

State Coastal Policy Position Paper

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Office of the Coordinator-General

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21 October 2024

State Planning Office
yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam

Review of the State Coastal Policy (SCP) – Development on Actively Mobile Landforms

The Office of the Coordinator-General (OCG) welcomes the opportunity to comment on the proposed amendments to the State Coastal Policy regarding development on mobile landforms.

The OCG supports the intent of the reform; that is:

1. the proposed approach to consider the impact of the development or works on actively mobile landforms and consider situations where it might be appropriate to undertake works or high impact development on actively mobile landforms, and to achieve this by
2. replacing the limited exemption for some development on actively mobile landforms provided in Outcome 1.4.1 of the State Coastal Policy (SCP) with a requirement that other planning instruments put in place assessments that determine the level of risk associated with development so as to better consider the impacts and any mitigation required.

It is the OCG's experience that some uses and developments require a coastal location, and others may be considered a community benefit either in directly providing access and recreational opportunities or in allowing access between the sea and land while supporting the development of critical infrastructure, transport and communications.

The OCG notes the significant social and economic benefits that appropriate development in coastal areas containing mobile landforms can be achieved without compromising natural and cultural values that those landforms may contain. Applying a risk-based assessment approach in these circumstances is – in our opinion – both sensible and consistent with contemporary planning practice.

Furthermore, this proposed change will improve the internal consistency of the SCP by removing the current contradiction between the prohibition on development (1.4.2) and other Outcomes, such as 2.1.6:

In determining decisions on use and development in the coastal zone, priority will be given to those which are dependent on a coastal location for spatial, social, economic, cultural or environmental reasons.

which implies that a range of development in this area is able to be approved. It will also address any concerns about past assessment and approvals processes and decisions.

However, for this proposed amendment to be effective, there are several related matters that need to be addressed:

1. A definition of a “mobile landform” is critical in order to provide clarity to proponents and regulators. Consideration needs to be given to whether a definition should include both naturally mobile and anthropogenically mobile landforms (contrary to statements on p7 of the Paper, not all ‘actively mobile landforms are a natural coastal value and part of the dynamic physical processes of the coast’). The definition should align with the application of the Landslip Hazard and Coastal Erosion Codes.
2. Notwithstanding that the nature of mobile landforms means that their location is not static, it is important for land managers, regulators and developers to have access to spatial extent information – even if this is only indicative. This will help address the same issues that require a definition of “mobile landform” and improve consistency with other planning mechanisms (such as the related Planning Codes) which are presented spatially, and thereby fulfil the intent of the SCP to be delivered through existing planning mechanisms.

In developing both a definition and spatial representation, consideration should also be given to the following matters:

- a. Some mobile landforms are recognised as listed geoconservation sites (as an output of the Tasmanian Regional Forest Agreement). Consideration should be given as to how those sites are identified to regulators, land managers and developers, to ensure spatial representation and accompanying guidance tools reflect this status and its implications for land use.
- b. Similarly, some but not all mobile landforms contain identified cultural heritage values. Consideration should be given as to how those sites are identified to regulators, land managers and developers, to ensure spatial representation and accompanying guidance tools reflect this status and its implications for land use (noting that there are statutory obligations associated with activities in such areas).
- c. In the absence of an existing specific “mobile landforms” spatial layer, consideration should be given to the status of the LIST Map layer “presently active dunes” – derived from the 1998-2006 Tasmanian Quaternary Coastal Sediments polygon map – and whether it should be made explicit that it is or is not a source of truth for the application of the SCP.

- d. There are large mobile landforms – for example, in the state's northeast – that extend inland and exist both within and without the coastal zone to which the SCP applies. The OCG supports the application of a risk-based planning approach to development on mobile landforms that can be applied consistently, regardless of whether the location is within or without the area to which the SCP applies. It is critical that the decision support tools available to regulators allow for a consistent approach to development of mobile landforms, regardless of whether they exist entirely within the area covered by the SCP.

The OCG has provided input separately in relation to the Tasmanian Planning Policies and so will not repeat that here. However, the OCG welcomes the assertion that the almost complete implementation of the State Planning Provisions in every coastal council in Tasmania, could mean that SCP's direction to identify and manage areas of natural coastal processes and hazard is ready to be delivered through the regional land use strategies, the planning scheme provisions and the contemporary mapping in the Local Provisions Schedules.

Nevertheless, the OCG also notes that the statutory authority of the SCP to – in effect – overrule these other instruments in the event of an inconsistency make it imperative that there is consistency across the suite of planning mechanisms, and that the regional land use strategies (currently in preparation) acknowledge and reflect the policy intent of this proposed amendment to the SCP.

In conclusion, the OCG supports the proposal to replace the broad prohibition of development on actively mobile landforms contained in 1.4.2 of the SCP with a requirement for consideration of the impacts on the environment and natural landform processes and the consideration of the need for the development to be located on that landform, and what benefits may result from that development proceeding.

Yours sincerely

John Perry
Coordinator-General

Ph:

21 October 2024

State Planning Office
Department of Premier and Cabinet

Email submission via: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam,

**State Coastal Policy – Review of Actively mobile landforms
Response to Position Paper**

Glamorgan Spring Bay Council comprises a significant amount of coastline, forming part of the Great Eastern Drive. The review of the State Coastal Policy (Policy) has the potential for significant impacts to our area and the people who work, live and visit our municipality.

A review was completed by officers and the following submissions are made to the consultation:

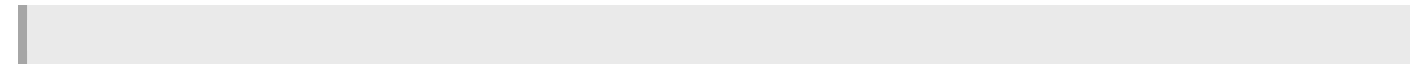
1. The paper addresses a single issue (actively mobile landforms) that has caused issue for Government, but does not address wider problems with application of the Policy;
2. A review is required of the full function, purpose and content of the Policy to address the function of this policy within a substantially changed planning system, particularly establishment of the Tasmanian Planning Policies and Regional Land Use Strategies;
3. The recommended revision to clause 1.4.2 at section 6.5 of the Position Paper retains the actively mobile landform, a term which was identified as imprecise and ambiguous in the referenced supporting paper by Sharples;
4. We note that the definition of actively mobile landforms needs to be clear and retain enough flexibility to respond to the changing environment and timeframes that affect such issues. Any mapping needs to be held by the State, regularly maintained and publicly available; and
5. We support the conclusion at section 7 that this change is substantial and requires a clear proposal and assessment process through the Tasmanian Planning Commission.

Thank you for the opportunity to make this submission. Should you have any queries in this matter please do not hesitate to contact me on (03) 6256 4777 or via return email.

Yours sincerely

Alex Woodward
DIRECTOR PLANNING & DEVELOPMENT

From: Gabrielle Liston
Sent: Monday, 21 October 2024 10:46 AM
To: State Planning Office Your Say
Cc:
Subject:



Retain the prohibition on development in actively mobile landforms

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Actively mobile landforms have high conservation values and must be protected

Actiely mobile landforms are in need of conservation die to climate change and unpredictable weather patterns.

I feel as if our lands are being bargained away with development. Goverenments need to protect the precious coast we have had the fortune to inhabit.

Yours sincerely

Gabrielle Liston

SUBMISSION ON REVIEW OF STATE COASTAL POLICY – DEVELOPMENT OF ACTIVELY MOBILE LANDFORMS POSITION PAPER.

This submission to the State Planning Office is by Gerry Willis of Lady Barron, situated on Flinders Island in the Furneaux Group. In short, I have some scepticism of the review of the proposed development of actively mobile landforms. But, more of that later.

Some readers will be aware of my involvement as President of Furneaux Islands Protection Network Inc. (FIPNI). Although this submission is my own personal document, there will be, of necessity, some ideas emanating from my involvement with FIPNI. For the record, Appendix I sets out the principal objectives of the Association. A reader can easily glean that coastal environment, although not specifically referred to in the objectives, forms part of the characteristics which FIPNI aspires to protect.

Using some assumptions relating to sizes of islands courtesy of Nigel Brother's Tasmania's Offshore Islands, it is possible to calculate that the length of coastline in the Furneaux Group is around 404 kilometres. Maybe an adjustment of +/- 10% would allow for inaccuracy. In any event, the coastline under the control of Flinders Council would easily be the largest of any municipality in Tasmania. It follows that plans to change the State Coastal Policy could result in a greater impact in the Furneaux Group compared with anywhere else in Tasmania. Hence the importance to this community of the ramifications of changes.

In preparing this submission I have referred to papers prepared by Planning Matters Alliance Tasmania. I make no apology for that methodology. It seems to me that it is far better to lodge a submission which has been somewhat adopted from another than to lodge nothing and provide the State Planning Office with nothing.

I oppose the proposed changes to the State Coastal Policy due to the below outlined issues and concerns:

Scrap the proposed amendment

The Tasmanian State Coastal Position Paper proposes to remove a key protection for actively mobile landforms such as frontal dunes. I do not support the proposed change.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem is with the State Coastal Policy.

Actively mobile landforms have high conservation values and must be protected

A very good reason to keep clause 1.4.2 of the State Coastal Policy is that it provides protection for actively mobile landforms that may have high conservation cultural and natural values.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define ‘actively mobile landforms’

The State Government has created a false alarm about the absence of a definition of an ‘actively mobile landform’, in the State Coastal Policy or in legislation. The policy has operated successfully for 28 years without a definition. The Integrity Commission Act 2009, for example, has been enacted and operates successfully without “integrity” being defined. Is there any need to include a definition of “actively mobile landforms”?

Undertaking a comprehensive review of Tasmanian Coastal Policy

The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported subject to a full review under the *State Policies and Projects Act 1993* being undertaken and not the ‘fast-track’ process through section 12.

Yours sincerely,

Gerry Willis

APPENDIX I

FURNEAUX ISLANDS PROTECTION NETWORK INC.

1. Principal Objectives of the Association

The Furneaux Islands Protection Network Inc is committed to fostering Furneaux Islands' communities that demonstrate strong social inclusion, positive health and well-being, environmental stewardship and protection, and sustainable economic development that respects the irreplaceable social, cultural, environmental and economic characteristics of the Furneaux Group.

To achieve these Objectives Furneaux Islands Protection Network Inc will:

- i. advocate for sustainable planning and development initiatives that protect the values and characteristics of the Furneaux Islands;
- ii. engage with other groups and organisations working to protect the positive social, cultural, environmental and economic characteristics of Furneaux Islands' communities;
- iii. oppose inappropriate development proposals that threaten these characteristics;
- iv. oppose development applications that do not conform to planning requirements and regional strategies;
- v. make and empower all community members to make, representations to Local, State and Commonwealth authorities, bodies, boards, councils and other entities and any non-Government entities for the promotion of the above Objectives of the Association; and
- vi. carry out such other activities consistent with the Objectives, endorsed in accordance with the procedures set out in this Constitution.

From: Steph Horwood <>
Sent: Wednesday, 16 October 2024 8:26 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

Hi,

I am sending this email because I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. This is very suspicious. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach

is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

False alarm about the need to define ‘actively mobile landforms’

The State Government has created false alarm about the absence of a definition of an ‘actively mobile landform’, in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government’s lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12).

Yours sincerely,

Steph Horwood

From: Yasmin Shooobridge
Sent: Thursday, 17 October 2024 1:54 AM
To: State Planning Office Your Say
Cc:
Subject:

Dear members of parliament,

I'm appalled at the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. This is very disturbing policy announcement and I recommend that the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established.

And just as importantly the logging industry should not be exempt from the laws protecting national forests.

The Position Paper does not provide a convincing explanation for what the

purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

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I sincerely hope you can put a full stop to this fast track.

Yours sincerely,

Yasmin Shoobridge

From: Vicki Omay <>
Sent: Friday, 18 October 2024 8:52 AM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

To all concerned,

Our planet, our state and our natural places, including beaches and coasts, are very precious to so many citizens. I hope you listen to our concerns and take that into consideration when "acting for the people you represent" in making your decisions.

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true

interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

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State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Vicki O'May

From: Carol Gilbert <>
Sent: Friday, 18 October 2024 2:54 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms.

Attention

Lutruwita/Tasmania's coastlines matter to me and way of life.

I oppose the proposed changes to the State Coastal Policy due to these issues and concerns:

Scrap the proposed amendment

The state government has issued a State Coastal Policy Position Paper that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

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The government just wants to make it easier to build windfarms on the coast.

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for windfarm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected. These are vital to conservation of protection for natural values, especially with the impacts of climate change. Our coastlines need protection.

Fast track amendment process will create planning uncertainty. This creates problems and time issues for any further amendments.

False alarm about the need to define "actively mobile landforms". Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy.

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the State Policies and Projects Act 1993 is undertaken (and not the "fast-track" process through section 12).

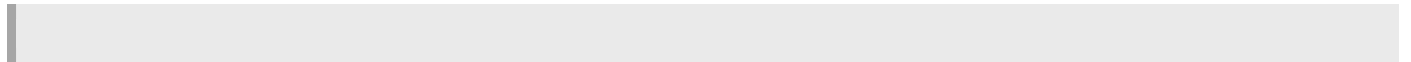
Yours Faithfully

Carol Gilbert

From: Daniel Steiner
Sent: Monday, 21 October 2024 1:31 PM
To: State Planning Office Your Say
Cc:

Please don't allow development in actively mobile landforms through changes to the State Coastal Policy

Subject:



Good afternoon.

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

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State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

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Yours sincerely,

Daniel Steiner

From:

James Bryan < Monday, 21 October 2024

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Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define ‘actively mobile landforms’

The State Government has created false alarm about the absence of a definition of an ‘actively mobile landform’, in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government’s lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they

are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12).

Yours sincerely,

Janiece Bryan

Montrose Tasmania

From: Graeme Beech
Sent: Monday, 21 October 2024 9:56 PM
To: State Planning Office Your Say
Cc: Graeme Beech
Subject: Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper

Hello

My name is Graeme Beech, I live at Beaumaris and I have considered views on the Review of the State Coastal Policy as expressed below.

Along with many other planning laws the State Coastal Policy (SCP) has been weakened rather than improved over time including by reducing the scope of the area that applies to the SCP (now limited to only 1km inland from High Water Mark) and also due to the SCP no longer overriding municipal planning schemes where there is an inconsistency between a planning scheme and the SCP related to a specific development application. Any proposed change needs to strengthen the SCP to better protect the natural, cultural and scenic values of the coast from development and other threats.

It is obvious the primary purposes of this amendment is to facilitate the construction of the Robbins Island Wind Farm (and also the Rushy Lagoon Wind Farm) both of which require extensive infrastructure to be built on actively mobile landforms and more broadly to implement a more subjective and increasingly performance-based approach to development on actively mobile landforms based on “tolerable risk” “benefits to the public” and other nebulous considerations which will open up more areas for development.

The Position Paper proposes replacing the current SCP 1.4.2 which reads as follows:

1.4. COASTAL HAZARDS

1.4.1. Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

1.4.2. Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.

And instead suggests the following:

Delete Outcome 1.4.2 and replace with:

1.4.2 Development on actively mobile landforms will only be allowed for engineering or remediation works necessary to protect land, property and human life, unless it can be demonstrated that the development appropriately considers:

- a) protecting coastal values and natural coastal processes;*
- b) achieving and maintaining a tolerable level of risk; and*
- c) the benefits to the public and dependency on the particular location.*

The suggested amended SCP provisions are not supported. My preferred outcome is a strengthening of the current SCP through stronger more mandatory and prescriptive measures.

The Position Paper states that introducing risk-based planning controls are examples of “contemporary”, “best practice” “standard practice” and will provide “greater clarity” when applying the SCP. The proposed amendment will actually create greater uncertainty because instead of clear and prescriptive measures it will rely on a number of subjective criteria that can be easily massaged into compliance via the avenue of expert consultancy firm reports. Truly “contemporary” planning would acknowledge limits to growth, the biodiversity loss crisis and the threats of climate change and as a result strengthen the SCP to protect the coast from degradation and overdevelopment.

There is a description of “**tolerable risk**” in the **Definitions** at the beginning of the **Tasmanian Planning Scheme** which reads as follows:

“tolerable risk” means the lowest level of likely risk from the relevant hazard:

(a) to secure the benefits of a use or development in a relevant hazard area; and

(b) which can be managed through:

(i) routine regulatory measures; or

(ii) by specific hazard management measures for the intended life of each use or development.

I have minimal confidence in the robustness of the “**tolerable risk**” test. As stated above it will only require the production of a favourable report from consultancies for this to meet the test. Likewise the interpretation of what constitutes “**benefits to the public**” is even more uncertain and debatable while being reliant on a “**particular location**” should not be a defining criteria for deciding upon the suitability of a specific development.

Performance-based planning creates high levels of uncertainty and comes at a considerable cost to administer. The costs are felt across the board and create a particularly high financial liability on rural/regional Local Councils with limited budgets for planning administration and associated TASCAT appeals which are a direct consequence of the performance-based planning system. Likewise community groups and individuals are burdened with high legal and expert costs if they wish to appeal against inappropriate coastal developments and this is a significant barrier to community participation in land use planning (and as such performance-based planning makes the aspirations of Schedule 1 of the RMPS much more difficult to achieve). Developers costs are also increased but ultimately they are more able to absorb the expense because a successful outcome means big profits.

Consequently, the **increased use of the performance-based approach** to development on actively mobile landforms envisaged in this position paper is highly unsatisfactory and will result in more development on actively mobile landforms contrary to the intent of the SCP.

To prohibit future development on actively mobile landforms would require actively mobile landforms to be identified through a planning overlay and for the provisions in the Tasmanian Planning Scheme to prohibit development on actively mobile landforms as an Acceptable Solution with the only Performance Criteria being for “works” that protect land, property (subject to a environmental impact assessment) and human life or to protect, manage and restore natural, scenic and cultural values.

Existing infrastructure, works, buildings etc would not be subject to retrospective disallowance which has been used as an excuse by the Government as well as in this discussion paper to try and justify the need to change the SCP. There can be a provision to allow works that address the need over time to address coastal erosion issues as they arise including removing structures and restoring coastal ecosystems

PROPOSED WORDING OF SCP.

Note the use of the term “**actively mobile landforms**” has been replaced with “**areas subject to risk from natural coastal processes and hazards**” as this provides a more all-embracing description of the extent of risks and hazards that need to be covered under the SCP

1.4. COASTAL HAZARDS

1.4.1.

(a) Areas subject to risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified through a land use planning map overlay.

(b) Works on areas subject to risk from natural coastal processes and hazards (as identified in clause (a)) will only be permitted to protect land, property (both discretionary and subject to a environmental impact assessment) and human life or to protect, manage and restore natural, scenic and cultural values.

1.4.2. Development on areas subject to risk from natural coastal processes and hazards will not be permitted except for works consistent with Outcome 1.4.1.

The above suggested wording in 1.4.1 (a) is based on the expectation that there will need to be comprehensive data established as per Sharples comments below and that regular monitoring and

updating of the overlay map must be resourced to be able to respond to current and emerging threats and hazards as they evolve. The Position Paper suggests using “the present dune mobility layer of the Land Information System Tasmania (the LIST) to identify coastal ‘actively mobile landforms’”. This is clearly inadequate due to it not being a comprehensive layer covering all areas subject to risk from natural coastal processes and hazards.

Comments from Dr Chris Sharples

Significant problems with the proposed use of Present Dune Mobility layer October 2024

In order to support integrated management of coastal hazards, the requisite data needs to be:

- contemporary
- standardised
- complete, reliable and accurate
- scaled appropriately and suitable for development assessments, and
- freely available to all stakeholders at all times.

INTERIM STATE POLICY

I also note that in 7.0 Next Steps of the Position Paper it is flagged that the draft amendment could be declared as an Interim State Policy. I oppose this as:

- It may undermine the integrity of the current Supreme Court hearings related to the Robbins Island Wind Farm
- It could allow other contentious developments to proceed which at present would not be permitted
- There is no timeframe as to how long the Interim Policy could be valid for
- It is based on the fabricated notion that there is an urgent need for the amendment to proceed because of the possibility of lawful and approved past developments being subject to retrospective challenge. This is nonsense as section 12 of LUPA clearly states that existing approved uses and developments are not subject to review. The Government is still yet to provide any legal advice in relation to this contention.
- The Position Paper (page 13) notes “Because the amendment involves replacing a self-executing prohibition, with an allowance to consider a broader range of developments than under Outcome 1.4.1, it is anticipated that the Commission will determine that the draft amendment will result in a significant change to the SCP. If this is the case, the Minister directs the Commission to prepare a report which also triggers the Commission to exhibit the draft amendment to the SCP.”

Any changes to the SCP of this magnitude need to go through the normal Tasmanian Planning Commission process allowing for proper public participation in land use planning decisions rather than via an Act of Parliament.

PLANNING POLICY MORE GENERALLY

The Position Paper makes the following statements on page 5 which cannot be left unchallenged.

“Over the last several years, the Tasmanian Government has been implementing a range of planning reforms to enhance the planning system. These include the preparation of the State Planning Provisions (SPPs) in 2017 and their progressive application as each local council has its Local Provisions Schedule approved by the Commission. A number of those SPPs are based on statewide codes that provide state of the art provisions to ensure development in specific hazard areas are avoided or managed to minimise or mitigate impacts. These codes are supported by statewide mapping of these hazards such as coastal erosion and inundation, and landslip.”

The planning “reforms” undertaken by the State Government in the last decade have not enhanced the planning system. They have weakened it by introducing generic and weak statewide applied zoning and code provisions and also allowed for an ever-increasing amount of land uses to be either exempted or delegated.

In the case of the Break O Day LPS in my municipality the Tasmanian Planning Commission has allowed more subdivisions outside of settlements and rule against proper scenic protection code overlays and best practice stormwater management all in conflict with the State Coastal Policy.

Also to suggest the statewide codes are “state of the art provisions” is not accepted. The reality is that the codes are almost completely performance based so they are not prescriptive or tight enough to achieve their claimed objectives and even more so given Sharples expert opinion that THE LIST overlays are inadequate

Thank you for considering my submission

Graeme Beech

Beaumaris

From: Linda Poulton <linda.poulton@tas.gov.au>
Sent: Monday, 21 October 2024 9:37 PM
To: State Planning Office Your Say
Subject: Changes to the Statewide Coastal Policy

Apologies for my submission beyond the 5.00pm deadline. I have been away from home most of the day and I planned on submitting this before a deadline which I was under the impression was a midnight one. I hope that you will still take my submission into account.

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns which have been raised with you by Planning Matters Alliance.

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach

is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

My personal perspective

I was born in Tasmania and I have benefitted so much from the protection of our coasts from development. I am not sure how many times it has to be said that what is special about Tasmania is its unadulterated natural beauty and simplistic, traditional way of life, part of which has involved being able to enjoy unspoiled coastal landscapes, not impacted by large scale development.

The Coastal Policy has protected this way of life which we all love and enjoy. If something is not broken it does not need to be fixed.

Kind regards,

Linda Poulton

From: Lalani Hyatt
Sent: Monday, 21 October 2024 7:56 PM
To: State Planning Office Your Say
Cc:
Subject: No amendments to prohibition of works on mobile dunes

To all concerned,

My name is Lalani Hyatt.

