Section 13(1) of the SPPA requires that where there is an inconsistency between a provision of a State Policy and a planning scheme, the provision of the planning scheme is void to the extent of any inconsistency.
47, 95	Unclear how an amendment to the State Coastal Policy would be given effect through the TPS to remove any inconsistency	Section 13(3A) of the SPPA allows the Commission to amend a planning scheme to remove any inconsistency between it and a State Policy.
47	Relying on the elements of the Coastal Erosion Hazards Code is an adequate substitution to deliver the intention of outcome 1.4.2	Elements of the Coastal Erosion Hazard Code is not an adequate substitution to deliver the intent of Outcome 1.4.2 because coastal erosion is only one form of what is considered 'actively mobile landforms' in the coastal zone.
47	The processes and hazards listed in outcome 1.4.1 have most likely not been mapped and therefore the TPS cannot be relied on to give effect to outcome 1.4.2.	Agreed and supported. The range of landforms that are considered 'actively mobile landforms' are broader than those mapped in the TPS hazard codes.

Process issues		
5, 6, 7, 8, 10, 11, 12, 13, 53, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 48, 49, 50, 51, 54, 55, 57, 58, 60, 63, 64, 66, 68, 69, 70, 71, 72, 73, 74, 79, 81, 85, 86, 87, 88, 89, 90, 91, 93, 96, 98, 101, 102, 103, 105, 108, 109, 110, 111, 112, 115, 116, 117, 118, 122, 125, 126, 127, 129, 130, 133,	The government has not released its legal advice to demonstrate the need for the change to the SCP.	The need to amend the SCP has been demonstrated in the Position Paper and again in the Report on Consultation.
4	Suggestions to consider reducing the existing width of the coastal zone which incorporates much of the State's existing urban areas.	Outside the scope of the Position Paper.
3,	Assessment and approval under the SCP should not apply to Level 2 Activities that are already subject to rigorous assessment under EMPCA	Outside the scope of the Position Paper.
4, 124,	Legislate changes that allow planning assessments that demonstrate compliance with an instrument that has already been assessed against a State Policy, to be deemed to comply with a State Policy.	Outside the scope of the Position Paper.

5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 18, 19, 24, 25, 26, 27, 29, 30, 33, 34, 35, 36, 39, 41, 42, 43, 44, 45, 52, 53, 59, 71, 72, 76, 77, 80, 94, 106, 108, 109, 112, 118, 122, 126, 129,	The government has fabricated the problem to remove a legal obstacle for windfarm development on the coast eg Robbins Island proposal	Refer to section 5.1 of the Report on Consultation which clearly establishes the issues with Outcome 1.4.2 and the justification for the proposed amendment.
5, 6, 7, 8, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 61, 64, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 85, 86, 87, 88, 89, 90, 91, 93, 96, 98, 99, 101, 102, 103, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 120, 122, 123, 124, 126, 127, 130, 133,	Do not support using Section 12 of the SPPA to introduce the amendment as an Interim State Policy which will allow it to have effect while the TPC is assessing the proposed amendment.	Refer to section 5.4 of the Report on Consultation for the discussion and response to this matter.

31, 47, 52, 76, 99, 92, 95, 125,	The amendment to the State Coastal Policy should be subject to the usual consultation, hearing and assessment process by the Commission to properly review and scrutinise the amendment. There is no demonstrated need for the urgency to apply the amendment as an Interim State Policy especially before determining what land is subject to being actively mobile.	Refer to section 5.4 of the Report on Consultation for the discussion and response to this matter.
99	Insufficient evidence to justify that the amendment to the State Coastal Policy satisfies it becoming an Interim State Policy.	Refer to section 5.4 of the Report on Consultation for the discussion and response to this matter.  Refer to section 12(1) of the SPPA which requires that the Governor must be satisfied that the Policy should come into operation without delay.
5, 6, 7, 8, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 66, 68, 69, 70, 71, 72, 73, 74, 75, 79, 81, 83, 85, 86, 87, 88, 89, 90, 91, 93, 96, 98, 99, 100, 101, 102, 103, 105, 106, 108, 109, 110, 111, 112, 114, 115, 116, 117, 118, 119, 122, 123, 124, 126, 127, 128, 129, 130, 131	<p>The latest SoE Report recommends undertaking a comprehensive review of the SCP which should be done in accordance with the usual process and not through the making of an Interim State Policy through section 12 of the SPPA.</p> <p>General need for an integrated, comprehensive review of the State Coastal Policy</p>	Agreed, however these issues are outside the current scope of this exercise.