

Out of scope

From: McPhail, Sean <Sean.McPhail@dpac.tas.gov.au>
Sent: Thursday, April 18, 2024 3:28 PM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: State Coastal Policy

Brian,

Mat is after our advice on s 35

s 35 He's also mentioned the need to introduce validating legislation to address any decisions from that past that have contravened current 1.4.1/1.4.2, possibly as a amendment to the State Coastal Policy Validation Act 2003. Looking at the administrative arrangements for this Act, DPAC is the responsible agency and the Minister for Parks and Environment is the relevant Portfolio.

He'd like to meet tomorrow afternoon to get our thoughts on how to go about this so he can advise Minister Duigan.

Some initial thoughts:

- If you read 1.4.1 and 1.4.2 together, it talks about identifying areas most at risk of coastal hazards to minimise remedial works to protect land, property and life. This is what has occurred through the Coastal Erosion and Coastal Inundation hazard mapping work and this is now shown through detailed coastal hazard bands. Outcome 1.4.2 then goes on to prohibit any works on actively mobile landforms unless consistent with 1.4.1.
- What we are wanting fix is the issue of things being unnecessarily prohibited on 'actively mobile landforms'. These outcomes are about minimising risks to land, property and life, not natural values. We also have the issue of 'actively mobile landforms' not being defined.

- s 35

Option 1 – s 35

- s 35

Option 2 – s 35

- s 35



Thoughts?

Sean

Hegarty, Corinne

From: Risby, Brian
Sent: Friday, 19 April 2024 9:49 AM
To: Healey, Mathew
Cc: McPhail, Sean
Subject: FW: State Coastal Policy

Mat,

Below email exchange between Sean and myself on this issue.

s 35

s 35

s 35

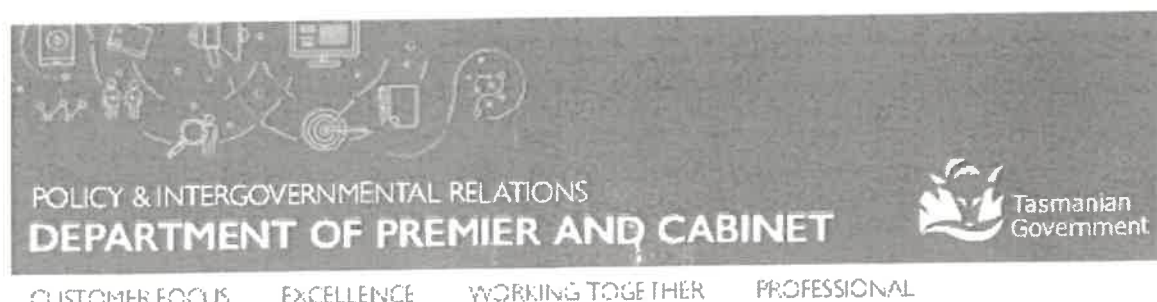
Outcomes 1.4.1 and 1.4.2 were subject to some modification in about 2007 or 2008 to provide for dredging of the St Helens bar which was considered contrary to the outright prohibition of development on actively mobile landforms.

The issue was also subject to consideration under the Government (Labor/ Green) in 2013 in the Tasmanian Coastal Policy Statement Consultation.

Brian Risby FPIA | Director
State Planning Office
Department of Premier and Cabinet
Level 7 / 15 Murray Street, Hobart TAS 7000 | GPO Box 123, Hobart TAS 700 |
(p) +61 3 62327066
(m) **Out of scope, s 36**

Brian.Risby@dpac.tas.gov.au

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From: Risby, Brian
Sent: Thursday, April 18, 2024 4:40 PM

To: McPhail, Sean <Sean.McPhail@dpac.tas.gov.au>

Subject: RE: State Coastal Policy

Thanks Sean,

Lots of good work here. s 35

s 35

Just reviewing the TasCAT decision and the relevant discussion is as follows, with 271 addressing the State Coastal Policy (SCP) – the conclusion is basically that the planning scheme was prepared and approved as consistent with the State Policy and it does not include a prohibition as set out in Outcome.1.4.2 and therefore it is all that is need to be considered. It relies on Outcome. 2.1.4 but this actually says planning schemes will provide guidance not the type of clause that the PAL State Policy includes at 6.