I am a Margate resident, previously Parks and Wildlife Ranger in charge of the Arthur Pieman Conservation Area and associated reserves for over a decade. During this period of my life and in the years following I saw numerous development proposals and applications which entailed construction on or disturbance of, 'actively mobile landforms' or as we referred to them then, 'mobile dune systems'. The proposals were in most cases vetoed under the terms of the State Coastal Policy. These sensitive areas were thereby protected. The proposed amendment to the State Coastal Policy would effectively remove this protection, for no good reason that I can ascertain. Having attained qualifications in Conservation and Land Management and managed (on behalf of the Government) large tracts of mobile dunes, I am very well aware of the damage that can be caused by any kind of activity on this fragile landform. Including - interfering with, damaging or destroying Aboriginal cultural heritage, removing or disturbing crucial habitat for coastal and wading birds and other native wildlife and the release of acidic soils into marine ecosystems via excavations for footings or other construction related digging.

I believe that the State Government is pushing these amendments in order to progress the Robbins Island Windfarm Proposed wharf construction which is most definitely prohibited under the current State Coastal Policy. This is a blatant manipulation of a perfectly sound policy for the benefit of one multinational company and one local proponent, with no advantage whatsoever to the Tasmanian community. The changes to the State Coastal Policy

would see precious coastal areas opened up for wholesale destruction to the highest bidder, resulting in further native wildlife being impacted and habitat decimated and our already shameful endangered species list increased. I hereby ask that the proposed amendment be withdrawn.

Yours sincerely,

Lalani A Hyatt

From: Deleeze Chetcuti <>
Sent: Monday, 21 October 2024 6:53 PM
To: State Planning Office Your Say
Cc: Dave Stewart; Liz Quinn
Subject: Submission - Review of the State Coastal Policy, Development of Actively Mobile Landforms Position Paper.

Good afternoon

Thank you for the opportunity to provide comments on the Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper.

As a coastal municipality that has actively mobile landforms and large areas of potentially actively mobile landforms, Kingborough Council has a high level of interest in the review of the State Coastal Policy 1996.

From our current level of understanding, we consider that the proposed amendments have potential to result in a significant change to the current framework and encourage further consultation on the actual amendments once drafted.

To inform further consultation, it would be beneficial if the following is provided in more detail;

- Under the proposed changes to 1.4.2 of the Policy;
 - o Clarification on the proposed threshold for a tolerable level of risk and the process and guidelines for determining this (i.e. environmental impact assessment or other methodology, and what will be required to be addressed); and
 - o The proposed process and guidelines for assessing public benefit for a development.
- Further clarification and detail on the technical rational underpinning any proposed mapping or definition of actively mobile landforms (we note that the referenced mapping in the Position Paper for Kingborough contains large areas of 'unclassified' coast).
- Further clarification and detail on any associated proposed amendments to planning instruments made under LUPAA and guidance on how the amendments will translate into assessment of developments on mobile landforms for Planning Authorities.

We note the Position Paper states that the draft amendments may come into effect while the Commission undertakes its assessment. Given the proposed amendments will entail changes to assessments of applications for relevant developments by Planning Authorities, it seems that this could result in a period of increased ambiguity in the assessment process and approval of developments that may not be approved post the final decision of the TPC which would be desirable to avoid.

Thank you for considering our comments.

Kind regards

Deleeze Chetcuti | Director Environment, Development and Community | Kingborough Council

Phone (03) 6211 8204

Address Civic Centre, 15 Channel Hwy Kingston TAS 7050

Email @kingborough.tas.gov.au | **Web** www.kingborough.tas.gov.au



Kingborough Council acknowledges and pays respect to the Tasmanian Aboriginal Community as the traditional owners and continuing custodians of this land and acknowledge Elders – past, present, and emerging.

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From: Collette Lansdell <>
Sent: Monday, 21 October 2024 6:20 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of

the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

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State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian

Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12)

Your Sincerely
Collette Lansdell

21 October 2024

Sean McPhail
Acting Director
State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TASMANIA 7001
yoursay.planning@dpac.tas.gov.au

Dear Sean,

Thank you for the opportunity to contribute to the development of the policy reforms outlined in the position paper *Review of the State Coastal Policy (SCP) – Development of Actively Mobile Landforms*.

Due to time constraints in meeting the submission deadline, it is important to note that the City of Hobart ('the City') makes this submission at the officer level.

Introduction

It is acknowledged that the catalyst for this policy reform was the recent approval of the Robbins Island windfarm (and associated wharf infrastructure) by the Tasmanian Civil and Administrative Tribunal (TasCAT) and the subsequent drafting of the *Validation (State Coastal Policy) Bill 2024*.

While recognising the circumstances in which this policy reform has been initiated, the City is providing this submission based on the parameters defined and scope of issues canvassed in the Position Paper.

General remarks

The application of the State Coastal Policy (SCP) and relevant planning instruments that regulate development in the coastal zone in the Hobart LGA relate to a 17km stretch of shoreline along the Derwent River estuary.

The City recognises the planning reforms to the Tasmanian planning system in recent years have facilitated a more substantial and robust framework to regulate use and development on land subject to coastal hazards such as coastal erosion, coastal inundation, sea level rise and landslip.

At the strategic planning level, it is acknowledged that the draft Tasmanian Planning Policies of relevance to guiding and managing future development of land subject to

coastal erosion, coastal inundation and landslip are included in 2.0 Environmental Values and 3.0 Environmental Hazards.

In principle, the City agrees with the intention articulated in the Position Paper, that a risk-based approach is a more contemporary mechanism to regulate and manage development on land subject to dynamic environmental hazards, compared with the 'self-executing prohibition' currently in place in Outcomes 1.4.1 and 1.4.2 of the SCP.

Furthermore, the City agrees that the current wording of the SCP leads to problematic and ambiguous planning outcomes and legal uncertainty with regard to managing environmental risks. For example, some development on actively mobile landforms can have a positive environmental and community impact such as small scale tourist infrastructure i.e. coastal walking trails and environmental management works such as dune stabilisation works and re-vegetation.

It is suggested that the revised policy should explicitly require a clear demonstration of the long-term community benefits provided by any development, such as improved public access, enhanced ecological health, or strengthened natural coastal defences.

Risk-based management approach

The City supports the proposed policy shift from a 'blanket prohibition' to a risk-based approach to managing coastal processes and hazards such as flooding, storms, erosion, landslip and sea level rise as canvassed in the Position paper.

In reviewing the draft changes proposed to the SCP in section 6.5 of the Position Paper, it is recommended that the language be unequivocal. For example, the proposed use of the term 'tolerable level of risk' is ambiguous and open to interpretation.

To rectify this, it is recommended that a framework or matrix be introduced that specifies acceptable risk thresholds based on defined scenarios, such as a 1:100-year storm surge or projected sea level rise by 2100. As part of this, the City strongly encourages the inclusion of explicit references to climate change projections in the SCP, particularly with regard to sea level rise and more frequent extreme weather events.

Furthermore, it is recommended that risk tolerances be regularly reviewed and updated as part of an adaptive risk management strategy, ensuring that decision-making remains current and relevant as environmental conditions evolve. A regular 5 yearly review cycle would appear to be a prudent approach.

While the shift from a blanket prohibition to a risk-based approach is welcomed, the City advises that the revised policy also emphasise risk reduction strategies. In particular, nature-based solutions such as dune restoration and coastal vegetation management should be prioritised where possible. Additionally, the policy should encourage planned retreat for developments that cannot maintain acceptable risk levels under future climate conditions. This approach would ensure that development in coastal areas is sustainable in the long term, reducing the need for costly engineering interventions that may not be effective as conditions worsen.

The City strongly agrees on the need for an improved definition of 'actively mobile landform' and appreciates the difficulty in defining and mapping the spatial extent of environmental processes that are by definition dynamic. The spatial extent and mapping of such landforms requires frequent monitoring and updating utilising best practice spatial technology.

Interpretation of SCP – Outcomes 1.4.1 and 1.4.2

As previously stated, the City supports performance-based planning and agrees that a blanket prohibition on all development on actively mobile landforms (AMLs) is inappropriate. Moreover, it is posited that some development should be considered and approved where hazard and environmental considerations have been appropriately addressed and the benefit of the development justified.

However, the City also questions the need for the proposed amendment of outcomes 1.4.1 and/or 1.4.2 of the Policy because a closer reading would suggest that outcomes 1.4.2 only prohibit development on AMLs where inconsistent with outcome 1.4.1.

The Position Paper states in section 4.1 that *'the effect of Outcome 1.4.2 is that it is a self-executing prohibition of development on 'actively mobile landforms' except for works involving the protection of land, property or human life'*.

Outcome 1.4.1 states the following:

Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

It is contended that this outcome is not saying that only engineering or remediation works to protect land, property and human life can be approved. Rather it is saying that development in areas subject to coastal hazards needs to be managed to minimise the need for engineering solutions or future remedial works to protect development (and associated users) from coastal hazards.

In other words, this outcome is saying is that works can be approved if they minimise the need for future engineering solutions and remedial works to protect existing development, life and land. Therefore, it can be argued that this Outcome does not indeed result in a 'blanket' prohibition on development on AML's.

This interpretation seems to be reinforced in section 5.1 of the Position Paper:

Outcome 1.4.1 required that not only should there be the identification of areas of natural processes and hazards but that they should be appropriately managed to minimise the need for engineering or remediation works that would be required to protect land, property and human life. This implies that any of these areas of hazard should avoid development that might require future protection intervention. That does

not imply no development is allowed, it might be that early interventions will assist with minimising larger future interventions.

Notwithstanding the above, the City supports a move away from wording that results in confusion and misinterpretation of poorly worded policy and planning provisions.

This is evident in the interpretation of the SCP in the Tasmanian Planning Scheme Clause 4.0.3 of the State Planning Provisions which states that:

Excluding the exemption for emergency [works](#) at 4.3.1, in the [coastal zone](#), no [development](#) listed in Tables 4.2 - 4.6 is exempt from this planning scheme if it is to be undertaken on actively mobile landforms as referred to in clause 1.4 of the Tasmanian State Coastal Policy 1996. Any [development](#) on actively mobile landforms in the [coastal zone](#) must comply with the requirements of the Coastal Erosion Hazard Code.

Furthermore, the City acknowledges that in its role as Planning Authority, it is not required to consider State Policies directly in the assessment of planning permit applications, rather it can only consider the relevant provisions of the planning scheme. As such, the City advocates for the Tasmanian Planning Scheme to be amended once the proposed changes to the SCP come into effect so as to accurately reflect and be consistent with any changes.

Conclusion

In conclusion, despite the questions raised regarding the interpretation of the SCP, the City agrees with the need to introduce a risk-based management approach to dealing with environmental hazards that is supported by an unequivocal language for greater legal certainty and positive environmental planning outcomes.

Please contact the undersigned at hobartcity.com.au if you would like to discuss this submission in further detail.

Yours faithfully,

Jennifer Lawley
**MANAGER LAND USE AND
DEVELOPMENT PLANNING
CITY FUTURES**

Neil Noye
DIRECTOR CITY FUTURES

From: Craig Smith
Sent: Monday, 21 October 2024 5:54 PM
To: State Planning Office Your Say
Cc: Retain the prohibition on development in actively mobile landforms
Subject:

As a resident of Tasmania who values our coastline and its associated biodiversity I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns that have been well summarised:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Craig Smith

21 October 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Email address: yoursay.planning@dpac.tas.gov.au

Submission to the Amendment of the State Coastal Policy 1996 – Development on Actively Mobile Landforms Position Paper

Thank you for the opportunity to respond to the *Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper* ('Position Paper'). Our submission makes three key points. First, the current circumstances as described in the Position Paper do not satisfy the legislative trigger for the declaration of an Interim State Coastal Policy. Second, the proposed amendment to Outcome 1.4 creates additional uncertainty. Third, the proposed amendment would allow more development in vulnerable coastal areas, which is against the trend elsewhere in Australia towards climate-adaptive coastal development laws.

Background

This review seeks to amend the *State Coastal Policy 1996* ('State Coastal Policy'), specifically Outcome 1.4 of the policy. This review has been prompted by the Robbins Island wind farm development approval and subsequent court proceedings reviewing the approval decision. The Robbins Island proposal includes an application to build a 509-metre wharf at the Back Banks dunes on the north-east coast of Robbins Island. A 100-metre-long concrete ramp would connect the wharf to an internal road network. Back Banks is a 'barrier dune system ... backing the exposed beaches of Ransonnet Bay', and an area of recognised geo-heritage significance.¹

On 16 February 2023 the Circular Head Council (the 'Council') granted a permit for the wind farm and associated developments. On 27 November 2023 the Tasmanian Civil and Administrative Tribunal (TasCAT) affirmed the Council's decision. TasCAT's decision is

¹ *Ryan v Circular Head Council and Smith v Circular Head Council and Birdlife Tasmania v Circular Head Council and ACEN Robbins Island Pty Ltd v Circular Head Council and Bob Brown Foundation v Circular Head Council and Circular Head Coastal Awareness Network Inc v Circular Head Council (No 4)* [2023] TASCAT 217 at [7].

currently subject to proceedings in the Supreme Court of Tasmania. Based on legal advice from the Solicitor-General's office, the Environment Protection Authority (EPA) has intervened in those proceedings because it now realises that, in providing its advice on the wharf proposal, it failed to properly consider the application of Outcome 1.4 of the State Coastal Policy. In order to ensure that the decision to approve the development was lawful, the Tasmanian government introduced into Parliament the *Validation (State Coastal Policy) Bill 2024* to retrospectively remove the application of State Coastal Policy Outcome 1.4.2. The Bill has been passed by the lower house and we have been informed it will be tabled in the upper house on 30 October.

Due to concerns about the operation of Outcome 1.4.2, the Tasmanian Government now proposes to amend the State Coastal Policy under the *State Policies and Projects Act 1993* (Tas) (SPPA).

Relevant law

The State Coastal Policy is a legally binding statutory document adopted in accordance with the requirements of the SPPA. The State Coastal Policy relevantly provides that:

1.4. COASTAL HAZARDS

- 1.4.1. Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.
- 1.4.2. Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.
- 1.4.3. Policies will be developed to respond to the potential effects of climate change (including sea-level rise) on use and development in the coastal zone.

1. Current circumstances do not satisfy the legislative trigger for declaration of an Interim Policy

The Position Paper notes that the proposed amendment to the State Coastal Policy will constitute a 'significant change' to that Policy.² Normally, a Minister's decision to make a significant change to a State Policy is preceded by advice from the Tasmanian Planning Commission, which in turn is informed by comprehensive public consultation. The Position Paper foreshadows that the Minister will by-pass these requirements by making an Interim State Policy under s 12 of the *State Policies and Projects Act 1993* (Tas) (SPPA) on the basis that it is 'necessary' to make the changes 'without delay'. It is our view the Discussion Paper does not provide sufficient evidence to justify the Minister doing so.

² State Planning Office, *Review of State Coastal Policy – Development of Actively Mobile Land Forms Position Paper*, September 2024, 13.

State Policies are a form of delegated legislation, made by the executive arm of government. This is in contrast to (primary) legislation, which is enacted through the processes of debate, scrutiny, amendment and majority vote by the members of Parliament. Parliament maintains oversight of delegated legislation through rules requiring that delegated legislation be tabled in each house of Parliament within a certain number of sitting days. Either House may then, within a certain number of sitting days and by majority vote, disallow it.

While Parliament retains ultimate control over delegated legislation through the disallowance process, there is a considerable time gap between the making of delegated legislation by the Minister and any disallowance by a House of Parliament. This is particularly so given traditionally long recesses between parliamentary sitting periods. This delay is problematic because any disallowance will not invalidate actions taken under delegated legislation during the time that it was in place. This means that where delegated legislation is likely to affect a range of different interests, it is important that the Minister 'gets it right' by engaging in meaningful public consultation.

Assurances by the Government at the time of the enactment of the SPPA point to the importance of public consultation prior to the making of state policies. In the second reading speech introducing the *State Policies and Projects Bill* 1993 the then Minister emphasised that 'the accountability requirements of the legislation are fundamentally important' and that the safeguard inherent in this system is public participation. Furthermore, in introducing the Bill, the Minister assured Parliament that '[t]here is no major decision under this legislation which can be taken without full opportunity for public scrutiny and input. Indeed, the objectives for the system as a whole require public involvement.'³ That is why the SPPA provides detailed procedural steps to enable public participation in any proposed change in the Policy. Section 15(A) (8) of the SPPA requires the Tasmanian Planning Commission (TPC) to conduct public consultations (including possible hearings) and to provide a report the Minister on the merit of, and possible amendments to a proposal (see ss 6, 8,9,10, 11 and 12 of the SPPA).

The Position Paper appears to recognise the need for TPC oversight:

The Government considers that the nature of any amendments to the current Outcomes that change from a broad prohibition to a more contemporary risk and needs based assessment, while urgently needed to address the emerging uncertainty from recent cases, are likely to be substantial from a policy perspective and warrant the careful consideration of the Commission.⁴

The Position Paper foreshadows that the Minister might by-pass the public consultation processes set out in the SPPA by implementing an interim policy under s 12 of the SPPA.⁵ By implementing an interim policy, the Minister will allow for the immediate operation of more permissive requirements for developments on actively mobile landforms based on minimal consultation, with the full statutory consultative process to occur following implementation (acting first, consulting later). Given the importance of public consultation in the SPPA, strong evidence is needed to justify by-passing the statutory

³ Second Reading Speech State Policies and Projects Bill, 1993, Tuesday 4 May 1993. Hansard page 40.

⁴ Position Paper, above n 2, 4.

⁵ Position Paper, above n 2, 13.

requirement for a TPC-led public consultation and TPC advice on the proposed amendment.

The Position Paper does not include sufficient evidence of urgent, serious and unexpected risks associated with the operation of Outcome 1.4 to justify the rushed amendment to the State Coastal Policy without full public consultation and advice from the TPC. As noted in the Position Paper and evidenced by Chris Sharples' 2012 article, ambiguity in Outcome 1.4 has been an identifiable concern for at least 12 years. The Position Paper notes that numerous developments could be vulnerable to legal challenge but provides no evidence of what those developments are. Nor does it provide evidence that parties with standing to seek a review of those development approvals have any interest in doing so. The costs of legal action, along with the limitation period for any merits review, means that those developments are unlikely at risk of legal challenge.

Given the acknowledged importance of public participation and TPC advice in the making of State Policies, s 12 should only be used if there is a clearly demonstrated need to respond to an urgent, serious and unexpected crisis.

2. The proposed amendment creates additional uncertainty

The Position Paper proposes the deletion and replacement of the current Outcome 1.4.2 with the following text:

1.4.2 Development on actively mobile landforms will only be allowed for engineering or remediation works necessary to protect land, property and human life, unless it can be demonstrated that the development appropriately considers:

- a) protecting coastal values and natural coastal processes;
- b) achieving and maintaining a tolerable level of risk; and
- c) the benefits to the public and dependency on the particular location

The proposed alternate text suffers from three interrelated problems.

- I. The framing is misleading because it still purports to prioritise the remediation or protection works when in fact the circumstances in which a development may be permitted (the words following “unless”) are much broader. It would be more transparent to make this intent clear by reframing it as clear alternative bases of permissibility. For example:
 - Developments on actively mobile landforms will only be permitted if:*
 - a. *They are for engineering or remediation works necessary to protect land, property and human life; or*
 - b. *[see below for discussion of this text].*
- II. It provides that the development must “consider” a range of factors. Presumably this means that the *decision-maker* must consider these factors when approving or rejecting a development, since the development itself cannot “consider” anything.

This leaves the decision-maker with broad discretion to consider a range of matters without providing them with guidance about the relative weight to accord to each factor or setting minimum performance outcomes. Far from removing uncertainty from SCP, this provision introduces it.

Downgrading the current clear provision to one containing wide discretion repeats the problems of ministerial discretion that have been identified in other statutory processes, including most notably, the Samuel Review of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The second 10-yearly review of the Commonwealth EPBC Act found that:

“A fundamental shortcoming in the EPBC Act is that it does not clearly outline the outcomes it aims to achieve and does not provide sufficient constraints on discretion to ensure that development is sustainable.”⁶

To address this shortcoming, the Review recommended that:

- “the Act must require the Environment Minister to *apply and deliver ESD, rather than just consider it*
- decisions must be based on a clear and transparent assessment of environmental, social, economic and cultural information
- strong protections are needed for those matters most at risk of being lost, including *clear rules about unacceptable impacts.*”⁷ (emphasis added).

The Review suggested the use of legally enforceable standards as the ‘foundation for effective regulation’ to define environmental outcomes and limits for decision-makers.

We recommend the removal of a broad discretion to merely “consider” various factors, replacing it with requirements to achieve measurable, legally enforceable outcomes.

- III. The factors to be considered are expressed in different terms – the first two as verbs, the third as a value. The fourth criterion “dependency on the particular location” is combined with the third and must be moved to a separate item. This criterion should in fact operate as a condition precedent for the operation of the entire provision, since only developments that are coastal-zone dependent fall within the operation of the provision in the first place. Thus, at the very least, the provision should be reframed as follows:

“Developments on actively mobile landforms will only be permitted if:

⁶ Samuel, G 2020, *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment, Canberra, October. CC BY 4.0, 52.

⁷ Ibid (emphasis added).

- a. *They are for engineering or remediation works necessary to protect land, property and human life; or*
- b. *In the case of developments that are dependent upon a particular coastal location, they*
 - i. *protect coastal values and natural coastal processes;*
 - ii. *achieve and maintain a tolerable level of risk; and*
 - iii. *provide public benefits that outweigh any residual risk.*

The term tolerable level of risk requires separate definition, as it is currently unclear who determines the acceptability of risk, and which assets may be subject to the risk.

3. Increasing the development potential of exposed coastal dunes is inconsistent with best practice coastal climate adaptation planning across Australia

Amending the SCP to permit more development in vulnerable coastal areas would run counter to the trend across Australia of restricting activities that may expose future property owners and governments to risks of property damage and associated liability. The risks of permitting new development in coastal areas that are vulnerable to coastal erosion and inundation have been recognised for over three decades. In NSW, Victoria, Queensland and WA, increasing evidence of the likely scale and speed of such risks has seen significant statutory restrictions on developments in these areas. These restrictions cannot avoid the problems that arise from existing development in vulnerable locations. However, they are seen as an essential means of avoiding the creation of new risks to private and public infrastructure, public access and safety, environmental and amenity values, while respecting natural coastal processes.⁸

Tasmania is in the fortunate position of having far less “legacy development” in vulnerable coastal areas and should ensure it does not create costly new problems for the future. It should learn from the experience of areas that are subject to coastal hazards, such as Roches Beach, Lauderdale, as well as the experience of local and state governments, especially in NSW and WA, who are faced with contributing public funds the repair or fortification of private and public coastal infrastructure. Without a stronger evidence base, it is difficult to understand why Tasmania’s coastal environment should be subject to development approval regime that is significantly more permissive than mainland states and that creates future problems that could be avoided by retention of the current provisions.

⁸ There is an extensive literature on these trends and associated statute and case law. See, for example: McDonald J, “Girt by Sea: antipodean Lessons in Coastal Adaptation Law” (2020) 10 *Sea Grant Law and Policy Journal* 29; O’Donnell T, “Coastal Lawscape: A framework for understanding the complexities of climate change adaptation” (2021) 129 *Marine Policy* 104532; Dedekorkut-Howes A & Howes M, “Planning for a different kind of sea change: sea level rise and coastal flooding (2021) 21 *Climate Policy* 152-170; Harvey N & Clarke B, “21st Century reform in Australian coastal policy and legislation” (2019) 103 *Marine Policy* 27-32.

Further information about trends in coastal adaptation planning can be provided on request.

Recommendations

Based on the issues outlined above, we recommend that:

- the Minister does not put in place an Interim Coastal Policy;
- that the Government commences a comprehensive, expert-led, review of the State Coastal Policy as a whole, including public consultation and consideration of Australian best practice coastal management, and amend the State Coast Policy in accordance with the recommendations of that Review; and
- any amendment of Outcome 1.4.2 takes into account the comments and suggestions made in part 2 of this submission.

We would be happy to provide any further information or to further elaborate on our submissions.

Yours sincerely,

Professor Jan McDonald, Ms Anja Hilkemeijer, Dr Emille Boulot, Ms Cleo Hansen-Lohrey

Professor Jan McDonald has wide-ranging teaching and research expertise in environmental and climate law and policy. Ms Anja Hilkemeijer teaches and researches in constitutional law. Dr Emille Boulot is researcher in national and international environmental law and governance and Ms Cleo Hansen-Lohrey teaches and researches in administrative law. The signatories are all staff members of the University of Tasmania Law School.

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Hobart Tasmania 7000

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**Submission – Amendment to the State Coastal Policy 1996 –
Development on Actively Mobile Landforms – Position Paper**

Thank you for the opportunity to make a submission on the amendment to the State Coastal Policy 1996 (Coastal Policy) position paper. PIA is the peak body representing planning professionals and supports reform that improves planning processes and outcomes, especially through well-resourced strategic planning based on a strong evidence base consistent with PIA Australia's positions on liveability, health, [national and local settlement strategies](#), [climate conscious planning systems](#) and management of risk in a changing environment¹.

The Position Paper provides some additional information on the mobile landform issue (particularly in the Robbins Island context), but does not provide a substantiated evidence base for either the issue or the recommended action. The Paper includes a recommended alternative clause 1.4.2 that relies on identification of actively mobile landforms, which was not supported by the Sharples report that was referenced.

The reasons for such an isolated change are not clearly established, particularly when the State Coastal Policy itself is dated, inconsistent with contemporary practice, and presents difficulties in its application through the preparation and assessment of land use planning documents.

PIA supports planning reform that is well informed, well consulted with the relevant stakeholders and supports the function of a contemporary planning system. The recent reform program of Government, and implementation of the Tasmanian Planning Policies, provides opportunity to review the role and function of the State Coastal Policy, in addition to the operation of section 1.4. This proposal does not provide an integrated approach to policy review, or assist with integration of the State Coastal Policy to the expanded range of policy documents enacted under the *Land Use Planning and Approvals Act 1993*.

PIA looks forward to reviewing the specific amendments to create a self-executing prohibition that would avoid the need for an outcome to refer to another outcome, and is provided with an evidence based reasoning for those changes.

¹ <https://www.planning.org.au/ourcampaigns>

We submit that a comprehensive review of the State Coastal Policy is both overdue and required.

Thank you for the opportunity to make a submission.

Yours sincerely,

Mick Purves MPIA

President Planning Institute Australia TAS



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21 October 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001
By: yoursay.planning@dpac.tas.gov.au

Dear State Planning Office,

RE: PMAT Submission: *Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper*

The [Planning Matters Alliance Tasmania](http://www.planningmatterstas.org.au) (PMAT) thanks the Department of Premier and Cabinet for the opportunity to comment on the *Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper* [here](#) (the *Position Paper*).

United by [our platform](#), the Planning Matters Alliance Tasmania is a growing network of over 70 diverse community groups from across lutruwita/Tasmania. Our Alliance members recognise land use planning impacts every inch of Tasmania. They are united in common concern over the current Tasmanian state planning laws and what they mean for Tasmania's future.

We hold that good planning is fundamental to supporting both people and nature to thrive and underpins a healthy democracy and how we respond to climate change.

PMAT's vision is for Tasmania to be a global leader in planning excellence. We believe best practice planning must embrace and respect all Tasmanians, enhance community well-being, health and prosperity, nourish and care for Tasmania's outstanding natural values, recognise and enrich our cultural heritage and, through democratic and transparent processes, deliver sustainable, integrated development in harmony with the surrounding environment.

Contrary to sound strategic planning, the Tasmanian Government's *Position Paper* proposes to fast-track changes to the [Tasmanian State Coastal Policy 1996](#).

Strategic planning is one of the essential elements in ensuring Tasmania's Resource Management and Planning System is applied effectively: '*Strategic planning allows government, industry and the community to agree on common strategies for resource use and development, reducing the likelihood of conflict over individual developments. It also ensures that short-term decisions are consistent with long-term goals. This allows the needs of future generations to be taken into account when providing for the resource development needs of existing communities.* ([Guide to the Resource Management and Planning System](#), Resource Planning and Development Commission, 2003).



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PMAT's key concerns and recommendations are summarised here and attached in more detail below.

1. **The Tasmanian Government wants to create an *Interim State Policy*, using section 12 of the *State Policies and Projects Act 1993*. This gives immediate effect to development applications and is not recommended. This will be the first time that an *Interim State Sustainable Development Policy* has been proposed in Tasmania.**

An *Interim State Policy* would give immediate effect to the Tasmanian Government's proposed revision of *Outcome 1.4 Coastal Hazards* before any consideration by the Tasmanian Planning Commission, before any public consultation by the Tasmanian community and with no Parliamentary oversight.

Fast tracking changes to the State Coastal Policy will create planning uncertainty with likely perverse and ad hoc planning outcomes. Prioritising individual commercial developments over a proper review of the State Coastal Policy is reactive and undermines sound strategic planning.

Any significant amendments to the *Tasmanian State Coastal Policy* must go through the standard robust and transparent legislated eight-week public consultation process (with opportunity for public hearings) conducted by the Tasmanian Planning Commission and then be subject to Parliamentary oversight.

2. **Undertake a comprehensive review of the State Coastal Policy, as recommended by Tasmania's State of the Environment Report.**
3. **Abandon the State Government's proposed amendment to the State Coastal Policy.**
4. **The need for amending *Outcome 1.4 Coastal Hazards* has not been established as the Tasmanian Government has failed to outline the legal reasons for the proposed changes.**
5. **In the absence of the Tasmanian Government abandoning its proposed amendments to the *Tasmanian State Coastal Policy* we support the Australian Coastal Society Ltd's revised wording to *Outcome 1.4 Coastal Hazards* which removes the phrase '*actively mobile landforms*'.**
6. **Identification/mapping of hazardous areas – adopt Chris Sharple's expert guidance.**

The Tasmanian Government's proposed changes will profoundly weaken the *State Coastal Policy* and the way Lutruwita/Tasmania's coasts are managed and protected in Tasmania.

Tasmania's coast is unique and largely unspoilt, thanks to the State Coastal Policy, which has protected it for almost 30 years.



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The Tasmanian Government's [Public Submissions Policy](#) states it is committed to '*providing opportunities for community involvement in the development of Government policy*' and '*Notices calling for submissions are to specify, where possible, when submissions will be published. As a matter of policy, submissions should be published on department websites within a reasonable timeframe as determined by the department.*'

Given this commitment and the high-level public interest in the future of Lutruwita/Tasmania's coastline, it is reasonable to expect all submissions on the *Position Paper* be made public as soon as possible.

We are happy for our submission to be made public.

Yours sincerely,

Sophie

Sophie Underwood

State Director – Planning Matters Alliance Tasmania

E:

M:

www.planningmatterstas.org.au



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KEY CONCERNS & RECOMMENDATIONS

1. **Creating an *Interim State Policy*, using section 12 of the *State Policies and Projects Act 1993*, which gives immediate effect to development applications is not recommended. Fast tracking changes to the State Coastal Policy will create planning uncertainty with likely perverse and ad hoc planning outcomes.**

As outlined in the *Position Paper*, the Tasmanian Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have immediate effect and be applicable to development applications while it is being reviewed by the Tasmanian Planning Commission.

An *Interim State Policy* would give immediate effect to the Tasmanian Government's proposed revision of *Outcome 1.4 Coastal Hazards* before any consideration by the Tasmanian Planning Commission, before any public consultation by the Tasmanian community and with no Parliamentary oversight.

The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months. This is not sound strategic planning and will most likely create perverse and ad hoc planning outcomes.

Strategic planning is one of the essential elements in ensuring Tasmania's Resource Management and Planning System is applied effectively: '*Strategic planning allows government, industry and the community to agree on common strategies for resource use and development, reducing the likelihood of conflict over individual developments. It also ensures that short-term decisions are consistent with long-term goals. This allows the needs of future generations to be taken into account when providing for the resource development needs of existing communities.* ([Guide to the Resource Management and Planning System](#), Resource Planning and Development Commission, 2003).

This will be the first time that an *Interim State Sustainable Development Policy* has been proposed in Tasmania. There is a strong perception that changes to the State Coastal Policy are being fast tracked to facilitate particular commercial developments – i.e. both the pilitika/Robbins Island wind farm and the proposed North East Wind at Rushy Lagoon.

Prioritising individual commercial developments over a comprehensive review of the State Coastal Policy is reactive and undermines sound strategic planning.



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2. Undertake a comprehensive review of the State Coastal Policy, as recommended by Tasmania's State of the Environment Report.

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “*Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.*”

This State of the Environment recommendation is only supported if the Tasmanian Planning Commission undertakes a comprehensive review under the *State Policies and Projects Act 1993* and is not ‘fast-tracked’ using section 12.

3. Abandon the Tasmanian Government's proposed amendment to the State Coastal Policy.

The Tasmanian Government's *Position Paper* proposes to remove a key part of the State Coastal Policy in *Section 1.4 Coastal Hazards*, clause section 1.4.2, which would remove a key protection for actively mobile landforms such as sand dunes.

There is good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as on sand dunes.

4. The need for amending *Outcome 1.4 Coastal Hazards* has not been established as the Tasmanian Government has failed to outline the legal reasons for the proposed changes.

The *Position Paper* does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The *Position Paper* claims there are problems with the application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The Tasmanian Government has refused to release any legal advice (or even provide legal reasons), and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.



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5. In the absence of Tasmanian Government abandoning the proposed amendments to the *Tasmanian State Coastal Policy* we support the Australian Coastal Society Ltd's revised wording to **Outcome 1.4 Coastal Hazards** which removes the phrase '*actively mobile landforms*'.

In the absence of the Tasmanian Government abandoning their proposed amendments to the State Coastal Policy we support the Australian Coastal Society Ltd's revised wording to Outcome 1.4 Coastal Hazards which removes the phrase '*actively mobile landforms*':

1.4 COASTAL HAZARDS

1.4.1 Development in areas subject to risk from natural coastal processes and hazards such as inundation, erosion, landslip, littoral drift, dune mobility and sea level rise will not be permitted except for works consistent with Outcome 1.4.2

1.4.2 Works in areas covered in 1.4.1 shall be limited to public foreshore access, vegetation and animal management, public health and safety, scientific monitoring and ground-based navigation aids. The installation of linear public infrastructure such as cables and pipelines is to be minimised, and land and marine vehicular access to foreshores will only be permitted in notified emergencies where public facilities are unavailable.

1.4.3. Policies will be developed to respond to the potential effects of climate change (including sea-level rise and associated worsening risks and impacts of severe weather events) on use and development in the coastal zone.

We also support the Australian Coastal Society Ltd's rationale for redrafting *1.4 Coastal Hazards* as outlined in their 17 October 2024 submission on the *Position Paper*.

6. **Identification/mapping of hazardous areas – adopt Chris Sharple's expert guidance.**

To facilitate the essential identification of hazardous areas listed in the proposed redrafted *Outcome 1.4 Coastal Hazards* by the Australian Coastal Society Ltd, we support the guidance offered by Dr Chris Sharples outlined in Appendix 1 of their submission.

Appendix 1 was prepared by Dr Chris Sharples in October 2024. Dr Chris Sharples is a staff member with Geography, Planning, and Spatial Sciences at the University of Tasmania. His field of research includes natural hazards, geomorphology and earth surface processes and physical geography and environmental geoscience. In 2020 Sharples graduated as a PhD. His



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project investigated the identification of sea-level rise signals in coastal erosion and recession processes.

Appendix 1 concludes that:

'In order to support an integrated management to coastal hazard management, the requisite [mapping] data need to be:

- *contemporary*
- *standardised*
- *complete, reliable and accurate*
- *scaled appropriately and suitable for development assessments, and*
- *freely available to all stakeholders at all times.'*

From: Rhuby Delights | Malcolm Ryan <>
Sent: Monday, 21 October 2024 4:45 PM
To: State Planning Office Your Say
Cc:
Subject: Review of the State Coastal Policy

Hi,

I fully oppose the proposed changes to the State Coastal Policy as per my comments below:

The state government has issued State Coastal Policy Position Paper that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned. This reflects that the State Coastal Policy was formed to protect Tasmania's unique coastline long before climate change, sea rise and storm surges were given much consideration. Considering the pressures that our coastlines are now facing it would be environmental suicide to contemplate weakening the State Coastal Policy considering the extreme storm events we are now facing.

The Position Paper does not provide a convincing explanation for what the claimed problem with the State Coastal Policy is and why the amendment is being sought. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there has been no legal advice to support their case. The Government has not been able to provide any legal justification and therefore there should be no change made to the State Coastal Policy. Furthermore, it seems the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal mobile dunes. My argument here is substantiated by their perceived

Contempt of Court by the Government by intervening in the EPA Supreme Court case which in part is to support the Robbins Island Windfarm as quoted by Minister Duigan.

If this was a significant problem the State Government's Lawyers would presumably have given advice about it and the government would have released it. One would assume that with all the developments around our coastal zones over the past 28 years that some legal cases would have been made before now. I suspect that it is only 2 windfarm projects that are driving the current agenda not genuine policy review. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made. If there was an attempt to define a specific actively mobile landform then it could easily create ambiguity about other landforms outside that definition as actively mobile landforms around Tasmania's coastline differ in their composition, ie a cow such as a Jersey, Hereford and Friesian, if you define a cow as being a female, has four legs, eats grass and produces milk, that defines a cow but there is significant differences between the 3 of them. If you then add defining a cow by colour and say black and white, you get a Friesian, then you dismiss the Hereford and Jersey, but they are both as equally a cow as a Friesian. The same can be said by trying to define an actively mobile frontal dune when it has worked fine for 28 years.

The State Government has created a false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. The claim that uncertainty in Outcome 1.4.2 arises because there is no accepted map or definition of 'actively mobile landforms' is misleading at the least. That is because extensive mapping of hazardous coastal areas in Tasmania already exists. According to the Government's Coastal Hazards Fact Sheet, the *Coastal Erosion Hazard Code* and the *Coastal Inundation Hazard Code* exist to ensure compliance with Outcome 1.4 of the State Coastal Policy. Both Codes contain provisions and mapping and overlays that control use and development within "hazard bands". According to the Fact Sheet the coastal hazard areas were mapped as part of the Mitigating Natural Hazards through Land Use Planning Project undertaken by the Department of Premier and Cabinet's Office of Security and Emergency management. The Land Information System Tasmania (LIST) database also provides access to coastal inundation and coastal erosion hazards bands.

The implementation of strong coastal protection planning controls is more important now than ever. Climate change will have profound impacts Tasmania's coastal zone and sea level rise will inundate coastal areas and accelerate coastal erosion. Many parts of Tasmania already have significant exposure to coastal climate hazards due to legacy development in vulnerable coastal areas. These areas will require costly interventions in future, either to retreat from or adapt to erosion and inundation. Considering these unavoidable hazards, it is essential that we minimise the creation of *new* risks is an essential adaptation strategy. This means avoiding new development in exposed areas. The Government should be strengthening both the detail and application of the Policy, especially section 1.4.

Given the real and looming impacts of sea-level rise, coastal inundation and flooding arising from climate change I reject any suggestion that the State Coastal Policy needs further amendment to potentially weaken the level of protection of Tasmania's vulnerable coastlines and communities. Rather, what Tasmania actually requires is a much stronger State Coastal Policy that identifies objectives to protect and conserve our coasts and clear enforceable strategies to achieve these objectives not a weakened Policy that supports the Governments "Cheer Leader lead" windfarm developments. There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months. With Windfarm Developments already stumbling with planning approvals due to needing wharf developments on Actively mobile frontal dunes one can be excused for being cynical about the motives for the review of the State Coastal Policy.

It is good procedure to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent is in making good the recommendation by the State of the Environment Report and is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12). The review should also be considerate of an expert-led, Australian best practice coastal management, and only amend the State Coastal Policy in accordance with that knowledge not with the eyes of a developer or a Government hell bent on development at the expense of the environment.

There was quite a bit of talk on radio this morning about the debacle the Liberal Government finds itself in with the crossbench. To that, I say it serves them right because if they were representing the people and the environment there would be no need for the crossbench and I will give force to that message to those overseeing this issue that the people are fighting back against Governments in the pocket of developers, the ACT Election at the weekend enforces that with Labor now having to Govern with Independents and Greens support.

Yours sincerely,

Malcolm.

Malcolm Ryan

Director



From: Jill and Craig <
Sent: Monday, 21 October 2024 5:01 PM
To: State Planning Office Your Say
Subject: Retain the prohibition on development in actively mobile landforms

I live on beautiful Pirates Beach which is constantly changing, and needs protection.

I urge I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Jill Pierce

From: Mike Meerding <>
Sent: Monday, 21 October 2024 4:56 PM
To: State Planning Office Your Say
Subject: Retain prohibition on development in actively mobile land forms

Please reject proposed changes as they are a guise to forge ahead with inappropriate development Sincerely,
Mike Meerding

Sent from my iPhone

From: Philip Sumner
Sent: Monday, 21 October 2024 4:54 PM
To: State Planning Office Your Say
Subject: Keep the prohibition on development in actively mobile landforms

Dear elected members I am writing to you as a Tasmanian resident of long standing and one who has a deep and sincere love of our natural environment saying that I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns.

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the government has fabricated a problem with the State Coastal Policy to disguise it's true interest, which I believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that have high conservation, cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

False alarm about the need to define 'actively mobile landforms'

The state government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change.

The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to the natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the State Policies and Projects Act 1993 is undertaken (and not the 'fast-track' process through section 12).

I sincerely hope you will take my thoughts into consideration when deliberating on this contentious issue.

Kind regards,

Philip Sumner

21 October 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Email address: yoursay.planning@dpac.tas.gov.au

To whom it may concern

Thank you for the opportunity to comment on the Position Paper relating to the *Review of the State Coastal Policy – Development of Actively Mobile Landforms*

The Tasmanian Government has released a *State Coastal Policy Position Paper* for public comment to fast-track changes to the *Tasmanian State Coastal Policy 1996*¹, changes that will profoundly weaken the *Policy* and the way coasts are managed and protected in Tasmania.

Tasmania's coast is unique and largely unspoilt, thanks to the *Tasmanian State Coastal Policy 1996*, which has protected it for almost 30 years.

Scrap the proposed amendment

The state government has issued a *State Coastal Policy Position Paper* that proposes to remove section 1.4.2 from the *Tasmanian State Coastal Policy 1996* (the *Policy*), a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the *State Coastal Policy* be abandoned.

¹ Note this is a separate process to the Validation (State Coastal Policy) Bill 2024 which is expected to be debated in the Legislative Council on 30 October 2024

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation of the purported problem with the *Tasmanian State Coastal Policy 1996*. The proposed amendment is clearly proposing a solution searching for a problem; a problem that covers for their express desire to satisfy a ravenous international corporation (ACEN) desire for extravagant development opportunities in the face of serious environmental problems such as threats to migratory bird habitats and fragile geomorphological formations. The *Position Paper* claims that there are problems with application of Section 1.4.2 of the State Coastal Policy and that the Government has received legal advice to that effect. That there is no reference to legal advice in the Paper suggests a solution in search of a problem; the State Government's failure/refusal to release any legal advice suggesting that it is uncertain if it has obtained any such advice.

I contend that, if the government cannot explain the need for the change, then proposed the change makes no logical sense unless their prime intention is to ease the way for the preferred development activity to the advantage of a preferred developer at the expense of the natural environment in the present and the long-term future.

The protection of the high conservation values embodied in the coastal zone including the protection of fragile geomorphological features

It is patent that this proposal is singularly directed to permitting the development of the Robbins Island wind farm. That there are very good reasons to keep clause 1.4.2 of the State Coastal Policy, the Government's intention is to discard conservation and the protection of fragile landscapes (including actively mobile landforms that may have high conservation cultural and natural values). Despite persistent claims that the Sustainable Development Objectives, the underpinning principles of the planning system, are equal in intent and application, this proposal clearly gives preference to the first of these principles: "... to promote the sustainable development of natural and physical resources ..." with or without references to the protection and maintenance of environmental integrity. The impacts of climate change make it even more important to *not*

make it easier for development to be built on actively mobile landforms such as sand dunes.

Needless alarm about the Government's urge to define 'actively mobile landforms'

It seems curious that the Government's *Position Paper* seeks to emphasise a definitional problem with the application of the *Policy*

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform' in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts know they can apply appropriate terminology with geographically appropriate application to any development proposal when assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment."² This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and*

² Tasmanian Planning Commission. 2024. State of the Environment Report, Volume 1: Summary report. Hobart.

Projects Act 1993 is undertaken (and not the ‘fast-track’ process through S.12 of the *Act*).

(This proposal could be viewed a belated and wholly inadequate attempt to address twenty years of successive governments’ failure to complete a review the *Tasmanian State Coastal Policy 1996*.)³

The latest and last attempt at reviewing the *Policy* began in 2012. In the *Consultation Draft* the Government noted:

Various reviews of the State Coastal Policy 1996 have indicated that a more strategic and contemporary approach to Tasmanian coastal planning and management is needed.⁴

They continued:

In mid-2012, the Tasmanian Government committed to developing a Coastal Protection and *Planning Framework*.⁵

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Is there a need to suddenly address a confected desire for definitions that are largely irrelevant

The *Tasmanian State Coastal Policy 1996* described the coastal zone as follows:

³ The *State Policies and Projects Act 1993* and the *Policy* prescribe a five-yearly review of the *Policy*. The first attempt, begun in 2004 was curtailed incomplete in 2006 in the face of the government of the day addressing the *Better Planning Outcomes Review Discussion Paper*. The review Panel recommended that after further consultation and analysis, “the final policy be developed with consideration of all agencies, councils, NRMs and community groups planning for and managing the coast.” (*Report on the Draft State Coastal Policy 2008*. 2011, p. 15).

⁴ Department of Premier and Cabinet 2013. Tasmanian Coastal Policy Statement: Consultation Draft, p. 5.

⁵ Loc. cit

The coastal zone includes at least the following primary elements:

- the seabed, tidal waters and foreshore,
- dunes, beaches, sea cliffs; wave cut platforms and hard rock areas,
- the water, plants and animals,
- the atmosphere above,
- wetlands, marshes, lagoons and swamps along, and immediately inland of the coast,
- associated areas of vegetation,
- associated areas of animal habitat, and
- associated areas of human habitat and activity.

The zone extends seaward to the outer limits of the territorial sea adjacent to Tasmania, embracing islands and outcrops within the jurisdiction of the State, excluding Macquarie Island, and extends inland to the extent necessary to embrace activities, uses and developments which may have a significant effect upon the amenity and environment of the coast as constituted by the primary elements listed above;

The zone extends inland to the extent necessary:

- (a) to embrace proposed activities, uses and developments which in the opinion of the, relevant planning authority may; if allowed to proceed, impact on the coast; and
- (b) to achieve the principles, objectives and outcomes of this Policy.⁶

It neither beyond the imagination nor beyond the capacity of local government councils, acting as planning authorities, to organise their deliberation on development applications to accommodate the essentially performance related character of the *Coastal Policy*.