This Policy applies to all agricultural land in Tasmania. A decision made in accordance with the provisions of a planning scheme; (a) approved under the Land Use Planning and Approvals Act 1993, as being in accordance with this Policy, or (b) amended in accordance with section 13 of the State Policies and Projects Act 1993, is taken to have been made in accordance with the Policy.

In any event there is plenty of case law that says that 1.4.2 overrides a planning scheme and this is why we explicitly provided the inclusion in the SPPs. In this case it appears there was evidence that the risk was not great.

I like your suggested fix in Option 2 as it would clarify that other parts of the SCP can be delivered as long as they minimise impacts etc.

s 35

Back Banks

269. Back Banks is a barrier dune system of approximately 9-10 kms backing the exposed beaches of Ransonnet Bay on the northeast coast of Robbins Island. The only part of the entire geosite that will be impacted by works associated with the proposal is a stretch of approximately 50 m to accommodate the wharf. That area represents approximately 0.5 per cent of the entire Back Banks geosite.
270. Dr McHenry believes that the consequence of the wharf emplacement will be catastrophic at the point of excavation. That is clearly the case, as the fore-dune will be destroyed at that point. She concludes that this impact will diminish the value of the dune system as a whole due to its integrity and representative reference values. Mr Dixon considered that the geosite's significance would not be fundamentally compromised as long as appropriate permit conditions are applied. Dr Goodwin made no assessment of the significance of the impact of the wharf on the geosite but indicated that a pre-construction geo-scientific survey should be conducted to sample the geo-heritage and that any data generated should be archived and assessable for future scientific study.
271. Mr Dixon, in response to questions from the Tribunal, said that the site of the proposed wharf would be over a frontal dune and that the dune is a mobile landform. Dr McHenry confirmed that the dune has a mobile component. The wharf would therefore be a development falling within cl 1.4 of the coastal policy. The Scheme was prepared in contemplation of the coastal policy and contains no prohibition on development on actively mobile landforms. The Scheme is the expression of the public interest in the orderly and appropriate management of development in the municipality: *Jezreel Pty Ltd & Anor v Brisbane City Council & Anor* [2023] QPEC 7 at [361] and [370]. The State Coastal Policy acknowledges this in cl 2.1.4, which provides that "Planning schemes...will provide guidance for resource allocation and development in accordance with this Policy".
272. The balance of the expert advice is that the destruction of the tiny portion of the Back Banks geosite will not materially impact its geo-heritage significance and the risk may be dealt with by an appropriate conditions requiring the preparation of a management plan for approval by the EPA prior to commencement of works.

Brian Risby FPIA | Director

State Planning Office

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(m) **Out of scope, s 36**

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Hegarty, Corinne

From: Risby, Brian
Sent: Friday, 26 April 2024 12:32 PM
To: Healey, Mathew
Subject: Briefing Note and Minute Template - Premier
Attachments: Briefing Note and Minute Template - Premier.DOCX

First draft Mat – I'm popping out to lunch but call me whenever please.

Minute to the Premier

For approval by:

DPAC CM (TRIM) reference:

Ministerial CM (TRIM) reference :

State Coastal Policy validation and amendment

Purpose:

s 27

Analysis:

s 31, s 27

s 31, s 27

Reason for deadline: s 31, s 27

s 31, s 27

s 27

s 27

Recommendations

Approve

s 27

Approvals (Please ensure you allow a minimum two days for each stage of approval)

Deputy
Secretary/Division
Head

Signature Date

Secretary (if required)

Signature Date

Premier

Approved

Yes

☐ No

☐

Signature Date



Premier's notations:

Key reason/s

Validation of past approvals

- The *State Coastal Policy Validation Act 2003* was passed to ensure that any act or thing done or omitted or required to be done or omitted (including development approvals and approval of subordinate planning instruments) is taken to have been validly done.

- s 27

Amendment of the State Coastal Policy

- s 27

- The SCP uses the definition of development from the *Land Use Planning and Approvals Act 1993* (LUPAA) which includes construction of buildings, carrying out of works, subdivision, and putting up signs. 'Works' are separately defined as including any change to the natural condition or topography of land including removal of vegetation and soil.

- s 27

- s 31, s 27

Further clarification of cl.1.4.2 or a broader amendment to allow coastal infrastructure on actively mobile land

- s 27

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s 27

Removing the 'self-executing' nature of certain clauses

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s 27

Consultation

Financial impact

Compliance

Communications

Will there be any media releases? (If so, please include draft as an attachment). Has this issue received media attention? Will there be an upcoming announcement?