The Panel recommends a definition that allows for variability at individual sites will be more meaningful in identifying the coastal area and be of more practical assistance for planners and managers. The recognition of, and allowance for, local topography, elevation and geomorphic conditions should be the primary drivers in any coastal area definition. Although the Implementation Guide provides for some flexibility, this is contrary to the Draft Policy and the Commission considers that any

⁶ Tasmanian State Coastal Policy 1996, p. 6; and as enacted:

“Made a Tasmanian Sustainable Development Policy on 23 January 1996.

“Gazetted on 7 February 1996.

“Came into operation on 10 October 1996,” p. 22

Implementation Guide should accurately reflect the final policy.⁷

In view of the serial failure of governments to review the *Policy*, it is my view that this proposal is little more than a band-aid being applied to ameliorate and remedy difficulties experienced by a single, not disinterested developer potentially disadvantaging both environmental integrity and the interests of future Tasmanians.

A satisfactory and satisfying approach would be to address the serial review failures of governmental process and adopt a full review of the *Policy* as has been legislated requirement since 1993. Anything less would be an abrogation of governmental responsibility and an insult to the Tasmanian community.

Yours sincerely,

Rob Crosthwaite

Email:

Postal:

Phone:

⁷ Tasmanian Planning Commission. 2011. *Report on the Draft State Coastal Policy 2008*. p. 13.

From: duncan mills <
Sent: Monday, 21 October 2024 4:50 PM
To: State Planning Office Your Say
Subject: yoursay.planning@dpac.tas.gov.au

To whom it may concern.

Dear Members of Parliament and advisers.

I am a fifth generation Tasmanian, a retired grazier, now Social Ecologist researching Social Ecological adaptation in Tasmania.

I do this as retired farmer of 30years experience in the North Midlands, Cape Portland and Clarke Island;experience that involved participatory research with Tasmanian rural community groups, such as chair of the Tasmanian Farm Management Society in the 1980s and National President in the Early 1990s.

Another relevant project was chair of the Furneaux Outer Islands association from about 1976 to 1986,campaigning for active grazing management of the vulnerable islands and their coastlines,which in many cases supported active dunes stabilised by native grass and shrub communities.

Our position to the Government of the day was that active controlled grazing by large herbivores was necessary to the health and safety of this coastal scrub and forest grassland. Without this these seasonally dry vegetation communities were vulnerable to catastrophic wildfires due to human ignorance and carelessness. Which has been the experience since colonisation, recent examples being on Cape Barron and Clarke Island early this century. Fires that destroyed recovering Bluegum and Casurina Savannah's following their retirement from commercial grazing.

The vitality of these ecosystem is very dependent on the slow airborne movement of mineral rich fine marine sediments by the prevailing winds onto adjacent coastal sand plains. These sand plains evolved rich coastal Eucalypt, Casurina and Acacia grassy forests and Poa grassland communities supporting significant populations of marsupials, bird and prior to first nations extirpation the monstrous Diprotodons which maintained the grassy floor of the coastal forests as they were moved about the landscape by the megaherbivores. A process interrupted by their extirpation by humans. (Ref:Bowman D; Flannery T and others)

For about 40, 000 years the first people emulated the function of the Megaherbivores with their combination of hunting and cool seasonal burns.

Early colonists managed similarly but handicapped by colonial enclosures, structures and limited fire control tools much of the practice was abandoned.

The situation today is finely balanced between the careful controlled grazing of stabilised dune fields and adjacent coastal Savannah, and in some cases paralyzed institutional management of degraded scrubby forests awaiting catastrophic wildfires.

Any rashly judged anthropocentric alteration to these delicately balanced dune fields, runs the risk of destroying the slow mineralisation of the coastal sand Plains and the bird and animal communities that depend on them.

To a point abandoning 30years of tight control of "development" for ill-informed and ecologically ephemeral reasons such as "tourism" or land based windfarms will most likely cause future generations to curse ours.

Considering the necessity also for our coastlines to adapt to sea level rise and increasing climate extremes, nothing but the utmost well ecologically informed care of biodiverse natural systems is necessary.

Whilst Australia needs massive renewable energy resources Tasmanian self sufficiency and export capability can adequately be met with the massive offshore, off migration route wind and tidal resource of Bass Strait. Any any case all Tasmanians must benefit, and not bear the cost to the quality, and health of the country that must sustain them.

Yours faithfully.

Duncan Charles Mills

Retain the prohibition on development in actively mobile landforms I oppose the proposed changes to the State Coastal Policy

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Jacinta Hill



tasmanian conservation trust inc

21 October 2024

State Planning Office
Department of Premier and Cabinet

Email: yoursay.planning@dpac.tas.gov.au

'Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper'

Scrap the proposed amendment

The 'State Coastal Policy Position Paper' proposes to remove a key part of the State Coastal Policy, section 1.4.2, and replace it with alternative wording. This would remove key protection for actively mobile landforms such as frontal dunes. The TCT does not support this change and recommends the proposed amendment to the SCP be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the SCP is and why the amendment is being proposed. The Discussion Paper proposes a solution for a problem that appears to not exist.

The Position Paper claims that there are problems with the application of section 1.4.2 of the SCP but there is no reference to legal advice to support this (including advice previously alluded to by the State Government).

The State Government has previously alluded to legal advice but has refused to release it. When asked in parliament the government has not confirmed whether the legal advice came from the Solicitor General or sources outside of government. Now, the Position Paper makes no reference to legal advice.

If the government cannot justify the need for the change to the SCP, then it should not make the change.

Actively Mobile Landforms

The Position Paper claims there are problems with the SCP not including a definition of actively mobile landforms and that 'there is no single interpretation as to what constitutes one' (page 7). Again, the Discussion Paper has not established that there is a problem with defining actively mobile landforms that warrants any change to the SCP.

The Position Paper (page 7) states that:

Ambiguity regarding 'actively mobile landforms' casts doubt over the application of Outcome 1.4.2. This has been the subject of criticism and caused frustration in the assessment of developments.

These two assertions are not backed up with evidence from the government's legal advisors or legal authorities such as decisions of the Supreme Court, TasCAT or the Tasmanian Planning Commission. Which legal or planning authorities have claimed there is ambiguity over actively mobile landforms 'which casts doubt over the application of Outcome 1.4.2'? Which legal or planning authorities are referred to in claiming 'This has been the subject of criticism and caused frustration in the assessment of developments'?

These questions have not been answered and until they are changes to the SCP cannot be condoned.

The Position Paper provides a link to a paper by Chris Sharples. This appears to be an unpublished article that has not been peer reviewed and is dated 2012. It makes interesting comments about the use of various technical terms in the SCP and other planning instruments. By itself it is little more than unpublished opinion. It might be a useful opinion to offer to a legal authority to inform them in making an assessment. By itself the Sharples article is not relevant to a review of the SCP.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it or at least refer to it. There are many key terms related to natural values that are also not defined in policies or legislation.

The Discussion Paper failed to reference the submission to the Draft Validation (Tasmanian Coastal Policy) Bill by four University of Tasmania Law faculty staff (but would have benefited in doing so) that asserted in relation to the government's claims there is no definitive definition of 'actively mobile landforms' that:

...it is important to note that uncertainty always exists within the law and that it is the role of the courts to construe terms in legislation. Furthermore, it is questionable whether Outcome 1.4 actually suffers from such uncertainty. The wording of Outcome 1.4 alone and/or together with relevant extrinsic material provides a sufficiently clear description of 'actively mobile landforms.'

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the SCP to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure in coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the SCP as it is currently worded, as it provides protection for actively mobile landforms that may have high conservation values. The impact of climate change makes it even more important to prohibit development on actively mobile landforms.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the State Policies and Projects Act that allows the amended policy to become an Interim State Policy and have effect while it is being reviewed by the TPC. The obvious weakness of this approach is that, if the TPC finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

The Position Paper has not demonstrated that the amended SCP 'should come into operation without delay' as required by the State Policies and Projects Act and therefore it is opposed.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. Section 15 of the State Policies and Projects Act allows for a review of state policies every five years.

The SCP has not been subject to a thorough review since its inception in 1996. The recently released State of the Environment Report recommends to 'Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment'.

This recommendation is supported but only if the TPCs intent in making the recommendation is followed and that a full review under the SPPA is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Peter McGlone
CEO, Tasmanian Conservation Trust

From: Janet Drummond <
Sent: Monday, 21 October 2024 4:30 PM
To: State Planning Office Your Say
Subject: Retain the prohibition on development in actively mobile landforms

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

The state government has issued a State Coastal Policy Position Paper that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

As outlined in the Position Paper, the State Government proposes to use section 12 of the State Policies and Projects Act 1993 that allows the amended policy to become an Interim State Policy and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the State Policies and Projects Act 1993 is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Janet Drummond
Kind regards,

Janet Drummond
LLB (Bachelor of Laws);
Ba Juris (Bachelor of Jurisprudence)

acknowledge the traditional custodians of the land on which I live and work, the Palawa people.

I pay my respects to Aboriginal and Torres Strait Islander elders, past, present and emerging, and acknowledge them as the First Peoples of Australia.

From: Tasman Peninsula Marine Protection
Sent: Monday, 21 October 2024 4:29 PM
To: State Planning Office Your Say
Subject: Retain the prohibition on development in actively mobile landforms



**Tasman Peninsula
Marine Protection**

ATAMP AF

Good Afternoon,

Our community group Tasman Peninsula Marine Protection has been active for several years in advocacy for the preservation of optimal environmental conditions for the ecosystems of the vast marine waters and coastal landscapes surrounding the Tasman and Forestier Peninsulas. Currently our regions waters are experiencing some of the highest ocean warming phenomena of anywhere on the planet. Threats continue to compound on many species of flora and fauna including the critically endangered Red Handfish.

Given the government's lack of response to the recently released State of the Environment Report and the evident disinterest by both major parties to acknowledge the findings we have no confidence in our government to initiate actions to address the declining health of our natural estate.

We can only conclude that the proposed changes to the State Coastal Policy have arisen for political reasons with no consideration of sound environmental management. The following statement, courtesy of Planning Matters Alliance Tasmania articulates perfectly our issues and concerns.

Scrap the proposed amendment

The state government has issued a State Coastal policy position paper that proposes to remove a key protection for actively mobile landforms such as frontal dunes. We do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The position paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The position paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice,

and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for windfarm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected.

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty.

As outlined in the position paper, the state government proposes to use section 12 of the State Policies and Projects Act 1993 that allows the amended policy to become an Interim State Policy and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy of in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state Government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy.

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment". This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the State Policies and Projects Act 1993 is undertaken (and not the 'fast-track' process through section 12).

Yours Sincerely

Terry Brumby
Tasman Peninsula Marine Protection

21 October 2024

STATE PLANNING OFFICE
DEPARTMENT OF PREMIER AND CABINET
EXECUTIVE BUILDING
LEVEL 7
15 MURRAY STREET
HOBART TAS 7000

To Whom it may concern

Re: [State Coastal Policy Position Paper](#)

**SUBMISSION - Proposed amendment to the STATE COASTAL POLICY 1996
- Development in actively mobile landforms**

Tasmanian Ratepayers' Association Inc. (TRA) considers that cultural heritage matters, and in this instance Aboriginal Cultural Heritage matters, are of fundamental importance to Tasmanians, that our coastlines matter to us all and our way of life.

We acknowledge and pay respect to the Tasmanian Aboriginal people as the traditional and original owners of the land on which we live and work. We acknowledge the Tasmanian Aboriginal community as the continuing custodians of lutruwita (Tasmania) and honour Aboriginal Elders past and present. lutruwita milaythina Pakana - Tasmania is Aboriginal land.

We unilaterally oppose the proposed changes to the State Coastal Policy due to the below issues and concerns, and call upon the government to scrap their proposed amendment:

The government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. TRA does not support this change and recommends this proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established.

The Position Paper does not provide in any way, a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. Regrettably, the state government

has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

TRA believes by proposing this amendment, the government just wants to make it easier to build windfarms on the coast

To us, it looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

TRA firmly believes that actively mobile landforms have high conservation values and must absolutely be protected.

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to fundamentally not make it easier for development to be built on actively mobile landforms such as sand dunes.

TRA opposes the principle for any fast track amendment process as this will create significant planning uncertainty.

As openly outlined in the Position Paper, the state government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, ridiculously, it will already be in force and therefor may continue to be for up to 12 months.

TRA has identified this is false alarm about the need to define 'actively mobile landforms'.

The State Government has created this false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and again, the government would and in fact should have already released it. There are many key terms related to natural values that are also not defined in policies or legislation.

TASMANIAN RATEPAYERS' ASSOCIATION INCORPORATED

P. O. Box 1035

LAUNCESTON TAS. 7250

Planning authorities and experts are quite capable and can work out definitions and how they are applied geographically when development assessments are made.

TRA notes that the State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy. It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that **a full review** under the *State Policies and Projects Act 1993* is undertaken (and not the seemingly sly 'fast-track' process through section 12).

Accordingly, and for the above reasons, we call upon parliament to stop this proposed amendment process and instead require that a comprehensive and long-overdue review of the Tasmanian Coastal Policy be instead progressed as a matter of urgent importance and be completed as soon as possible.

Yours faithfully,

A.J. Ascui

Public Officer

TASMANIAN RATEPAYERS' ASSOCIATION Inc.

From: joanna de burgh <
Sent: Monday, 21 October 2024 4:23 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

Dear Members of the Legislative Assembly, I am concerned that changes in legislation have been proposed which will decrease protection for actively mobile landforms such as dunes and salt marshes. It is at our peril that we interfere with such landforms, as stated in the very description. Way, way back, the advice was given: build upon a rock. Add sea level rise and we will lose the environmental services which such mobile landforms perform. There has been no active public education program regarding the proposed fast tracking changes, nor the perceived problems of the current legislation. I understand that there is an existing process under the State Policies and Projects Act 1993 to be followed.

I support a review: issues of climate change, increasing wind speeds, higher highs and lower lows in the atmospheric pressure, sea level rise - where are we up to?

The law exists for all of us, and as Australians, we love our coastlines and the beauty and recreational opportunities they provide.

Privatisation of coastlines has been a major threat in many parts of the world. Access to coast line is immensely valuable to the tourist industry as well as Tasmanians.

"Fast tracking" seems to me to value haste rather than thorough evaluation, leading to decisions which we may live to regret.

Hoping that my concerns will be understood,

Joanna de Burgh MBBS, beach baby and cold water immerser, actively caring for Country with various organisations.

From: Amanda S. <
Sent: Monday, 21 October 2024 4:16 PM
To: State Planning Office Your Say
Subject: 'Review of the State Coastal Policy – Actively Mobile Landforms Position Paper'

Submission to the Review

As a Tasmanian with a long association with my state's unique coastal areas and have experienced many of those areas both before and after various types of development, I have taken a great interest in the proposed changes to this policy.

The following is my submission regarding some of the changes.

1 - I do not support the change that proposes to remove a key part of the State Coastal Policy, section 1.4.2, and ask that the proposed amendment to the State Coastal Policy be abandoned.

2 - The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. If the government cannot explain the need for the change, then it should not make the change.

3 - There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values.

4 - I am concerned about the use of section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The difficulty is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

5 - The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment."

I support this recommendation provided that the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken.

With regards,
Amanda

From: Amanda Sully <>
Sent: Monday, 21 October 2024 4:07 PM
To: State Planning Office Your Say
Cc:
Subject: Coastal Policy submission: Retain Prohibition

Dear State Planning & MP's

This is a very rushed, anti-democratic and terrible new changes proposed for our coastal policy. They must be scrapped.

Please Retain the prohibition on development in actively mobile landforms.

Most Tasmanian's will have no idea of the far reaching and deleterious impacts from these changes to coastal planning.

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

I urge you to please retain the prohibition on coastal development in actively mobile landforms.

Let's keep our island green, clean and clever!

Yours sincerely
Amanda Sully

From: Gillian Vogel <>
Sent: Monday, 21 October 2024 4:02 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

Dear Reader,

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

In the instance it is appropriate to update the State Coastal Policy to reflect Tasmanian way of life this should also:

- provide for legislation that supports appropriate attention and protection to intrinsic and non-intrinsic Aboriginal heritage values (and cultural resources for First Nations) such as that of Politica (Robbins Island). This should include visual requirements for native vegetation as opposed to non-native and clearing limitations along coast lines.
- provide for sections of coast that should be protected as if they were wetlands / wildlife habitat strips if they provide for similar biodiversity corridors / scale of habitat for native wildlife.

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it

and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12).

Yours sincerely,

Gillian Vogel

From: Audrey Critchlow <a>
Sent: Monday, 21 October 2024 3:58 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Tasmanians (both indigenous and non-indigenous) have an enduring connection with the coasts surrounding the island of Tasmania. It is the responsibility of each successive State Government to protect the coastal areas of Tasmania on behalf of all Australians through a robust State Coastal Policy. I do not support the proposed amendment to the State Coastal Policy because there are no valid reasons for the proposed amendment.

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define ‘actively mobile landforms’

The State Government has created false alarm about the absence of a definition of an ‘actively mobile landform’, in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government’s lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12).

Yours sincerely,

Audrey Critchlow

From: Stephanie Gleeson <>
Sent: Monday, 21 October 2024 3:58 PM
To: State Planning Office Your Say
Cc:
Subject: Mobile landforms need protection, please retain the prohibition

Thank you for the opportunity to comment on the proposed changes to the State Coastal Policy. As a concerned member of the public, I oppose the proposed changes to the State Coastal Policy for the following reasons: The State Coastal Policy has not been reviewed since its inception in 1996. In the wake of serious threats to our coasts, such as from climate change, the government needs to review Tasmania's planning laws and policies to ensure they reflect community expectations and can be adapted to changing circumstances. The long awaited and recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." I support this recommendation if it is conducted in good faith regarding the Tasmanian Planning Commission's intent, and if a full review under the State Policies and Projects Act 1993 is undertaken. A thorough review is required due to the age of the legislation and Tasmania's changing environment, but also for the reason that the Position Paper does not provide a convincing explanation for why the State Coastal Policy amendment is needed and the problem the amendment is supposed to rectify.

The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy, but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, if it has even obtained any. In the interests of healthy democracy and good governance, if the government cannot adequately explain the need for the

change, then it should not be made. Rather, it appears that the state government has invented a problem with the State Coastal Policy to remove potential legal obstacles for industrial wind farm developments in sensitive coastal areas. While appropriate wind farm development is welcome, such heavy industry has no place in our coastal areas at the expense of Aboriginal culture, fauna, flora and human enjoyment. It also gives the impression that government does not believe in such windfarm projects on their own merits, but has to use undemocratic, fast-tracking legislation to force industrial developments on an unwilling public.

In addition, as outlined in the Position Paper, the State Government proposes to use section 12 of the State Policies and Projects Act 1993 to allow the amended policy to become an Interim State Policy, and to take effect while the Tasmanian Planning Commission is still reviewing it. The weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to a year. By contrast, there is good reason to keep clause 1.4.2 of the State Coastal Policy which provides protection for actively mobile landforms that are likely to have significant cultural and natural values. Removing section 1.4.2 of the State Coastal Policy would destroy a key protection for actively mobile landforms such as frontal sand dunes. The impacts of climate change make it vital that developments on such actively mobile landforms are not made *easier*. I do not support the government's proposed changes to Tasmania's State Coastal Policy or any fast-tracking legislation, and respectfully request that the government's proposed amendments be abandoned. The state government has a responsibility to strengthen environmental protections for our beautifully unique coastal areas for the benefit of all Tasmanians, not weaken existing safeguards.

Yours faithfully,

Stephanie Gleeson

From: Trudi Disney <>
Sent: Monday, 21 October 2024 3:45 PM
To: State Planning Office Your Say
Subject:

I am emailing to express my concerns about proposed changes to the State Coastal Policy.

My understanding is that it will weaken protections for mobile landforms, such as frontal dunes, which often have high conservation and natural values.

The reasons for changing this in section 1.4.2 are not convincing. The problems with current application have not been elaborated, and if there has been legal advice concerning problems with definitions etc, these have not been released. The policy has operated for many years without a definition.

The intent of these changes seems to be to facilitate developments in coastal areas. I am concerned that it is proposed to allow the changes to be incorporated into an interim policy. Obviously this means that some developments could be approved under the interim policy that would not be under the final policy.

I urge the State Government to reconsider these proposed changes, and to wait for the full Tasmanian Planning Commission review process to proceed.

yours sincerely

Trudi Disney

From: Beverly Richardson >
Sent: Monday, 21 October 2024 3:52 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition in actively mobile landforms

This is an important issue for all Tasmanians.

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Yours sincerely
Beverley Richardson

From: Axel von Krusenstierna
Sent: Monday, 21 October 2024 3:41 PM
To: State Planning Office Your Say
Cc:
Subject: Review of the State Coastal Policy - Development on Actively Mobile Landforms
Attachments: SharplesOpinion_CoastalDuneTerminology_PolicyImplications_v3_May2012.pdf

Having read the Position Paper - review of the State Coastal Policy - Development on Actively Mobile Landforms it seems obvious that the main issue is that the SCP does not include a definition of “actively mobile landforms”. The amendment to Outcome 1.4.2 of the SPC proposed in section 6.5 of the Position Paper does not address this and is unlikely to solve the issues identified in the Position Paper.

I believe that the issues raised in the position paper and in the linked article by Chris Sharples (May 2012, attached) can be best addressed by including a usable definition of “actively mobile landforms” in the SCP. With the addition of a definition no change to the SCP itself is required, apart from changing the reference to “frontal dunes” in Outcome 1.4.2 to “foredunes” to reflect current geomorphic terminology (see attached article by Chris Sharples). To be usable the definition of “actively mobile landforms” needs to include:

- The geomorphic meaning of “mobile landforms”
- A timeframe for the term “active” which is relative to the design life of the development e.g. a development that will only be in place for months may not be affected by coastal processes that would affect a development with a 50 year design life.
- Consideration of relative risk, e.g. some developments such as signs and board walks that may be damaged by being located on actively mobile landforms for the benefit of the community can be easily replaced or repaired.

Here is a proposed draft definition of “actively mobile landforms” for consideration which should address the issues raised in the Position Paper and in the article by Chris Sharples:

Actively Mobile Landform

A landform subject to the processes of erosion and/or accretion – where both or either process is likely to amount to changes of landform shape or morphology - that would:

- 1. adversely affect a development within its design life such that remedial or protective works would be required; and/or*
- 2. the development and/or any remedial or protective works would have an adverse impact on cultural values, natural processes or natural values.*

A usable definition of “actively mobile landforms” avoids the problem of mapping them in detail noted in section 4.3 of the position paper. However, it should be relatively easy to produce a planning scheme overlay showing “potential actively mobile coastal landforms” to trigger assessment of whether there are actively mobile landforms present that may affect, or be affected by, a proposed development.

Regards

Axel von Krusenstierna

The problem of the use of ambiguous terms in Tasmanian coastal planning policy documents for defining appropriate coastal development zones

Chris Sharples, May 2012

Introduction

Coastal planning and policy in Tasmania has been hindered by a use of ambiguous and undefined terminology in relevant coastal planning policy documents, notably the Tasmanian Coastal Policy (1996) and in some Local Government Planning schemes. The use of such terminology to define appropriate and inappropriate areas for coastal development has previously and will continue to result in vexatious planning disputes and poor coastal planning outcomes until it is corrected. This document identifies several of these deficiencies.

Contemporary Coastal Dune Terminology

One of the few sources of guidance to appropriate coastal development zones in current Tasmanian coastal planning policy documents (particularly the Tasmanian Coastal Policy 1996 and various Local Government Planning schemes) is to specify 'frontal dunes' or 'primary dunes' as places where coastal development should be restricted. However these are ambiguous terms which are not defined in the relevant policy documents, and moreover are essentially colloquial terms that are rarely used in the current scientific and professional literature on coastal landforms.

Shore-parallel sand dunes backing sandy beaches, and formed by accumulation of sand blown off beaches by onshore winds, are a common feature backing most Australian beaches. These features are normally referred to in the contemporary coastal geomorphic literature as 'foredunes', and have widely accepted characteristics and an accepted definition which are summarised in a review paper by the internationally recognised coastal dune authority Patrick Hesp (Hesp 2002).

Two main types of foredunes are widely recognised, namely "established foredunes" and "incipient foredunes", and are described below in accordance with Hesp (2002) and other contemporary coastal geomorphic texts. See Figure 1.

Established foredunes vary in size but may reach tens of metres in height and width, and typically extend parallel to the back of most of a beach. They form by accumulation of sand blown landwards from the beach and trapped by backshore vegetation above the limit of all but the largest storms. These dunes may take decades to centuries to form. Because the position at which they can form is determined by the landwards reach of the largest storms, the dune front will occasionally be reached and eroded by storm waves during infrequent large storms. Any infrastructure placed too far forward on the dune may be damaged or destroyed by such events. If average sea-level is stable, the erosion scarp will eventually be repaired by sand blown back onto the dune front from the beach in-between major storms (see Figure 1). However note that if sea level is rising, successive large storms may erode the dune further back than it has been previously eroded and may ultimately destroy the entire foredune. A new foredune may subsequently form further to landwards if sea-level later stabilises again at a higher level.

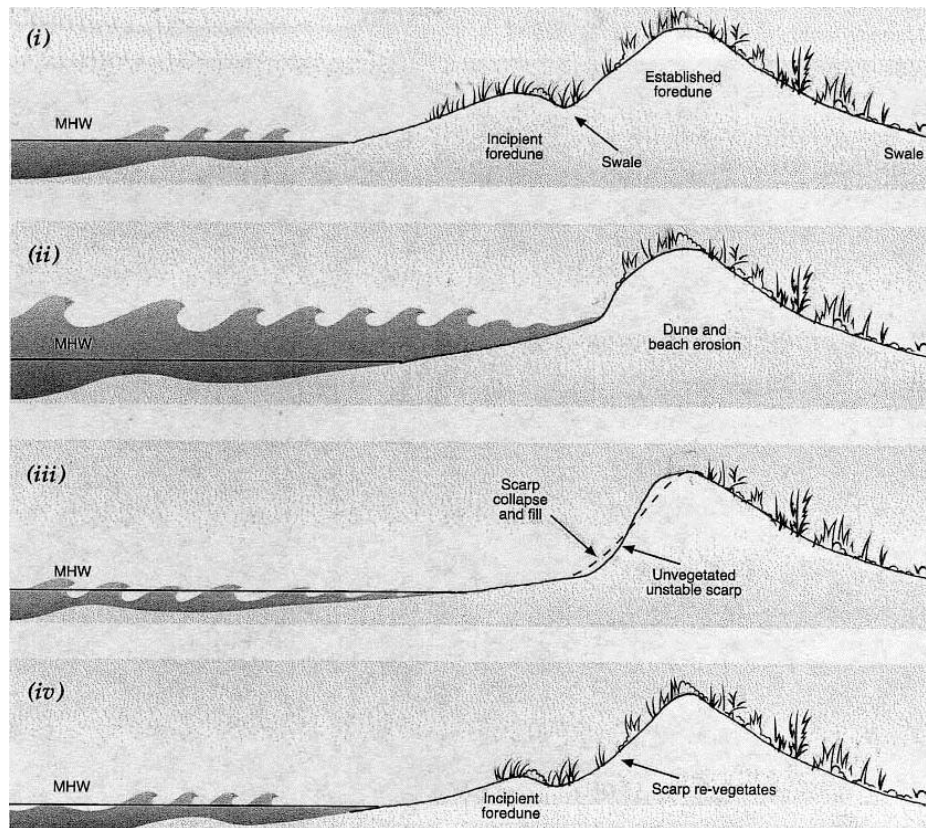


Figure 1: Incipient and established foredunes, illustrating the cyclic coastal processes which give rise to these two varieties of foredune. Reproduced from Hesp (2000).

An incipient dune is an ephemeral feature which accumulates seawards of the main established foredune during intervals between large storms when the upper beach is above the limit of normal wave action so that vegetation can begin to establish and a foredune can begin to accumulate from sand blown off the beach by onshore winds. However, because incipient foredunes occur within the range of large infrequent storm waves, they will occasionally (perhaps every decade or several decades) be destroyed by large storms whose waves reach the established foredune. However, in cases where average sea level is dropping, or where there is an excess supply of sand to the beach from some other source, the beach itself may accrete or 'prograde' seawards and the incipient dune may continue to accumulate into a fully-fledged established foredune. In this case the former established foredune becomes a 'hind dune' with a new established foredune in front of it, and a new incipient foredune may begin to form seawards of the original one which has become an established foredune.

A range of other dune types may also occur behind beaches. These are usually found landwards of the established foredune and represent either earlier phases of coastal landform development (e.g., parallel dunes representing older foredunes that have become hind dunes, or beach ridges) or dunes formed of sand blown landwards from eroding foredunes (e.g., blowouts, transgressive and parabolic dunes). A range of widely accepted terms for such dunes is also available in the contemporary coastal geomorphic literature (including Hesp 2002).

In contrast to the terms described above, terms such as 'Primary Dune', 'Secondary Dune' or 'Frontal Dune' are older terms for which no widely agreed definition was ever achieved in the coastal literature, and the usage of which (largely as a result of this) has generally been replaced in the

contemporary coastal geomorphic literature by the term 'foredune'. These older terms were generally used in a broadly equivalent way to 'foredune' but due to the lack of clear definition were frequently used in ambiguous and contradictory ways to refer variously to features that are more correctly described as 'established foredunes', 'incipient foredunes', or sometimes to other types of dune. Because of this ambiguity these terms are now rarely used by contemporary coastal scientists.

Another ambiguous term also used in Tasmanian coastal policy documents (including the Tasmanian State Coastal Policy and the Tasmanian Shack Sites Act) is the term 'actively mobile landforms'. Whilst the coastal policy cites the equally ambiguous term 'frontal dune' as an example of such a landform, 'mobile landforms' might also arguably refer to beaches, transgressive dunes, and eroding or slumping shorelines of any sort. However as discussed further below there are significant problems in trying to determine what is or is not an 'actively mobile landform' in the sense of the Tasmanian State Coastal Policy.

Further discussion of all these ambiguities is provided below.

"Frontal Dunes"

The currently in-force Tasmanian State Coastal Policy (1996) refers to 'actively mobile landforms such as frontal dunes' (clause 1.4.2) as locations where development will generally not be permitted, however the policy provides no definition of the term 'frontal dune'. The same term is also used in some other policy documents which refer to the Coastal Policy. As Hesp (2002) notes, the term 'frontal dune' is sometimes used as a loose equivalent to 'foredune', but it is important to note that the term does not specifically refer to either incipient or established foredunes and could apply to either. In principle it seems logical to assume that the term 'frontal dune' would refer to the most seawards dune on a shore, but due to the dynamic nature of sandy coasts this in itself is an ambiguous definition as shown below.

The ambiguity is regularly exploited by developers wishing to build on an established foredune since they can assert that the small incipient foredune in front of the established foredune is the 'frontal dune', making the established foredune a 'back dune' or 'hind dune' and therefore putatively not subject to the State Coastal Policy clause (1.4.2). However in cases where an incipient foredune is not present (typically as a result of recent storm waves having removed it or prevented one from forming), then the established foredune is in that case arguably the 'frontal dune' since it is the most seawards dune present. The difficulty with this ambiguous term becomes most apparent in considering the dynamic nature of sandy shores, as illustrated in Figure 1 above. On the day preceding a large storm, an incipient dune backing a given beach might arguably be the 'frontal dune'. However if the storm then completely destroys the incipient foredune (as may occur), then on the day following the storm the remaining established foredune would have arguably become the 'frontal dune'. However if no further large storms occur for several years then a new incipient dune will eventually form and will again become the 'frontal dune'.

For these reasons, the undefined term 'frontal dune' is in my view too ambiguous and in fact unstable in meaning to serve as a useful criterion for identifying locations where coastal development should or should not be permitted.

“Primary” and “Secondary” Dunes

Many Tasmanian policy documents refer to ‘primary’ and ‘secondary’ dunes. As an example, the Circular Head Planning Scheme Clause (6.5.1) states that “any development on a primary sand dune shall be prohibited, and any development on a secondary or back sand dune shall only be granted a permit at the discretion of Council...”. However the scheme provides no definition of these terms (e.g., in Part 13: “Definitions”).

Although the terms ‘primary dune’ and ‘secondary dune’ can be found in some older coastal literature (see further below), they are rarely used in recent coastal geomorphic textbooks. Considering the major recent Australian texts (which are consistent with international literature), Eric Bird’s ‘Coastal Geomorphology – An Introduction’ (Bird 2000) uses the term ‘foredune’ but does not refer to primary or secondary dunes. The same is true for Colin Woodroffe’s major text ‘Coasts – Form, Process and Evolution’ (Woodroffe 2003). Similarly Short & Woodroffe’s recent textbook ‘The Coast of Australia’ (Short & Woodroffe 2009) distinguishes between and describes ‘incipient foredunes’, ‘established foredunes’ and ‘hind dunes’ (as older foredunes landwards of a current established foredune on an accreted shoreline), but does not use the terms ‘primary dune’ or ‘secondary dune’. Finally, the standard reference work on practical coastal management works in Tasmania, the ‘Tasmanian Coastal Works Manual’ (Page & Thorp 2010) published in December 2010 by the Department of Primary Industries, Parks, Water and Environment, uses the terms ‘foredune’, ‘established foredune’, ‘incipient foredune’ and ‘hind-dune’ to refer to coastal dunes (e.g., Section 6.2 Coastal Dune Systems), but does not use the terms ‘primary’ or ‘secondary’ dunes (except that the term ‘secondary dune’ appears in a figure reproduced from an older text on vegetation).

In contrast, the terms ‘primary’ and ‘secondary’ dune occur mainly in older and/or non-geomorphic literature and have no generally agreed definition:

In one of the few clear definitions in the older scientific coastal geomorphic literature, Davies¹ (1980, p.157; see also Tinley 1985) defined ‘Primary Dunes’ to be dunes accumulated directly from sand blown landwards from a beach, and ‘Secondary Dunes’ to be dunes formed of sand derived from subsequent erosion of a primary dune. Under this definition Davies cited ‘frontal dunes’ parallel to the rear of the beach as an example of ‘primary dunes’, and his definition of a primary dune would clearly include incipient foredunes, established foredunes, and also older hind dunes which were once foredunes and have not yet been reworked by further erosion. Under Davies definition ‘secondary dunes’ include blowouts, parabolic and transgressive dunes formed of sand blown further landwards from an eroding primary dune. This distinction between primary and secondary dunes has been used in Tasmania, for example in a public service context by Pemberton (1994) who described foredunes at Clifton Beach as ‘primary dunes’ and transgressive dunes inland of the foredunes as ‘secondary dunes’ in accordance with Davies definition.

However Davies (1980) early distinction between primary and secondary dunes was not consistently adopted and other usages inconsistent with his are common. One such usage which is found quite frequently on a range of coast-related websites and in some consultant reports is the notion that the incipient foredune is the “Primary Dune” and the established foredune is the “Secondary Dune”.

¹ Jack Davies was a former Professor of Geography at the University of Tasmania in the 1960s who wrote several texts on coastal geomorphology and is recognised internationally as a major early coastal landform researcher.

Examples of this usage can be found on The Smithsonian Marine Station at Fort Pierce 'Dune Habitats' web page (<http://www.sms.si.edu/irlspec/dunes.htm>) and the Capricorn Coast Flora 'Foreshore dunes' web-page (<http://www.mycapricorncoast.com/plants/foreshore1.html>) amongst many others. However it is notable that in these and many other cases there is no reference cited as an authority for the meaning of the terms 'primary dune' and 'secondary dune' that is used; moreover these terms are commonly used in association with descriptions of coastal flora and appear to be more a result of botanists trying to describe coastal vegetation succession sequences in terms of primary, secondary and tertiary species than an effort to accurately define coastal landform types (e.g., see Page & Thorp 2010, section 7.3.3). This usage is inconsistent with the better-defined geomorphic usage of Davies (1980) since the established foredune is also a dune formed of sand blown from a beach and would thus be a 'primary dune' according to Davies but is a 'secondary dune' according to some other (unreferenced) usages such as those websites noted above.

In summary, at least two inconsistent uses of these terms exist and have been widely used, albeit it is noticeable that many usages of the terms do not cite a source or reference for the meaning they adopt. Since such unreferenced usages are not supported or defined in contemporary coastal geomorphic texts, they can only be regarded as colloquial terms that are of little value in defining particular types of features for policy, planning and legal purposes.

Other Dune Types

At many Tasmanian beaches, of which a good example is Clifton Beach in southeast Tasmania, many of the dunes on which housing and other development currently exists or is proposed are partly or wholly blown-out (wind-eroded) foredunes which in some cases might still be correctly described as 'blown-out foredunes' but in many cases are more properly described as 're-vegetated transgressive dunes' that are neither primary dunes, frontal dunes nor foredunes under any definition of those terms (Hesp (2002) also provides a useful scientific discussion of some of these additional dune types). These are nonetheless formerly eroded and mobile dunes with a significant risk of renewed erosion and mobility and thus arguably are unsuited for development. Not only does the terminology used in existing planning policy instruments fail to identify these dunes as potentially hazardous for development, but in fact they do not properly fit into any of the dune types specified (albeit ambiguously) in those documents. Thus the policy instruments are wholly inadequate to define appropriate and inappropriate areas for coastal development at places such as Clifton Beach.

"Actively Mobile" Dunes

The currently in-force Tasmanian State Coastal Policy (1996) refers to 'actively mobile landforms such as frontal dunes' (clause 1.4.2) as locations where development will generally not be permitted, however the policy provides no definition of the term 'actively mobile landform' other than to cite the equally ambiguous undefined term 'frontal dune' as an example of such a thing.

Given the lack of definition, it is not possible to be certain what the authors of the coastal policy intended; however it seems likely that the term 'actively mobile landform' is intended to refer to a landform which is actively moving in whole or in part. Movement of a coastal landform will generally involve the processes of erosion and/or accretion – which both amount to changes of landform shape or morphology – since there are few other natural processes by which a coastal landform might be said to 'move' (albeit some movement due to subsidence or tectonics may occur

in some cases, however these will be much rarer (in Australia at least) than normal sources of wind and wave erosion).

Granted this, the problem is that if an 'actively mobile landform' is one which is changing shape through processes of erosion or accretion, then *all* landforms are arguably 'mobile' because they will all erode or accrete and thereby change shape to some noticeable extent over some time frame (which may be of the order of centuries to millennia for some hard rock features, or as little as seconds to minutes in the case of some soft sand landforms exposed to wind or waves).

The problem of defining an 'actively mobile landform' in a planning or policy context is therefore one of defining what amount of movement (or shape change) over what duration or time frame is required. The coastal policy gives no guidance or definition on this matter at all. I have previously argued (in tribunal hearings involving proponents who wished to build or use dunes which are arguably 'actively mobile') that the relevant degree and timing of 'active mobility' should be a degree of movement (shape change by erosion and or accretion) sufficient to create a significant hazard for buildings or other relevant uses within a normal planning time frame of 50 or 100 years. Defined in this way an established foredune would be an 'actively mobile landform' since it is highly likely to be subject to one or more episodes of storm wave erosion in such a period, as well as a high likelihood of significant blowout erosion. However this was not a definition the proponents preferred, and they hired their own advocates to argue that the landform must be visibly moving (changing shape) on timeframes of minutes to days in order for it to be classified as 'actively mobile'.

Although it seems clear to me that the latter definition was not the intent of the coastal policy, I could not demonstrate this intent because the policy provided no clear definition. Hence the term remains an ambiguous one whose continued undefined use will continue to result in arguably inappropriate planning outcomes.

Conclusion

It is implicit – and in some cases explicitly stated in the relevant policy documents – that the purpose of restricting development on 'frontal' or 'primary' dunes, or on 'actively mobile landforms', is one or more of the following:

- Access: to allow public access to and use of the coastal strip, especially beaches;
- Conservation: to maintain coastal scenic amenity, to allow natural coastal processes to operate and to conserve habitat for coastal species;
- Hazards: to avoid development in coastal areas subject to hazards such as erosion, dune mobility, flooding and slumping that may result from coastal storm surges, wave erosion, human interference or other causes.

The third purpose is of particular relevance to present and future coastal development in view of the fact that ongoing sea-level rise is expected to cause progressively more erosion and flooding to greater distances inland than has occurred in the past.

The use of the terms 'frontal dune', 'primary dune' or 'actively mobile landform' to identify coastal areas on which development should be restricted for any of the above reasons is inadequate for two reasons, namely:

1. These terms are subject to multiple interpretations amongst which a 'correct' usage cannot be identified due to a lack of any clear unambiguous definition in the policy documents in which they are used, or elsewhere; and because:
2. The landforms to which the terms may putatively refer to do not in any case provide a useful delineation of the full extent of coastal areas which might be best reserved for public access, amenity or conservation purposes, nor do they usefully delineate the full extent of coastal areas that may be subject to flooding, erosion, dune mobility or other hazards.

In my view, for the reasons discussed above, the use of the terms 'primary dune', 'secondary dune', 'frontal dune' and 'actively mobile landform' in Tasmanian coastal planning policy documents is fundamentally flawed. Moreover the ambiguity of these terms is such that I consider it is not possible to provide an unambiguous determination of whether a proposed development is or is not located on a landform referred to by any of these terms. Although such determinations have been made in the past, I believe the basis on which they were made to be flawed, and I consider that it would be incorrect to make any further such determinations. I consider that Tasmania's present coastal planning system is fundamentally flawed for reasons including those discussed above, and urgently requires revision and improvement to provide an unambiguous basis for making coastal planning decisions based on a proper assessment of actual risks and values rather than on arguable determinations based on ambiguous and largely irrelevant terminology.

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From: Gwen Egg <>
Sent: Monday, 21 October 2024 3:35 PM
To: State Planning Office Your Say
Cc: C
Subject: Maintain the integrity of the Tasmanian State Coastal Policy

Dear Members of Parliament

I wish to register my concern regarding proposed legislation which will significantly weaken the Tasmanian State Coastal Policy which has been effective in protecting the priceless natural asset that is our Tasmanian coastline and coastal environment for nearly 30 years.

Since 1991, I have worked with my community and State and Local Government to protect and restore coastal and marine environments in South East Tasmania. I oppose the proposed changes to the State Coastal Policy due to the following concerns:

I do not support the proposal to amend the State Coastal Policy as per the State Coastal Policy Position Paper as it proposes removal of a key part of the State Coastal Policy, section 1.4.2, which would remove important protection for actively mobile landforms such as frontal dunes. This change would be foolish and reckless. Our coasts bear the brunt of climate change and rising sea levels leading to increased erosion, more severe weather events, multiple threats to fauna and flora already under pressure from climate change and coastal development and threatens coastal communities like mine.

Tasmania's Local Hero Award recipient

~~The Position Paper does not provide a convincing~~
The Position Paper does not provide a convincing explanation as to why the amendment is being proposed. The claim that there are problems with application of section 1.4.2 of the State Coastal Policy is not substantiated and there is no reference in it to any legal advice in support of this claim. The state government has refused to release any legal advice, and it seems unlikely that it has obtained such advice. It appears that the state government has fabricated a problem with the State Coastal Policy to disguise its true interest.

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes. Actively mobile landforms have high conservation values and must be protected.

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months. Fast track amendment process will create planning uncertainty.

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation. The policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts research definitions and how they are applied geographically when development assessments are made.

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely

Gwen Egg

Tasmania's Local Hero Award recipient

2013 Australian of the Year Awards for Tasmania Southern Beaches



Environmental
Defenders Office

**Submission in response to the Review of the State
Coastal Policy – Development of Actively Mobile
Landforms Position Paper (lutruwita/Tasmania)**

21 October 2024

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Submitted to:

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

By email only: yoursay.planning@dpac.tas.gov.au

For further information on this submission, please contact:

Claire Bookless
Managing Lawyer – lutruwita/Tasmania
T: (
E:

Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A Note on Language

We acknowledge that there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the terms First Nations when discussing matters generally, and Tasmanian Aboriginal when discussing lutruwita/Tasmania specifically. We acknowledge that not all First Nations or Tasmanian Aboriginal people will identify with those terms and that they may instead identify using other terms or with their immediate community or language group.

First Laws is used to describe the laws which exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises that there are many different terms used throughout First Nations for what is understood in the Western world as 'First Laws'.

EDO's role

EDO is a non-Indigenous community legal centre, which works alongside First Nations around Australia and the Torres Strait Islands in their efforts to protect their Countries and Cultures from damage and destruction. EDO has and continues to work with First Nations clients who have interacted with Western laws, including Western cultural heritage laws in many ways, including litigation and engaging in Western law reform processes. In respect for First Nations self-determination, EDO has provided high level key recommendations for Western law reform to empower First Nations to protect their Countries and Cultures. The high-level recommendations in this submission comply with Australia's obligations under international law and provide respectful and effective protection of First Nations' Countries and Cultures.

Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to provide the following submission in response to the *Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper* (**Position Paper**). In preparing this submission, EDO has also had regard to the Validation (State Coastal Policy) Bill 2024 (the **Bill**) which is presently before the Tasmanian Parliament, and the Department of Premier and Cabinet (**DPAC**) webpage which provides a short overview of the Bill.

In providing policy principles and outcomes for the management of State waters and all land to a distance of one kilometre inland from the high-water mark, the State Coastal Policy 1996 (**SCP**) is an important component of lutruwita/Tasmania's Resource Management and Planning System (**RMPS**).

Relevantly, the SCP provides for the following three key Principles:

1. Natural and cultural values of the coast shall be protected.
2. The coast shall be used and developed in a sustainable manner.
3. Integrated management and protection of the coastal zone is a shared responsibility.

The SCP also provides for certain outcomes to be achieved under each of these Principles. Under the Overarching Outcome "Protection of Natural and Cultural Values of the Coastal Zone", the SCP provides:

1.4. COASTAL HAZARDS

1.4.1. Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

1.4.2. Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.

1.4.3. Policies will be developed to respond to the potential effects of climate change (including sea-level rise) on use and development in the coastal zone.