Options

If there are options, analyse each option available and explain why the recommended option is preferred. Use a table to clearly identify different options available/considered. Say which options are least desirable and why.

#	Options	Analysis
1		
2		
3		

Background

s 31, s 27

s 31, s 27

TasCAT determined that an assessment of the development under the relevant interim planning scheme was sufficient because the scheme had been approved as compliant with the SCP, and as such a further assessment against the specific clause was not required.

s 27

s 27

s 27

Attachments (delete if no attachments)

Every attachment must be referenced in the brief in sequence of 1, 2, 3 etc

Attachment	Title (CM reference)
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1	
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2	
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3	
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Name	Phone Number
------	--------------

DPAC contact
for more
information:

Author,
responsible
Division

Hegarty, Corinne

From: Risby, Brian
Sent: Monday, 29 April 2024 9:23 AM
To: Nettlefold, Nell
Subject: FW: Briefing Note and Minute Template - Premier
Attachments: Briefing Note and Minute Template - Premier.DOCX; State Coastal Policy 1996.pdf; s 31.pdf

Welcome back Nell,

I'm sharing this with you as we may need to do more work on this and it relates to Policy and application.

I think Sean and I have persuaded Mat and hopefully the Govt that this needs a careful consideration of the issues and sequencing of actions to achieve a good outcome. Would be very happy to have your thoughts.

Brian Risby FPIA | Director

State Planning Office

Department of Premier and Cabinet

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(m) Out of scope, s.36

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From: Risby, Brian
Sent: Friday, April 26, 2024 2:18 PM
To: Glassick, Helen <Helen.Glassick@dpac.tas.gov.au>
Subject: Briefing Note and Minute Template - Premier

Minute to the Premier

For approval by:

DPAC CM (TRIM) reference:

Ministerial CM (TRIM) reference :

State Coastal Policy validation and amendment

Purpose:

s 27

s 27

Analysis:

s 31, s 27

Reason for deadline:

s 31, s 27

Recommendations

Approve

s 27

s 31, s 27

Approvals (Please ensure you allow a minimum two days for each stage of approval)

Deputy
Secretary/Division
Head

Signature Date

Secretary (if required)

Signature Date

Premier

Approved
Yes
☐ No
☐
Noted
☐

Signature Date

Premier's notations:

Key reason/s

Validation of past approvals

- The *State Coastal Policy Validation Act 2003* (Attachment 1) was passed to ensure that any act or thing done or omitted or required to be done or omitted (including development approvals and approval of subordinate planning instruments) is taken to have been validly done.

- s 27

Amendment of the State Coastal Policy

- s 27

- The SCP uses the definition of development from the *Land Use Planning and Approvals Act 1993* (LUPAA) which includes construction of buildings, carrying out of works, subdivision, and putting up signs. 'Works' are separately defined as including any change to the natural condition or topography of land including removal of vegetation and soil.

- s 27

- s 27, s 31

s 27, s 31

Further clarification of cl.1.4.2 or a broader amendment to allow coastal infrastructure on actively mobile land

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s 27

Removing the 'self-executing' nature of certain clauses

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s 27

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Financial impact

Compliance

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Options

#	Options	Analysis
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1		
2		
3		

Background

s 31, s 27

s 31, s 27

s 31, s 27

TasCAT determined that an assessment of the development under the relevant interim planning scheme was sufficient because the scheme had been approved as compliant with the SCP, and as such a further assessment against the specific clause was not required.

s 27

Attachments

Attachment	Title (CM reference)
1	State Coastal Policy Validation Act 2003

2
3

s 31

	Name	Phone Number
DPAC contact for more information:	Mat Healey, Acting Deputy Secretary	
Author, responsible Division	Brian Risby Director State Planning Office	62327066

From: Risby, Brian
Sent: Tuesday, 30 April 2024 12:12 PM
To: Nettlefold, Nell
Subject: Re: Briefing Note and Minute Template - Premier

Indeed. What's needed is a few scenarios planned out not the least of which should involve **S 31** The Minute has gone to the Premier but I think a briefing might be required. Not my call though.

Get Outlook for iOS

From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Tuesday, April 30, 2024 11:22:41 AM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: RE: Briefing Note and Minute Template - Premier

Oh my goodness -- this is juicy!!

Agree that it needs careful consideration.