The Tasmanian Government proposes to amend or replace Outcome 1.4.2 in the SCP due to recent appeals before the Tasmanian Civil and Administrative Tribunal (**TASCAT**) and "concerns that a number of developments on the coast, approved over many years, may not have been subject to the appropriate level of scrutiny under the SCP and as a consequence could be vulnerable to legal challenge."¹ The Position Paper further claims Outcome 1.4.2 should be

¹ Position Paper, p7.

reviewed to allow “more contemporary planning controls” found in the Tasmanian Planning Scheme and Tasmanian Planning Policies (TPPs) “to be fully used”.

EDO recognises that the practical implementation of the SCP has not been without issue. For example, previous judicial criticism of the drafting of the SCP resulted in the need for the *State Coastal Policy Validation Act 2003*.² Appeals currently before the Tasmanian Supreme Court relating to ACEN’s proposed large-scale private jetty on a sensitive coastal dune for its Robbins Island Windfarm, including one lodged by the Tasmanian Environment Protection Authority, have prompted the Tasmanian Government to seek further retrospective amendments to “clarify” the previous understanding of how Outcome 1.4.2 of the SCP applied to developments.

EDO has previously highlighted the need for greater clarity and direction in State Policies and in the outcomes they contain, to prevent these types of issues from arising.³ However, we maintain that piecemeal amendments to the SCP, as outlined and proposed in the Position Paper and under the Bill, are unlikely to provide the certainty and clarity the Tasmanian Government appears to be seeking. Indeed, the previous amendments to Outcome 1.4.2 of the SCP in 2009 (which overturned a previous complete ban on development on actively mobile landforms) are now the subject of apparent contention and are the focus of the Position Paper and the Bill.

The most recent State of the Environment Report found lutruwita/Tasmania’s coastlines are already suffering the effects of sea-level rise due to global heating. It concluded that “in coming decades, storm tide events are likely to occur more often, and more susceptible coastal areas will be subject to more frequent flooding and erosion. These impacts have serious implications for built infrastructure and natural ecosystems and habitats.” In response to these threats, the report recommended the Tasmanian Government undertake a comprehensive review of Tasmanian coastal policy “in response to the pressures and threats to natural and built coastal environments, including the impacts of climate change, development, recreational activity and other activities on important coastal environments and habitats, as well as matters of habitat protection and restoration, and other options available to manage coastal environmental impacts”.⁴ We anticipate that lutruwita/Tasmania’s Statewide Climate Change Risk Assessment, which is scheduled for publication in November 2024, will further emphasise the necessity for strong action in response to climate change.

Given the real and looming impacts of sea-level rise, coastal inundation and flooding arising from climate change,⁵ EDO rejects any suggestion that the SCP should be amended in a

² See *Richard G. Bejah Insurance & Financial Services Pty Ltd v Manning & Ors* [2002] TASSC 35, *Cameron & Anor v Resource Planning and Development Commission* [2006] TASSC 66. See also Blow CJ’s comments in *St. Helen’s Landcare and Coastcare Group Inc v Break O’Day Council & Anor* [2007] TASSC 15.

³ It was discussed in EDO’s 2010 [Submission in response to the Review of the Draft State Coastal Policy 2008](#), and repeated in EDO’s [Submission response to the Draft Validation \(State Coastal Policy\) Bill 2024](#).

⁴ Tasmanian Planning Commission (2024), [Tasmanian 2024 State of the Environment Report](#), Vol 1 at p 34, Recommendation 6.

⁵ IPCC, 2023: Summary for Policymakers. In: *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001

piecemeal fashion to weaken the level of protection of lutruwita/Tasmania's vulnerable coastlines and communities, as is proposed in the Position Paper. Rather, what lutruwita/Tasmania actually requires is a much stronger SCP that identifies objectives to protect and conserve our coasts and clear, enforceable strategies to achieve these objectives. Unfortunately, the Position Paper foreshadows changes that in no way seek to clarify or strengthen the SCP, and for this reason, **EDO does not support the proposed amendments to the SCP outcome 1.4.2.**

EDO also strongly opposes the apparent intention to introduce amendments to Outcome 1.4.2 of the SCP as an Interim State Policy. This is because any amendment is liable to create more ambiguity and uncertainty than the current Outcome 1.4.2, and this uncertainty could give rise to cascading adverse consequences for planning across lutruwita/Tasmania's coastlines.

EDO's submission is structured as follows:

- 1. Response to issues raised in Position Paper**
 - a. Outcome 1.4.2**
 - b. Intent of Outcome 1.4.2**
 - c. Actively Mobile Landforms**
 - d. Recent changes to tools for identifying and managing coastal processes and hazards**
- 2. Response to proposed amendments to update the controls on actively mobile landforms**
 - a. Coastal development generally**
 - b. Updating Outcomes on coastal hazards to align better with other outcomes**
 - c. A risk-based assessment for coastal development in areas of hazard**
 - d. Considering 'need' and 'benefit' of use and development**
- 3. Comments on proposed amendments to State Coastal Policy**
- 4. Process going forward**

We provide a summary of our recommendations below.

Summary of Recommendations

Recommendation 1: Any amendments to Outcome 1.4.2 of the SCP should not proceed until the Supreme Court has ruled on the Robbins Island Windfarm appeals.

Recommendation 2: Any amendment to Outcome 1.4.2 of the SCP should be consistent with the overarching outcome of 'Protection of Natural and Cultural Values of the Coastal Zone' and the SCP Principle that 'Natural and cultural values of the coast shall be protected.'

Recommendation 3: The Tasmanian Government should seek advice from geomorphological, climate and legal experts in developing any definition or clarity to the phrase 'actively mobile landforms'. Any proposed definition should be subject to further public consultation before it is adopted.

Recommendation 4: Existing limitations on developments on actively mobile landforms should remain in the SCP or be strengthened.

Recommendation 5: Without clearly articulated outcomes directed at protecting natural and cultural values of actively mobile landforms, risk-based assessments are an insufficient replacement for Outcome 1.4.2.

Recommendation 6: The proposed amendment to the SCP to replace Outcome 1.4.2 should not proceed as it is not required, fails to protect the natural and cultural values of the coast, is uncertain and ambiguous, and introduces irrelevant considerations.

Recommendation 7: Amendments to Outcome 1.4.2 or the definition of ‘actively mobile landform’ in the SCP should not be given effect as Interim State Policy.

1. Response to issues raised in Position Paper

(a) Outcome 1.4.2

Part 4.1 of the Position Paper states: “The effect of Outcome 1.4.2 is that it is a self-executing prohibition of development on ‘actively mobile landforms’ except for works involving the protection of land, property or human life.” It goes on to state: “This effectively means that the application of Outcome 1.4.2, consistent with these definitions, would result in any subdivision, structure, pathway, fence, jetty, sign or lopping of trees on an ‘actively mobile landform’ to be contrary to the SCP. Furthermore, and paradoxically, the removal of buildings, structures or works to seemingly comply with the Outcome is also considered development and therefore inconsistent with SCP.”

EDO would argue another more preferable interpretation of Outcome 1.4.2 is that only works directed at *managing* “an area subject to significant risk from natural coastal processes and hazards” to “minimise the need for engineering or remediation works to protect land, property and human life” are allowed on actively mobile landforms. If such an interpretation is taken, then works like boardwalks, signage, even jetties or the removal of buildings or structures *could* be allowed on actively mobile landforms subject to an assessment of the purpose and effect of those works.

EDO’s preferred interpretation is consistent with the 19 January 2009 advice provided to the then-Resource Planning and Development Commission (**RPDC**) concerning the amendments which introduced the words “except for works consistent with Outcome 1.4.1” to Outcome 1.4.2. That advice has been extracted below:⁶

⁶ Resource Planning and Development Commission (2009) *Proposed Amendment to the State Coastal Policy 1996, Report to the Resource Planning and Development Commission, Meeting Date 19 January 2009, File No SPOL Pol Rev Coastal*, Accessed at:

Proposed amendment

The proposed amendment relates to Outcomes 1.4.1 and 1.4.2 of the State Coastal Policy to correct an inconsistency between the outcomes. The outcomes currently read as follows:

Outcome 1.4.1:

Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

Outcome 1.4.2:

Development on actively mobile landforms such as frontal dunes will not be permitted.

The inconsistency is that Outcome 1.4.2 does not permit works required under the management component of 1.4.1.

It is proposed to amend Outcome 1.4.2 to read:

Development on actively mobile landforms such as frontal dunes will not be permitted **except for works consistent with Outcome 1.4.1.** [Bold type added to show proposed amendment]

(Bold font in original, underlined font EDO's for emphasis).

It is also consistent with the 12 January 2009 Acting Premier's direction to the RPDC concerning the proposed minor amendment (see **Annexure 1**).

The apparent multiple competing interpretations of Outcome 1.4.2 underscore the need for the Tasmanian Government to allow the Tasmanian Supreme Court to rule on the current appeal by the Tasmanian EPA against the approval granted to ACEN's Robbins Island Windfarm. This will allow everyone, including governments, councils, developers, and most importantly, the Tasmanian community to properly understand the legal effect of the outcome before any steps are taken to change it.

Recommendation 1: Any amendments to Outcome 1.4.2 of the SCP should not proceed until the Supreme Court has ruled on the Robbins Island Windfarm appeals.

(b) Intent of Outcome 1.4.2

Part 4.2 of the Position Paper states, “Outcome 1.4.2 sits under the subheading ‘Coastal Hazards’. This implies that the intent of the prohibition of development on actively mobile landforms is in response to minimising risk to development from hazards.”

EDO questions this logic. Outcome 1.4.2 is listed below the overarching SCP Outcome of “Protection of Natural and Cultural Values of the Coastal Zone”. Given this, another more plausible interpretation is that the intent of Outcome 1.4.2 is aimed at protecting the natural and cultural features associated with actively mobile landforms, such as dunes, from destructive developments that are not directed to managing the areas to minimise the need for engineering or remediation works to protect land, property and human life. While this intent is later partly conceded on page 7 of the Position Paper, it is done so in a way tainted by the earlier conclusion.

In EDO’s view, it would be inconsistent with the intent of the SCP and the original outcome 1.4.2 to amend the SCP to allow works that limit actively mobile land to limit “impacts of that mobility” to undisclosed features and only “allow those natural processes to continue unless they pose an unacceptable risk”. Terminology and concepts such as “unacceptable risk” are not introduced or used elsewhere in the SCP. We observe that **many engineering interventions to limit actively mobile landforms, such as seawalls, groynes and beach replenishment works can and do negatively impact the natural and cultural values of these areas.**

Furthermore, they can result in cascading risks and impacts to other land, property and human life. In EDO’s view, it would be entirely inconsistent with the overarching objectives of the SCP to allow such works to proceed in all but the most limited of circumstances to avoid or minimise future engineering and remediation interventions.

EDO maintains that no changes should be made to Outcome 1.4.2 that would result in it being inconsistent with the overarching Outcome ‘Protection of Natural and Cultural Values of the Coastal Zone’ and the SCP Principle that ‘Natural and cultural values of the coast shall be protected’.

Recommendation 2: Any amendment to Outcome 1.4.2 of the SCP should be consistent with the overarching outcome of ‘Protection of Natural and Cultural Values of the Coastal Zone’ and the SCP Principle that ‘Natural and cultural values of the coast shall be protected.’

(c) Actively Mobile Landforms

The issue of the lack of definition for the phrase ‘actively mobile landforms’ has been longstanding.⁷ The urgency with which the Government now seeks to address this issue given it

⁷ So much is acknowledged in the Position Paper, as it references Dr Chris Sharples’ 2012 paper on the subject [*The problem of the use of ambiguous terms in Tasmanian coastal planning policy documents for defining appropriate coastal development zones.*](#)

may impact on proposed large commercial developments impacting sensitive coastal areas is disappointing, given any reform of the SCP would greatly benefit from a holistic approach. Notwithstanding, EDO considers there may be some benefit to introducing a common definition for ‘actively mobile landforms’, or otherwise addressing the ambiguity created by that phrase. It would have been helpful if, in the Position Paper, clear options for definitions of these areas were put forward for public comment.

Defining ‘actively mobile landforms’ by reference to maps alone is unlikely to be satisfactory given the readily changing location and extent of these areas. We understand that other submissions in response to the Position Paper, such as by the Australian Coastal Society, raise issues with the proposed use of the Dune Mobility layer on the Land Information System Tasmania (**LIST**) to define areas of the coasts where development should be strictly managed. We suggest that using some mapping in conjunction with a broader written definition may be sufficient (for example, like the approach taken for the definition of waterways and coastal protection areas under clause C7.3.1 of the State Planning Provisions (**SPPs**)).

EDO urges the Tasmanian Government to seek advice from geomorphological, climate and legal experts in developing any definition or clarity to the phrase ‘actively mobile landforms’. We also strongly recommend that any definition be released for further public comment before it is introduced.

Recommendation 3: The Tasmanian Government should seek advice from geomorphological, climate and legal experts in developing any definition or clarity to the phrase ‘actively mobile landforms’. Any proposed definition should be subject to further public consultation before it is adopted.

(d) Recent changes to tools for identifying and managing coastal processes and hazards

EDO acknowledges that there have been many changes to lutruwita/Tasmania’s planning system since the SCP came into effect. In our view, however, **the SCP and Outcome 1.4.2 have provided a strong guardrail to planning reforms over the past decade by seeking to ensure that inappropriate developments along our coastlines do not proliferate.**

While there are references to environmental impact assessments (**EIAs**) in the SCP, Tasmanian Planning Policies (**TPPs**), and SPPs, we do not think an EIA process alone is sufficient to ensure that developments do not unacceptably impact the natural and cultural values of our coasts. Rather, clear outcomes and criteria against which these assessments are to take place are necessary features of best-practice environmental management. Without such clear guidance, we will undoubtedly see different planning authorities take different approaches to assessments, resulting in inconsistent and unpredictable outcomes.⁸

⁸ This would be inconsistent with the legislative requirement that State Policies “must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy”: *State Policies and Projects Act 1993*, section 5(1)(c).

These unpredictable outcomes may not just affect the environment or the community, they could also have significant implications for local councils in terms of their exposure to potential legal liability should they approve a development which is later impacted by readily foreseeable rising sea levels, storm surges, flooding or inundation.⁹ We know that the risks of this occurring along our coasts are heightened under future global heating scenarios¹⁰ and that the insurance industry is urging Australian governments at all levels to do more to prevent developments in inappropriate locations (and, in appropriate circumstances actively plan for the retreat from these locations).¹¹

Instead of heeding the science and the calls of the insurance industry, we question why the Tasmanian Government is moving to increase developments in these vulnerable ecologically and culturally important areas. In EDO's view, the preferred option is for the existing limitations on developments on actively mobile landforms to remain or be strengthened.

Recommendation 4: Existing limitations on developments on actively mobile landforms should remain in the SCP or be strengthened.

2. Proposed amendments to update the controls on actively mobile landforms

(a) Coastal development generally

Part 6.1 of the Position Paper states, “The current proposal is only to amend the outcomes to provide greater clarity and a more contemporary approach to managing development on actively mobile landforms. The Government has no intention of amending any other part of the SCP which includes many other policy directions controlling development along the coast.”

In EDO's view, Outcome 1.4.2 is one of the strongest provisions in the whole SCP. The proposal to weaken or remove it will have flow-on consequences for the remaining provisions in the policy, particularly when it comes to the protection of Aboriginal cultural heritage, natural resources and ecosystems.

⁹ For more on the legal risks associated with decision-making regarding coastal developments see: Bell-James, J., Baker-Jones, M., and Barton E., 2017: Legal risk. A guide to legal decision making in the face of climate change for coastal decision makers. CoastAdapt Information Manual 6, 2nd edn, National Climate Change Adaptation Research Facility, Gold Coast; and Hughes, L., Dean, A., and Koegel, M., 2021. Neighbourhood Issue: Climate Costs and Risks to Councils. Climate Council of Australia Limited, accessed at https://www.climatecouncil.org.au/wp-content/uploads/2021/09/Report-Councils-on-the-Frontline_V5-FA_Low_Res_Single_Pages.pdf

¹⁰ IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001

¹¹ Insurance Council of Australia, 2023, Insurance Catastrophe Resilience Report 2022–23, p ii, accessed at <https://insurancecouncil.com.au/> on 22 January 2024.

(b) Updating Outcomes on coastal hazards to align better with other outcomes

Part 6.2 of the Position Paper states, “The process of seeking to amend the SCP to clarify the current case by case application of the controls on actively mobile land is itself consistent with Outcome 3.1.1 which seeks consistency in policy interpretation.” It further states, “The current proposal is intended to clarify the restrictions and management of those uses where actively mobile land may be involved to ensure that other outcomes of the SCP around public access and safety, and management of natural and cultural values, are also delivered.”

If anything, there is a need to update the SCP to strengthen how it addresses the challenges posed by climate change and associated sea level rise, flooding and storm surge risks. That is not what is being proposed in the Position Paper. Rather, it is the weakening of the SCP framework to potentially allow for far greater development in the very areas most at risk of climate change.

The pre-2009 total ban on developments on actively mobile land in Outcome 1.4.2 made for the clearest message that these areas were too risky. There should only be very minor exceptions to this rule – relating to essential management works or infrastructure built by public authorities in the public interest (e.g. public access tracks, signage, boat jetties etc).

(c) A risk-based assessment for coastal development in areas of hazard

Part 6.3 of the Position Paper states, “The proposed amendment is to replace the limited exemption for some development on actively mobile landforms provided in Outcome 1.4.1 with a requirement that other planning instruments put in place assessments that determine the level of risk associated with development to better consider the impacts and any mitigation required. Risk-based assessment is now standard practice for managing use and development in areas of natural hazard and forms the basis of all the hazard codes in the State Planning Provisions.”

The main objective of the SCP is to identify the *outcomes* that the Tasmanian Government (on behalf of the Tasmanian people) is seeking to achieve for our precious coastline. The proposal to effectively delegate this function to planning instruments, such as the SPPs and TPPs, does nothing to provide clear goals or guidance on these issues.

The introduction of the Tasmanian Planning Scheme has weakened or removed previously existing protections for the natural and cultural values of our coastlines, including through the removal of the 200 metre environmental management zoning to the seaward extent of the high water mark of lutruwita/Tasmania’s coasts. The Coastal Erosion Hazards and Coastal Inundation Hazards Codes of the SPPs do not require any risk-based assessment directed at ensuring natural and cultural values are adequately protected. The SPPs and TPPs utterly fail to address the need to protect the rich and ongoing Tasmanian Aboriginal cultural heritage in lutruwita/Tasmania’s coasts and Sea Country.¹² The *Aboriginal Heritage Act 1975* is even acknowledged by the

¹² In this respect, we refer to and reply upon EDO’s [Submission in response to the Draft Tasmanian Planning Policies](#).

Tasmanian Government as being “woefully outdated” and “shamefully inadequate”, and therefore does not protect these important values.¹³

For these reasons, it is wholly unsatisfactory to propose, as it does in Part 6.3 of the Position Paper, that there will be a “risk based assessment” for any development on lutruwita/Tasmania’s coasts using existing inadequate laws and schemes, without identifying the objectives for such assessments.

Recommendation 5: Without clearly articulated outcomes directed at protecting natural and cultural values of actively mobile landforms, risk-based assessments are an insufficient replacement for Outcome 1.4.2.

(d) Considering ‘need’ and ‘benefit’ of use and development

Part 6.4 of the Position Paper states, “The SCP is predicated on the sustainable use of the coast not the complete prohibition of all development. The SCP sets out particular principles for a variety of uses including community infrastructure and recreational assets such as wharfs (sic), jetties and boat ramps as well as the requirements to provide for safe use of the coast.”

EDO does not agree that the SCP is predicated on the “sustainable use of the coast”. Rather the SCP must further the RMPS objectives,¹⁴ which include “to promote the sustainable development of natural and physical resources *and the maintenance of ecological processes and genetic diversity*” (emphasis added). The definition of ‘sustainable development’ from the RMPS objectives, provides for “managing use, development and protection of natural resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while:

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects on the environment.”

Consistent with the RMPS objectives, **Outcome 1.4.2 does not currently prohibit all development on actively mobile land. Rather, in acknowledgement of the risks associated with such land and the important natural and cultural values found there, it provides that those developments and works must only be for specific purposes in the management of these areas.** There is nothing objectionable to such an approach, and indeed, it is preferable given the need for expert engineering, climatic, ecological and cultural heritage advice that may be

¹³ The Mercury, 25 June 2016, “Relics Act shamefully disrespectful” by the Matthew Groom, Heritage Minister in the Hodgman State Government, accessed at <http://www.kooriweb.org/foley/news/2000s/2016/hr25jun2016.pdf>

¹⁴ *State Policies and Projects Act 1993*, section 5(1)(a).

required before planning authorities could even attempt to make a reasonable assessment of the risks to all the values posed by developments at these locations.

The Position Paper states, “Given the broad interpretation, actively mobile land forms (sic) may include any area of the interface which is not a rocky foreshore, the proposed amendments seek to introduce a direction that assessments of any proposal where he (sic) land might be mobile should consider if it needs to be in that location and if so what benefits might warrant not relocating it to another part of the coast or avoiding it entirely”.

Again, EDO considers it would have been helpful to understand what the Tasmanian Government considers to be plausible definitions of ‘actively mobile land’ so that the public might be able to respond to the proposed amendments to the SCP. As outlined in Dr Chris Sharples’ paper,¹⁵ there are some areas where development should be prohibited or actively discouraged. This should be reflected in any SCP outcome and definitions. Allowing councils (acting as planning authorities) to consider the needs and benefits of a particular development on actively mobile land leaves too much to their discretion and allows consideration of matters that are irrelevant to the protection of natural and cultural values of the coasts. Such an approach is not in keeping with the overarching principles of the SCP, or with the legislative requirement that State Policies “must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy”.¹⁶

3. Comments on proposed amendments to State Coastal Policy

The Position Paper proposes, “as a starting point for discussion and to assist with the consultation process” following draft amendment to the SCP:

Delete Outcome 1.4.2 and replace with:

1.4.2 Development on actively mobile landforms will only be allowed for engineering or remediation works necessary to protect land, property and human life, unless it can be demonstrated that the development appropriately considers:

- a) protecting coastal values and natural coastal processes;
- b) achieving and maintaining a tolerable level of risk; and
- c) the benefits to the public and dependency on the particular location.”

Firstly, we reiterate Outcome 1.4.2 does not impose a “broad prohibition of development of actively mobile landforms”, and therefore we question the need for the proposed amendments. As discussed above, only certain developments are allowed in line with the objectives of the preceding Outcome 1.4.1.

Secondly, the proposed framing of the replacement to Outcome 1.4.2 to allow “Development on actively mobile landforms... for engineering or remediation works necessary to protect land,

¹⁵ Op. cit. n7.

¹⁶ *State Policies and Projects Act 1993*, section 5(1)(c).

property and human life...”, even if you disregarded the rest of the draft Outcome, already allows a much broader range of development than the current provision which, in EDO’s view, only allows for developments that manage actively mobile landforms to “*minimise* the need for engineering or remediation works to protect land, property and human life.”

Thirdly, the drafting of the proposed Outcome is loose and itself creates uncertainty. For example:

- What is meant by the phrase “...unless it can be demonstrated that the development appropriately considers...”? What is “appropriately” in this context, and how does a development demonstrate consideration of anything (or is that the job of an applicant or application)?
- What is a “tolerable level of risk”? Does this phrase refer to risk to humans, property, natural or coastal values, or all of these features? What about cultural heritage, which shamefully, is not mentioned in the proposed Outcome at all? And once these issues are settled, how does one identify what risk is “tolerable”, and over what timeframes?
- What “benefits to the public” may be considered here? What if the development benefits some but not others in the community? Why are disbenefits not able to be considered – surely, they are just as important, if not more, in the context of such a decision.
- What is meant by “dependency on the particular location”? This could mean that there is no other option but to locate the development in that place, or it could be that the development is dependent on a location because that is the only one that is owned by the developer or available for purchase.

Finally, EDO strongly opposes the proposed framing of any replacement for Outcome 1.4.2 with a consideration of the “benefits may result in the development proceeding” (even if this is framed as “the benefits to the public” as in the draft). It is unclear how such an amendment which encompasses consideration of potential social and economic benefits, would be in keeping with the clear overarching Outcome of this part of the SCP concerning the ‘Protection of Natural and Cultural Values of the Coastal Zone’.

As mentioned, the Position Paper does not provide a proposed definition for ‘actively mobile landform’. Given the changing nature of these landforms, EDO considers that the definition of ‘actively mobile land’ should incorporate areas identified by maps and also areas identified through a written definition. To define this term, EDO suggests that the Tasmanian Government consult with experts in the fields of coastal geomorphology, planning and law. **In this respect, we repeat Recommendation 3 above.**

Recommendation 6: The proposed amendment to the SCP to replace Outcome 1.4.2 should not proceed as it is not required, fails to protect the natural and cultural values of the coast, is uncertain and ambiguous, and introduces irrelevant considerations.

4. Process going forward

The Position Paper flags that the Tasmanian Government is likely to ask the Governor to declare that the draft amendment is to be an Interim State Policy under section 12 of the *State Policies and Projects Act 1993*. This would mean that the amended provisions of the SCP would have immediate effect and apply to development applications while the Tasmanian Planning Commission undertakes its assessment of the draft amendment to the SCP. The Position Paper appears to justify such an approach by stating, “There is evidence that the current drafting of the SCP is ambiguous and creates perverse outcomes and is not in line with the evolution of risk-based planning controls for other natural hazards as found in the Tasmanian Planning Scheme.”

It appears to EDO that the only evidence of a “perverse outcome” resulting from the operation of Outcome 1.4.2 of SCP, from the Tasmanian Government and ACEN’s perspectives at least, relates to the EPA’s Supreme Court appeal against the Robbins Island Windfarm. While there may be legal questions arising from that appeal to EDO’s knowledge, no other legal challenges have been launched relating to other coastal developments. Indeed, uncertainty concerning the scope and definitions of terms in Outcome 1.4.2 of the SCP has been publicly aired for over a decade.

In these circumstances, EDO rejects the notion that there is an urgent need for these questions to be resolved through the adoption of amendments through an Interim State Policy. As we outlined above, any amendment to the SCP is liable to create more ambiguity and uncertainty than the current Outcome 1.4.2. If these amendments were to be given effect without these uncertainties and ambiguities being properly assessed and considered by the Tasmanian Planning Commission and without further input from councils and the public, it could give rise to cascading adverse and irreversible consequences for lutruwita/Tasmania’s coastlines.

EDO therefore strongly opposes the apparent intention to introduce amendments to Outcome 1.4.2 of the SCP as an Interim State Policy.

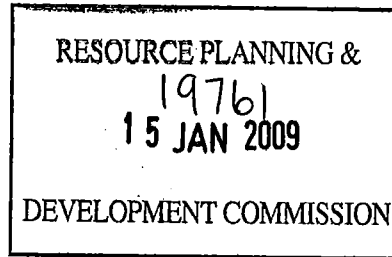
Recommendation 7: Amendments to Outcome 1.4.2 or the definition of ‘actively mobile landform’ in the SCP should not be given effect as Interim State Policy.

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*

Annexure 1 - Ministerial Direction to Resource Planning and Development Commission

Premier

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Mr G Alomes
Executive Commissioner
Resource Planning and Development Commission
GPO Box 1691
HOBART TAS 7001

12 JAN 2009

Dear Mr Alomes

I am writing to advise that the Government wishes to amend the State Coastal Policy 1996 to correct an anomaly between Outcome 1.4.1 and Outcome 1.4.2

Outcome 1.4.1 currently reads:

Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.

Outcome 1.4.2 currently reads:

Development on actively mobile landforms such as frontal dunes will not be permitted.

As such Outcome 1.4.2 is inconsistent with Outcome 1.4.1, as it prevents works which would be required under the management component of Outcome 1.4.1. It is therefore proposed to change Outcome 1.4.2 to read:

Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.

Some background information in relation to the anomaly and the rationale for the amendment is attached.

In accordance with section 15A (2) of the *State Policies and Projects Act 1993*, I hereby direct the Commission to advise whether the proposed amendments constitute a significant change to the current State Policy.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lara Giddings".

Lara Giddings MP
Acting Premier

Amendment to the State Coastal Policy 1996

Additional Information for the Resource Planning and Development Commission

Apparent anomaly

As currently worded, Outcome 1.4.2 it is at odds with Outcome 1.4.1 which promotes the identification and management (which may necessitate works) of areas subject to significant risk from natural coastal processes and hazards to minimise the need for engineering or remediation works to protect land, property and human life.

The anomaly is reinforced by the use of the term "development", which is defined in the Policy as including "the construction or carrying out of works" and "the subdivision and consolidation of land". The term "works" is separately defined as including "any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil, but does not include forest practices, as defined in the *Forest Practices Act 1985*, carried out in State Forests."

As a consequence, any form of remediation works, fencing, rehabilitation planting, earth moving, or even amalgamation of titles involving actively mobile landforms is technically in breach of the State Policy.

Some of these activities, however, may actually be required to properly comply with Outcome 1.4.1. which requires management of areas including those subject to littoral drift and dune mobility. Indeed, it is probable that a significant volume of legitimate coastal works and biodiversity protection activities carried out by councils, the Parks and Wildlife Service and community over the past 12 years has been technically inconsistent with 1.4.2., but entirely consistent with the overall intent of the Policy, in particular Outcome 1.4.1.

Previous consideration of amendment to Outcome 1.4.2

Problems relating to Outcome 1.4.2 are well known and an attempt to amend the Policy to clarify the meaning of the clause was proposed in 2002. In the background information to that amendment, it was stated that in the original draft Policy released in 1994 Outcome 1.4.2 referred to "construction" on actively mobile landforms but was amended to "development" by the Sustainable Development Advisory Council (SDAC). It went on to say that as SDAC did not indicate that it intended to prohibit beneficial works through this wording change, it must be concluded that this was an unforeseen side effect.

The background paper concluded that Outcome 1.4.2 of the Policy, as modified, could inadvertently prevent coastal engineering works that could be necessary to protect assets of considerable public benefit.

It was proposed to replace Outcome 1.4.2 with an alternative and substantially different Outcome that allowed some development on frontal dunes and other actively mobile land forms in certain circumstances — including residential infill in areas subdivided

prior to the date of the Policy coming into force and commercial or industrial facilities which are dependent on the specific coastal location.

The amendment was considered a significant change to the Policy, but was not pursued by the Government when the Supreme Court ruled that the Coastal Policy was invalid.

Limitation of amendment to Outcome 1.4.2

The solution to the anomaly is to link Outcome 1.4.2 more closely to Outcome 1.4.1 such that development allowed on actively mobile landforms is limited to that required to deliver the intent of Outcome 1.4.1.

As the range of works required under Outcome 1.4.1 is uncertain, the most effective approach is to leave the allowable works unfettered by definition, but subject to the restriction that they are only required for management purposes.

The proposed amendment adds an exception to Outcome 1.4.2 referencing Outcome 1.4.1. It refers to 'works' only, not all forms of 'development' and limits those works to actions consistent with Outcome 1.4.1., as follows (additional words in italics):

- 1.4.2 Development on actively mobile landforms such as frontal dunes will not be permitted *except for works consistent with Outcome 1.4.1.*

21 October 2024

State Planning Office
Department of Premier and Cabinet
yoursay.planning@dpac.tas.gov.au

Re: Review of State Coastal Policy – Development of Actively Mobile Landforms Position Paper.

Cradle Coast Regional Natural Resource Management Committee has consulted and agreed to provide a formal submission to the State Planning Office on this Position Paper.

We acknowledge the significance and importance of clear and specific policy for the protection of our coastal environments and the biodiversity, and natural values they support.

We recognise the value of these landscapes for local communities, industries and for visitors. They are places of sanctuary, enjoyment and visitation that brings both inherent wealth and wellbeing to the people who interact with them.

We consider the State Coastal Policy to be a landmark document for the protection of our coasts. The three principles of the SCP are directly aligned with the intent and vision of the 2030 Regional NRM Strategy as adopted by Parliament in 2021.

Those Principles are:

- Natural and cultural values of the coast shall be protected
- The coast shall be used and developed in a sustainable manner
- Integrated management and protection of the coastal zone is a shared responsibility.

We have made this submission in good faith and with careful consideration of these principles along with the contemporary needs of our community from a functional and effective planning system.

We consider the position paper poses strategies that are potentially deleterious to this outcome, the SCP Principles and the 2030 NRM Strategy. We ardently seek respectful consideration of our submission along with others that have been made in order to ensure medium and long term impacts of sea level rise and climate change are minimised through sound and rigorous evidence based planning.

Yours sincerely

Peter Voller PSM
Chair, Cradle Coast NRM Committee

Sheree Vertigan AM
Chief Executive Officer

Submission on Review to the State Coastal Policy – Development of Actively Mobile Landforms
Position Paper

Cradle Coast Regional Natural Resource Management Committee. (CCNRM Committee)

Preamble

CCNRM Committee welcomes the opportunity to provide a submission on the Position Paper.

CCNRM is a statutory advisory committee established under the Natural Resource Management Act 2002 and has the key roles (as per s10 of the Act)

- 'to identify the priorities for natural resource management for the region',
- 'to facilitate the integration of natural resource management and planning activities for the region',
- 'to coordinate the region's participation in national and state programs relating to natural resource management'

As such our committee has a vital interest in regional land use planning and implementation of policy including the State Coastal Policy.

We acknowledge the importance and relevance of the State Coastal Policy as a critical planning and management instrument for the sustainable and wise management of coastal environments in Tasmania. We appreciate the clear and specific intent of the review to consider only possible amendment of section 1.4.2 of the SCP, not the whole code. We consider it imperative to retain and respect the role and intent of this Policy in future planning and development assessments under the RMPS, unless such a review is part of a wider and comprehensive review of the RMPS objectives and related legislation.

We note the recommendations of the *2024 State of Environment Report*, in particular Recommendations 2 (*Aboriginal knowledge and values*), 3 (*Environmental data strategy*), and Recommendation 4 (*Contemporary RMPS objectives and legislation*). We consider these recommendations must be considered in this review of clause 1.4.2 to ensure adequate consideration of contemporary cultural and environmental values and impacts.

We question the timing of this specific amendment in the context of calls for wider updating of the RMPS objectives and legislation. There seems to be little imperative for action in the light of the age and effectiveness of the SCP in its present form. We note the issues prioritised in this paper have been relevant since the SCP was enacted 29 years ago and while the matter is valuable to remedy the cause for urgency and interim measures at this time seems inapt.

Key observations:

Relevance to the 2030 NRM Strategy for Cradle Coast Region

We refer the SPO to the 2030 NRM Strategy for the Cradle Coast Region (<https://www.cradlecoast.com/natural-resource-management/2030-nrm-strategy/>). The strategy is empowered under the Natural Resource Management Act (2002) and under that Act complies with the Objects of the RMPS. The Strategy provides the following intention in relation to coastal values:

Cradle Coast's shoreline varies greatly, with highly exposed rocky shores in the south-west and west, and extensive sandy beaches and dunes north of Cape Sorell. The naturally moving dune systems on the west coast, rich in Aboriginal heritage sites, are of international significance, while the sheltered coastline of the far north-west includes broad intertidal flats and saltmarshes critical for resident and migratory birds and sea-life. Eastwards from Circular Head, intensive development along the shoreline has significantly modified the landforms.

The region's coastline, and its associated communities and industries, is vulnerable to significant hazard from storms, inundation, erosion and artificial alteration of habitat and landform – particularly in low lying and soft shorelines. This situation is likely to increase under all climate change scenarios. High-risk areas are sandy coastlines, wetlands, tidal sand and mud flats, saltmarshes and estuaries.

Future areas for urban, rural, marine and recreational development must be identified and located away from sites of natural and cultural significance and areas at high risk of coastal inundation. Activity in the coastal zone must allow for natural variability and migration of coastal processes. Future use may require retraction of existing settlement locations and relocation of key infrastructure as more detailed risk assessments on coastal erosion and inundation are conducted.

In light of this strategic statement, Cradle Coast NRM Committee encourages and supports greater investment in informed and evidence-based planning at landscape and regional scale to ensure that natural and cultural values of coastal and associated environmental processes are unimpeded.

We acknowledge the significant cultural, conservation and natural values of coastal environments, for which stringent controls such as the current State Coastal Policy provides are required.

We consider the SCP as it stands, and with the intent of section 1.4.2 intact, to be an appropriate response to emerging climate change and sea level rise threats to Tasmanian coastlines and to protecting cultural, social and environmental values implicit in these land and seascapes.

Need for the TPP's and RLUS to be in force before any change to SCP

We consider the proposed amendment to the SCP must rely on the active and effective functioning of the Tasmanian Planning Scheme and relevant, contemporary and appropriate supporting information. Accordingly we recommend that should an amendment be required, the present SCP remain in force until such time as the Tasmanian Planning Commission has considered the proposed amendment, and any resulting amendment is enacted. We recommend that this outcome is subsequent to the relevant Tasmanian Planning Policies being fully enacted, and Regional Land Use Strategies completed.

This recommendation avoids the use of s12 of the State Policies and Planning Act 1993 but relies on the transition of an amendment fully reviewed and endorsed by the Tasmanian Planning Commission. Such a transition supports the intent and importance of the Recommendation 4 of the *State of Environment Report*.

We consider that if the imperative to amend the policy is deemed urgent, and s12 of SPPA is used, the **proposed amendment should be crafted to reflect the constraints and intent of the SCP and provide for high standard controls on any development the amendment may precipitate.**

We consider **amendments to the State Coastal Policy (if enacted) should not be applied retrospectively**, rather that in instances where a past development is subject to legal challenge or review, that the amendment be considered as a subsequent a development application, including consideration of contemporary circumstances surrounding the impact of the development and its relevant benefits and risks.

Definition of the term 'actively mobile landforms'

We note the referenced paper (Sharples 2012) is inconclusive in providing singular definition for the term actively mobile landform. We acknowledge similar such terms are often not defined in policy.

The Position Paper implies that the term (or its intent) could be presented spatially, but correctly notes that any spatial products must be developed from evidence of the actual situation on the development site in real time, with risk and precaution applied to account for future potential for movement. We note that reliance on spatial extent of a landform as a legal or policy definition is fraught where such mapping is dated, at inappropriate scale, or poorly grounded truth.

We suggest that should a formal definition of the term be deemed necessary, the drafters consider a broadly inclusive verbal definition, capturing phasing used by Sharples (2012)– e.g. ‘

A coastal landform that is actively moving in whole or part through processes of erosion, subsidence and/or accretion sufficient to create a hazard for buildings or other relevant uses within a normal planning timeframe of 50 or 100 years'

We suggest this definition could effectively inform planners and facilitate both contemporary evidence and spatial and modelled data to identify the presence of the landform in development proposal locations. We consider this definition also provides the temporal certainty required to plan for likely climate or sea level rise impacts.

We acknowledge that there is considerable spatial data and acquired knowledge of coastal processes and condition in Tasmania and encourage the SPO to consider the use of this array of data, including that generated by NRM regional bodies and presented on List Map as relevant considerations in determining the presence of actively mobile landforms as per the proposed definition based on Sharples 2012.

We suggest reliance solely on the 'present dune mobility' layer available on LISTmap is an inadequate means of clarification of the presence or absence of actively mobile landforms, predominantly

- due to uncomplete coverage of this data (much of the coastal systems are described in this layer as 'unclassified');
- the assumption that dune landforms are the only form of actively mobile landforms; and
- the assumption that vegetation cover is the only driver for dune mobility or stability

We are aware of subsequent advice provided by Dr Chris Sharples (October 2024) in the submission to this Position Paper from the Australian Coastal Society (Tasmania) where comprehensive and duly qualified advice is provided on the history of coastal values mapping and the problems with use of the Present Dune Mobility data layer. We acknowledge and endorse this advice in this submission.

Suggested amendment to State Coastal Policy

We recognise the potential inconsistency in policy as articulated in the Position Paper, and in Sharples 2012.

We agree that a risk-based approach, utilising contemporary evidence and best available spatial and modelled information and scientific knowledge is appropriate for determinations under the Tasmanian Planning Scheme including under the State Coastal Policy.

This approach however is a significant change from the current prohibition in the SCP and provides a pathway for a wide array of development on actively mobile landforms in the coastal zone. We note the intent of clause 1.4.2 as it stands is explicitly to protect natural and cultural values of actively mobile landforms, and we consider the proposed amendment must echo that intent.

We suggest in this context that, should an amendment be proposed, particularly if an interim policy (under s12 of SPPA) is to be immediately adopted, the amendment must have specific and clear limitations on the nature of development allowed, and apply specific requirements for an environmental impact assessment cognisant of a 50 to 100 year planning horizon.

We suggest the interim amendment could be drafted

- 1.4.2 *Development on actively mobile landforms will only be allowed for engineering or remediation works necessary to protect natural and cultural values, property and human life, unless it can be demonstrated that the development appropriately considers:*
- a) protecting and maintaining natural and cultural values and natural coastal processes in the short and longer term;*
 - b) achieving and maintaining an adequate* level of risk mitigation over a 100 year planning horizon; and*
 - c) the benefits to the public and dependency on the particular location irrespective of costs of alternatives.*

() Where adequate means the development utilised current highest standard practice for the mitigation of risk to infrastructure and extant natural and cultural values from reasonably foreseeable impacts such as sea level rise and climate change*

We consider this type of phrasing reflects the high level of scrutiny required for interventions in coastal landforms, particularly for their cultural, historic, geological, biological and social values and benefits. We consider intervention in these landforms to be a 'last resort' option for accommodating the needs of development.

Submission on the ‘Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper’

Why am I concerned with the State Coastal Policy?

Like most Tasmanians I love the freedom that our undeveloped coastal environment provides. The *State Coastal Policy* has been a key tool to protect the coastline against inappropriate development.

Tasmania’s coastline is a major attraction to visitors because it is not adulterated by high rise developments or high-density suburbia. Most of the coastline is wild and beautiful and easy to access. The lack of development provides safe habitat for our birdlife and native animals.

The integrity of Tasmania’s coast – our coast – has remained relatively intact and untouched over the past 30 years thanks to the State Coastal Policy. In contrast to recent Tasmanian Government claims, there is no doubt that this policy is precisely what has ensured, and continues to ensure, our Tasmanian way of life.

Climate Change has already begun to affect the State and its coastlines. It is vital to humanities future that the risks associated with natural phenomena are considered in all planning and legislation.

The implementation of the Tasmanian Planning Policies should be followed by a revision of the State Coastal Policy to ensure that they are compatible and provide sound planning rules for the State’s future.

The reference in this paper does not give confidence as to implementation of the TPPs in the planning process because they will only ‘guide’ not enforce.

The new Tasmanian Planning Policies (TPPs), which will soon come into effect, provide a more detailed set of policies to guide future land use in the coastal zone consistent with the SCP.¹

This paper does not provide for an appropriate reform to integrate the policy legislation [the TPPs and SCP] and thus the partial reform raises questions as to the intent.

What is proposed?

The purpose of this Position Paper is to review the specific provisions of the SCP to ensure they reflect the contemporary application of the principles for management of development in sensitive coastal environments.²

The Position Paper limits itself to one proposal - to change 1.4.2 in the SCP.

1.4.2 Development on actively mobile landforms will only be allowed for engineering or remediation works necessary to protect land, property and human life, unless it can be demonstrated that the development appropriately considers:

- a) protecting coastal values and natural coastal processes;*
- b) achieving and maintaining a tolerable level of risk; and*
- c) the benefits to the public and dependency on the particular location.³*

The current proposal is intended to clarify the restrictions and management of those uses where actively mobile land may be involved to ensure that other outcomes of the SCP around public access and safety, and management of natural and cultural values, are also delivered.⁴

¹ P3 CM 24/83446 | Position Paper - Review of the SCP, Development of Actively Mobile Landforms

² P3 CM 24/83446 | Position Paper - Review of the SCP, Development of Actively Mobile Landforms

³ P12 CM 24/83446 | Position Paper - Review of the SCP, Development of Actively Mobile Landforms

⁴ P 10 CM 24/83446 | Position Paper - Review of the SCP, Development of Actively Mobile Landforms

This limit arouses concerns as to why the paper has been developed when the SCP should be being reviewed to align it with all the relevant planning revisions since 2016.

Concerns

There are real concerns that this is a backdoor way of providing for the Robins Island wind project. Two aspects of this paper give support to concerns:

1. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any.

The Robins Island wind project is facing legal challenges in the Supreme Court. Surely it is appropriate to await the decision of the court before changing legislation. It is the role of the Supreme Court of Tasmania to determine whether the decision should stand and, if required, make appropriate orders to correct errors in the application of the law.

2. As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission.

The obvious weakness of the *Interim State Policy* approach is that a lot of damage can happen in the 12 months of interim policy which can be used and abused and only ceases to operate

- a) when the Governor gives notice in the Gazette of its termination;
- b) either House of Parliament passes a resolution disallowing it;
- c) is superseded by a State Policy made in accordance with section 11 of the SPP Act; or
- d) 12 months from the day it became operational.⁵

Where review of a law is necessary, the Government must clearly identify shortcomings or problems with the operation of the law and engage in public consultation, including with legal and other experts, on the nature of those problems and the best manner in which to address them, including by appropriately balancing all relevant interests. Conducted in that manner, law reform processes enhance public confidence that Parliament acts in the interests of the community as a whole and that new laws are based on well considered justifications⁶

Recommend

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

I acknowledge that *the SCP in Outcome 4.2 identifies the main vehicles for implementation of the SCP as land use planning controls, marine farming plans, and local council strategic plans. The recent advances in planning scheme mapping and controls provide for much improved implementation tools as envisaged in 1996 and supported by Outcome 3.3.5 which encourages support of research into coastal processes.*⁷ This supports revising the SCP and ensuring the whole policy is compatible with other planning mechanisms

It is encouraging to note that with the Tasmanian Planning Scheme across the State, there are now statewide maps of these hazards and detailed planning scheme provisions for assessment of development in these areas. Furthermore, the new Tasmanian Planning Policies (TPPs), which will soon come into effect, provide a more detailed set of policies to guide future land use

⁵ P13 CM 24/83446 | Position Paper - Review of the SCP, Development of Actively Mobile Landforms

⁶ P4 Submission to the Validation (State Coastal Policy) Bill 2024 by Ms Anja Hilgemeijer, Professor Jan McDonald, Dr Emille Boulot and Ms Cleo Hansen-Lohrey.

⁷ P 10

in the coastal zone consistent with the SCP. This type of work is essential and must be maintained and form an integrated system without loopholes and contradictions.

Modifying Outcome 1.4.2 of the SCP to be a higher level policy statement also enables the various instruments that operate within the RMPS to implement an appropriate risk-based approach but it should not be done in the proposed piecemeal fashion but as part of a carefully considered plan.

If there is also a need to provide greater clarification around 'actively mobile landforms' to assist with the application of the SCP then maintain and use the [present dune mobility](#) layer of the Land Information System Tasmania (the LIST) to identify coastal 'actively mobile landforms'. This layer informed the preparation of the coastal erosion hazard bands that are implemented through the Tasmanian Planning Scheme. It must be recognised that intense storms, sea-level rise and other natural events will alter actively mobile landforms.

We acknowledge that over the last 10 years Tasmania has been developing and applying very sophisticated planning controls backed up with statewide mapping of coastal hazards and natural processes. These planning controls put in place a process for firstly limiting certain forms of development to avoid risks and impacts and then assessment criteria for any development that might be allowed. This is why short cuts and piecemeal adjustments to the planning system need to be avoided.

The recently released State of the Environment Report has revealed many shortcomings in our use and attitude to the natural environment. Like all planning controls the state Coastal Policy must acknowledge human dependence on the natural environment and must therefore ensure its protection.

Sincerely

Margaret Taylor

From: Paul Thomas <
Sent: Monday, 21 October 2024 2:40 PM
To: State Planning Office Your Say
Cc: Changes to Coastal Policy

Subject:

Re Coastal Policy Review,

Living in a coastal area for over 60 years and having the experience of observation I understand the frailties and vulnerability of our coastline, especially high sensitive areas. I therefore am opposed to the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported

problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the

Environment Report recommends to “Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.” This recommendation is supported but only if the Tasmanian Planning Commission’s intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the ‘fast-track’ process through section 12).

**Yours sincerely,
Paul Thomas**

From: Austra Maddox <
Sent: Monday, 21 October 2024 2:32 PM
To: State Planning Office Your Say
Subject: State Coastal policy issues

To whom it may concern -

I strongly support the PMAT submission as set out below.

It is particularly worth pointing out that a proper review is needed in the broader context of a government response to the much-delayed State of the Environment Report. We do not need this proposed piece-meal approach which has not even been presented in a transparent and accountable manner!

Austra Maddox.

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

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Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely,

Austra Maddox

21 October 2024

Department: City Planning

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Email: yoursay.planning@dpac.tas.gov.au

Position Paper on the Review of the State Coastal Policy (SCP) – Development on Actively Mobile Landforms

Thank you for providing an opportunity to comment on the Position Paper for the Review of the State Coastal Policy (SCP) – Development on Actively Mobile Landforms.

Consistency across all planning policies and the adoption of the contemporary risk and need based assessment within the Resource Management and Planning System is welcomed, with the proposed amendments to the SCP being no exception. The proposed lifting of the prohibition of developments on actively mobile landforms aligns with the Tasmanian Planning Scheme (TPS) assessment regime. The TPS 4.0 exemptions reference the SCP at Clause 4.0.3 where works in the coastal zone (excluding emergency works described at 4.3.1) are exempt from assessment except for any development on actively mobile landforms in the coastal zone. Therefore, a planning application is required and C10.0 Coastal Erosion Hazard code contains the applicable standards.

The exemptions of this code specifically exclude development proposed to occur on an actively mobile landforms in the coastal zone, necessitating the risk and needs based assessment. It's worth noting that the TPS fails to recognise the SCP through C11.0 Coastal Inundation Hazard code and based on recent scientific studies predicting rapid change in all climate-oriented scenarios, this omission seems at odds with the SPC, although not a failing of the SCP but of the TPS. That aside, it is through planning scheme amendments and other strategic land use and development projects undertaken by Councils where consideration of SCP comes to the fore.

It goes without saying that clarification of what constitutes an actively mobile landform, and being able to determine its physical extent, is increasingly urgent. The discussion paper recognises the criticism and frustration caused by the ambiguity of this undefined term, and the short-term currency of the spatial application of the SCP due to the nature of the dynamic environment to which it applies. While reliance is on those with relevant expertise to

determine the term, it seems logical and convenient to use the currently accepted 'present dune mobility' layer of the LIST for mapping actively mobile landforms given it informed the preparation of C10.0 Coastal Erosion Hazard code. This will enable the risk and need based assessments to be undertaken based on information known at the time of decisions being made under Land Use Planning Approvals Act. Further investigation into measures to update mapping in response to the rapidly changing environment cannot be emphasised enough for a whole of government response to the climate crisis is to be taken seriously.

To that end, a comprehensive review of the state's coastal policy is critically important, as identified in Recommendation 6 of the recently released Tasmanian State of the Environment Report 2024. Updating the SCP in a piecemeal manner is insufficient to adequately address the increasing pressures and threats to natural and built coastal environments.

The opportunity presents to clarify what constitutes an actively mobile landform; the currency of its spatial application to ensure the planning purpose for what constitutes acceptable development on actively mobile landforms is understood and correctly interpreted; and for a comprehensive review of the coastal legislative framework, as recommended in the State of the Environment Report 2024.

Yours sincerely

Daniel Marr
HEAD OF CITY PLANNING

From: Pam Schindler
Sent: Monday, 21 October 2024 1:55 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

29 Wells Parade

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

21 October 2024

Dear staff of the State Planning Office, and members of Parliament,

Thank you for the opportunity to make a submission regarding the proposal to change the State Coastal Policy to remove the prohibition on building on mobile coastal landforms such as sand dunes.

Tasmania's coast is important to me; but it is more important to the birds and other wildlife for whom it is critical habitat. The existing coastal policy has served Tasmania's coast well, keeping building and other development inland from the volatile coastal edge. I live at Blackmans Bay, and treasure the privilege of living beside a beach which is still full of life, despite its closeness to a capital city. But the buildings are kept to the inland side of the road.

I lived in southeast Queensland for 20 years, and have seen the results of allowing housing and hotel development on the sand dunes. The dunes are destroyed as habitat; as well, when storms periodically carried the sand away, as is natural in a shifting coastal zone, truckloads of rocks were brought in and rock groynes constructed to protect the buildings, thereby destroying the natural waves and form of the beaches. Mobile coastal areas are important environmental habitat, and should be off-limits to commercial development, which should be sited further inland. The demand to protect buildings and other constructions, once built in the dunes, results in degrading the coastal edge as habitat and as a part of Tasmania's beautiful scenery.

If the aim of this proposed change is to support the proposed wind farm at Robbins Island, then specific legislation should be drafted to address this case, instead of making a change which will weaken the protection of the whole Tasmanian coastline.

I also endorse the following points, compiled and clearly set out by the Planning Matters Alliance, Tasmania:

I oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Scrap the proposed amendment

The state government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government just wants to make it easier to build windfarms on the coast

It looks like the state government has fabricated a problem with the State Coastal Policy to disguise its true interest, which we believe is to remove a potential legal obstacle for wind farm developments that require infrastructure on coastal areas.

Actively mobile landforms have high conservation values and must be protected

There is a very good reason to keep clause 1.4.2 of the State Coastal Policy, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development to be built on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in

the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment." This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

**Yours sincerely,
Pam Schindler**

From: Josephine Nicholls
Sent: Tuesday, 22 October 2024 2:32 PM
To: State Planning Office Your Say
Cc:
Subject: Retain the prohibition on development in actively mobile landforms

I was born and raised in Tasmania on the NW Coast, living right on Bass Strait, and whilst I spend some of my time in Melbourne, I retain a home in Hawley Beach which is under threat from coastal erosion and inappropriate development. Quite simply this has been turned into a suburb instead of a coastal retreat enjoyed by so many permanents, holiday makers and day trippers from not just Tasmania but mainland Australia and Overseas visitors.

I am very familiar with the entirety of Tasmania's coastline, having walked, bushwalked, holidayed, swam, kayaked and spent most of the first 25 years of my life being a coastal Tasmanian. It is devastating to have witnessed what has taken place so far with coastal erosion, damage to our coastal ecosystems and the lack of foresight in regulating development. One of the core issues in Tasmania is that development that seems deemed appropriate in Hobart or Launceston or any town area follows through to coastal and bushland areas. Tasmania is in real danger of losing what is so unique, it's relatively untouched coastline. Constructive change and much tighter protection is required in the State Coastal Policy. This is certainly NOT the case with what has been proposed.

DEVELOPMENT DOES NOT ALWAYS EQUAL PROGRESS, and in this instance it equals destruction

I absolutely oppose the proposed changes to the State Coastal Policy due to the below issues and concerns:

Proposed Amendment Should Be Abandoned

The State Government has issued a [State Coastal Policy Position Paper](#) that proposes to remove a key part of the State Coastal Policy, section 1.4.2, which would remove a key protection for actively mobile landforms such as frontal dunes. I do not support this change and recommend the proposed amendment to the State Coastal Policy be abandoned.

The need for the amendment has not been established

The Position Paper does not provide a convincing explanation for what the purported problem with the State Coastal Policy is and why the amendment is being proposed. The Position Paper claims that there are problems with application of section 1.4.2 of the State Coastal Policy but there is no reference in it to legal advice. The state government has previously refused to release any legal advice, and it is uncertain if it has obtained any. If the government cannot explain the need for the change, then it should not make the change.

The government wants to make it easier to build wind farms on the coast

The purpose of the state government proposal appears to be aimed at removing a potential legal obstacle for wind farm developments that require infrastructure on coastal areas. Whilst wind farms have helped renewable energy production worldwide, it is imperative that they do not do more environmental damage than they prevent.

Actively mobile landforms have high conservation values and must be protected

Clause 1.4.2 of the State Coastal Policy should be retained, as it provides protection for actively mobile landforms that may have high conservation cultural and natural values. The impacts of climate change make it even more important to not make it easier for development of infrastructure on actively mobile landforms such as sand dunes.

Fast track amendment process will create planning uncertainty

As outlined in the Position Paper, the State Government proposes to use section 12 of the *State Policies and Projects Act 1993* that allows the amended policy to become an *Interim State Policy* and have effect while it is being reviewed by the Tasmanian Planning Commission. The obvious weakness of this approach is that, if the Tasmanian Planning Commission finds problems with the amended policy, it will already be in force and may continue to be for up to 12 months.

False alarm about the need to define 'actively mobile landforms'

The State Government has created false alarm about the absence of a definition of an 'actively mobile landform', in the State Coastal Policy or in legislation, when the policy has operated successfully for 28 years without a definition. If this was a significant problem the state government's lawyers would presumably have given advice about it and the government would release it. There are many key terms related to natural values that are also not defined in policies or legislation. Planning authorities and experts can work out definitions and how they are applied geographically when development assessments are made.

State of the Environment Report recommends undertaking a comprehensive review of Tasmanian Coastal Policy

It is good to review our planning laws and policies to ensure they are performing as we expect and are responsive to changes such as climate change. The State Coastal Policy has not been reviewed since its inception in 1996. The recently released State of the Environment Report recommends to "*Undertake a comprehensive review of Tasmanian Coastal Policy in response to the pressures and threats to natural and built coastal environment.*" This recommendation is supported but only if the Tasmanian Planning Commission's intent in making the recommendation is followed and that a full review under the *State Policies and Projects Act 1993* is undertaken (and not the 'fast-track' process through section 12).

Yours sincerely
Josephine Nicholls

22 October 2024

Mr Sean McPhail
Acting Director
State Planning Office
Department of Premier and Cabinet

Via email: yoursay.planning@dpac.tas.gov.au

Dear Sean

Amendment to the State Coastal Policy 1996 – Development on Actively Mobile Landforms

Thank you for the opportunity to provide a submission on the proposed amendments to the State Coastal Policy 1996, as outlined in the ‘Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper’. The Local Government Association of Tasmania (LGAT) has consulted with its members to prepare this submission.

Local government uniquely positioned in development

Local government has a special statutory and community representation role when it comes to development. Councils’ roles under the *Local Government Act 1993* and the *Land Use Planning and Approvals Act 1993* means that they stand at the convergence point in the planning system of all the planning legislation and statutory instruments, of state and development industry players, and of communities. This makes them the primary managers and mediators of growth and change in the state and central to planning policy. This includes the State Policies under the *State Policies and Projects Act 1993*.

This role gives local government unique experience and expertise in development policy implementation and regulation. Their input can help create more effective and efficient State policy. We advise putting local government at the forefront of your engagement efforts when creating and reviewing State development policy. This will help the Government deliver a better outcome in all development policy reforms.

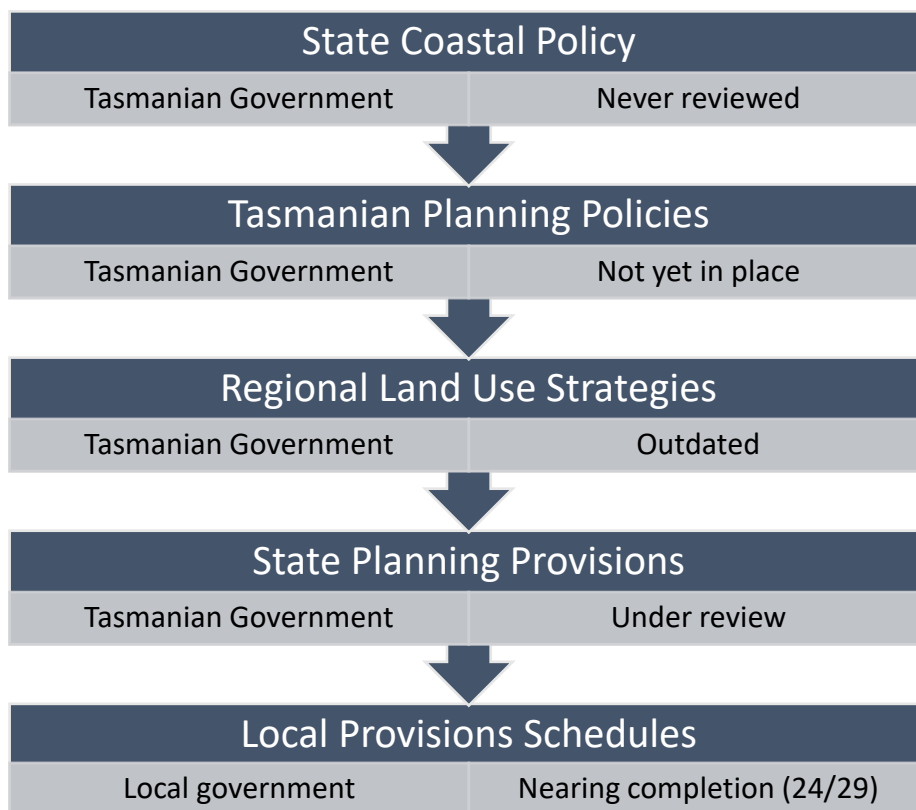
Amendments generally supported

Our consultation found that councils generally supported the proposed amendments. Councils supported moving from outright prohibition of development on actively mobile landforms to a risk and performance based assessment. This is consistent with contemporary development planning practices.

Councils also agree on the need for an improved definition of ‘actively mobile landform’ to improve clarity for proponents and regulators alike. Mapping is part of delivering better clarity and improved regulatory efficiency, so is strongly supported.

Broader review of the State Coastal Policy sought

Overall, councils appreciate efforts to continually improve the policy framework, including the State Coastal Policy. However, these amendments are limited and councils recognise the need to maintain our policy and regulatory instruments. The State Coastal Policy is nearly 30 years old with the last amendments 15 years ago. Tighter, less ambiguous and more unequivocal language is needed. Contemporary regulatory practices and climate change science need to be applied. Subordinate planning instruments, like the State Planning Provisions, also need amending to properly align to and be consistent with revised superior instruments, such as State Policies.



Councils urge the Tasmanian Government to commit to a wholesale review of the Policy, and schedule this, not immediately, but as soon as possible after the current suite of planning reforms.

Please contact Michael Edrich, Senior Policy Advisor, if you have any questions or would like further information, at.

Yours sincerely

Dion Lester
CHIEF EXECUTIVE OFFICER

Department of State Growth
MINERAL RESOURCES TASMANIA

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Sean McPhail
Acting Director
State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001
sean.mcphail@dpac.tas.gov.au

Dear Sean

FEEDBACK RE: COASTAL POLICY PAPER

Mineral Resources Tasmania (MRT) supports the stated principle of the proposed changes of removing ambiguity and promoting consideration of appropriate development in all areas of the coastal zone.

Tasmania's coastal areas provide access to a range of mineral commodities including critical sand resources that support the building, construction and infrastructure industries across the State. Ongoing, appropriately regulated, access to the coastal zone and areas currently defined as being actively mobile, is critical to ensure ongoing supply of construction materials that help underpin economic activities supporting our communities. Recent work by MRT has identified a shortage of available 'concrete' specification sand resources in Tasmania's south. Much of the available resource of this sand specification occurs in the coastal zone, and in the north of the state.

There are a number of active mining leases, and applications for a lease within the coastal zone. This zone provides access to a range of mineral resources and supports the development of those resources that are important to the state. Examples include sand for construction materials, heavy mineral sand extraction and the installation of infrastructure for delivery of the mined product to sea borne transport such as at Port Latta.

It is imperative that any changes to the State Coastal Policy include in the objectives that access to such resources (and infrastructure required) can be undertaken in areas of the coastal zone (including in actively mobile landforms) where that proposed development is dependent on that area of the coast for the utilisation of that resource.

The proposed change to Objective 1.4.2 and alignment with outcome 2.1.6, is largely supported where the broad prohibition on development is removed and proper

consideration is given to the proposal and the need for that location. It is considered that the proposed wording be varied to encompass a broader range of uses than just engineering or remediation works and includes other developments (eg extractive industries) that require that location due to dependency on that particular location for the proposed activity.

A suggested approach could be:

1.4.2 Development on actively mobile landforms will only be allowed for

development or works necessary to protect land, property and human life, or where it can be demonstrated that the development requires the specific location and appropriately considers:

- a) protecting coastal values and natural coastal processes;*
- b) achieving and maintaining a tolerable level of risk; and*
- c) the benefits to the public and dependency on the particular location.*

This approach will assist in maintaining internal consistency within the policy, and align with Objectives 2.1.8 and 2.1.11. Clarity must be provided for those Objectives under 1.4 to clarify that developments such as extractive industries can occur within these zones deemed hazardous, where the location is required for the specific development, provided that those activities do not endanger other property outside the proposed works area, and will not contribute to an increase in risk to life.

MRT notes that mining development proposals in the coastal zone require a range of environmental and planning approvals at the State level and, depending on the specific proposal, may also require referral under the Australian Government's *Environmental Protection and Biodiversity and Conservation Act 1999*.

Specialist Comments on Landform Definition

For context, MRT regulates landslips under the *Mineral Resources Development Act 1995* and has natural hazards specialists including with specialist knowledge in coastal landforms.

MRT recommends that the term 'actively mobile landforms' should be clearly defined and agrees with the view that the term 'frontal dune' is ambiguous. This clear definition is needed to achieve the stated aim of removing ambiguity.

MRT recommends the use of a risk assessment system and notes that this is consistent with the treatment of other hazards in the Tasmanian planning system. However, the effectiveness of a risk assessment system is directly related to a clear definition and/or set of hazard bands that unequivocally trigger an assessment or otherwise. In this context, MRT does not believe that the dune mobility layer is appropriate for direct use as suggested on p. 12 of the discussion paper (Section 6.5). This is because it does not cover all coastal areas

and many areas that are covered are mapped as “unclassified”. Secondly, it isn’t a direct measure of geomorphic mobility as it uses vegetation cover as a proxy for dune mobility, and it does not consider timeframes of geomorphic change.

MRT recommends the development of an actively mobile landform layer using the dune mobility layer in conjunction with the coastal erosion hazard bands/components (high or high and medium) and soft sediment landform layers.

MRT is open to further discussions with the State Planning Office with regard to developing a clear working definition of actively mobile landforms and developing an actively mobile landform spatial layer as appropriate.

For further discussion on this specific matter of definitions, please contact Dr Claire Kain on 03 6165 4742. Or via e-mail: Claire.Kain@stategrowth.tas.gov.au.

Alastair Morton
Director of Mines

21 October 2024

From: Jill Hickie >
Sent: Tuesday, 22 October 2024 12:37 AM
To: State Planning Office Your Say
Subject: Submission - Review of the State Coastal Policy - Development of Active Coastal Landforms Position Paper

Dear Madam/Sir

I wish to make a submission on the 'Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper' released by the government for public comment.

Tasmanian coastlines are precious, providing internationally recognised habitat for migrating birds, protecting coastal landforms and Aboriginal heritage and rare coastal vegetation such as sand dunes, and salt marshes. They also provide important protection from increased coastal erosion as our oceans rise and extreme weather events increase.

Tasmania's coast is also unique and largely unspoilt, thanks to the *State Coastal Policy*, which has protected it for almost 30 years.

The review of the State Coastal Policy is welcome given that the policy has been operating since 1996. The Government's recently released State of the Environment Report recommends the coastal policy's comprehensive review. However, this proposed reform outlined in the 'Review of the State Coastal Policy – Development of Actively Mobile Landforms Position Paper' out for comment is clearly not a comprehensive review, but rather it appears to be a mechanism to fast track amendments removing Section 1.4.2 which provides protection for actively mobile landforms such as frontal dunes. This reform will then allow certain developments to proceed in actively mobile landforms destroying these fragile, natural and often culturally significant landforms.

The position paper does not provide any clear legal rationale or justification for this specific amendment to the coastal policy that would provide democratic transparency for the community to understand that this proposal has come from a legally informed position.

I disagree with this proposed review and speed at which the process is being delivered, with a bill, the Validation (State Coastal Policy) Bill, already tabled in Parliament with minimal consultation.

Please take the time to consider the long term implications of progressing this fast tracked reform of the State Coastal Policy by scrapping the process and undertaking a comprehensive review. Once these landforms are gone, they are gone forever.

My apologies for sending my submission a few hours later than the 5pm deadline. I hope that you will accept it.

Yours sincerely
Jill Hickie



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Institute of
Architects

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21 October 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001

By email to: yoursay.planning@dpac.tas.gov.au

Re: Review of the State Coastal Policy 1996 – Development on Actively Mobile Landforms

To whom this concerns,

The Tasmanian Chapter of the Australian Institute of Architects (the Institute) would like to thank the State Planning Office for the opportunity to provide feedback on the *Review of the State Coastal Policy 1996 – Development on Actively Mobile Landforms: Position Paper*.

The Institute has consulted with members and our policy and advocacy team. Feedback has been received that members have not, in their practice as architects, had experience working with the existing *State Coastal Policy 1996 (the Policy)*, and because this is primarily outside their experience, have no specific comments on the proposed review. Members have, however, indicated that they are supportive of the Policy being reviewed, and have noted that the Position Paper appears to be primarily a positive document.

The Institute looks forward to being informed as to how this review and proposed amendment progresses.

Kind regards,

Daniel Lane

President, Tasmanian Chapter
Australian Institute of Architects

Jennifer Nichols

Executive Director, Tasmanian Chapter
Australian Institute of Architects

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with over 14,500 members across Australia and overseas. The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design. To learn more about the Institute, log on to www.architecture.com.au.

Amendment to the State Coastal Policy 1996

Homes Tasmania submission

Purpose

- This document outlines Homes Tasmania's feedback on the State Planning Office's amendment to the State Coastal Policy (1996).

Feedback

- The proposed amendment is a minor change to the State Coast Policy (1996) and will clarify expectations around infrastructure and development in coastal areas.
- Changes to Tasmania's Resource Management and Planning System (RMPS) to remove ambiguity aligns with objectives of the Tasmanian Housing Strategy to deliver a planning system and regulatory framework that supports the efficient approval of appropriately located residential development.
- Homes Tasmania is supportive of the proposed amendment.