A large, bold, red graphic consisting of the letters 'S' and the number '35' is centered on a dark, textured rectangular background.

From: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Sent: Monday, April 29, 2024 9:23 AM
To: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Subject: FW: Briefing Note and Minute Template - Premier

Welcome back Nell,

I'm sharing this with you as we may need to do more work on this and it relates to Policy and application.

I think Sean and I have persuaded Mat and hopefully the Govt that this needs a careful consideration of the issues and sequencing of actions to achieve a good outcome. Would be very happy to have your thoughts.

Brian Risby FPIA | Director
State Planning Office

Bray, Ella

From: Risby, Brian
Sent: Monday, 29 April 2024 10:08 AM
To: Workflow
Subject: RE: RE - 24/50430 - Priority Status: URGENT? Yes

Something Mat would know but given the timing of preparation of the Minute – ASAP. I think the Premier's office was pushing for this.

I can't really advise more I'm sorry

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From: Workflow <Workflow@dpac.tas.gov.au>
Sent: Monday, April 29, 2024 10:07 AM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: RE - 24/50430 - Priority Status: URGENT? Yes
Importance: High

Hi Brian, Kath just cleared 24/50430 Minute to Premier - State Coastal Policy validation and amendment - April 2024. I'm about to progress it to the PO. I can't find the critical date on this though. It appears urgent given how it's progressed but can you please let me know the date this needs to be signed by the Premier?

Cheers, Nikky

From: CM Automated email <records@dpac.tas.gov.au>
Sent: Monday, April 29, 2024 9:23 AM

Bray, Ella

From: Workflow
Sent: Monday, 29 April 2024 10:12 AM
To: Office of the Premier
Subject: URGENT - Minute to Premier - State Coastal Policy validation and amendment - April 2024
Attachments: Minute to Premier - State Coastal Policy validation and amendment - April 2024.PDF; Attachment 1 - State Coastal Policy Validation Act 2003.PDF; Attachment 2 - State Coastal Policy 1996.PDF; Attachment 3 - **s 31**

Good morning

Please see attached package for the Premier. We have been advised that the Premier's office is expecting this.

Kind regards,

Nikky Beard
Executive Officer | Workflow Team

Department of Premier and Cabinet
Level 7, 15 Murray Street
Hobart, Tasmania 7000
(03) 6270 5850

Please note I work Mondays and Fridays

workflow@dpac.tas.gov.au | www.dpac.tas.gov.au



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-----< Content Manager Record Information >-----

Title: Minute to Premier - State Coastal Policy validation and amendment - April 2024
Record Number: 24/50430
Date Due:
External ID:

Arrived via email
@ 10.15am 29 APR 2024

Minute to the Premier

For approval by: Monday, 29 April 2024

DPAC CM (TRIM) reference: 24/50430 Ministerial CM (TRIM) reference:

State Coastal Policy validation and amendment

Purpose:

s 27

s 31, s 27

Analysis: s 31, s 27

s 31, s 27

Reason for deadline: s 31, s 27

s 31, s 27

s 27

s 27

Recommendations

Approve

s 27

Note

: s 31, s 27

Approvals

Deputy
Secretary/Division
Head

Signature Date

Secretary



Sunday, 28 April
2024

Premier

Approved
Yes
☐ No



Signature Date

30/4/24

Premier's notations:

Key reason/s

Amendment of the State Coastal Policy

- Clause 1.4.2 of the State Coastal Policy (Attachment 2) provides that *"development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with..."* engineering works to protect land, property or human life.
- TasCAT has previously taken the view that a Planning Scheme that has previously been assessed as complying with the State Coastal Policy can be used to consider development applications regardless of the wording of Clause 1.4.2.

s 31, s 27

s 31, s 27

s 27

Proposed amendment to allow coastal infrastructure on actively mobile land in limited circumstances

s 31, s 27

s 27

- s 27

Removing the 'self-executing' nature of certain clauses

- s 27
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Validation of past approvals

- s 27

- The *State Coastal Policy Validation Act 2003* (Attachment 1) was passed to ensure that any act or thing done or omitted or required to be done or omitted (including development approvals and approval of subordinate planning instruments) is taken to have been validly done.

- s 27
-

Options

#	Options	Analysis
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1		
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s 27

2		
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3		
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Background

s 31, s 27

TasCAT determined that an assessment of the development under the relevant interim planning scheme was sufficient because the scheme had been approved as compliant with the SCP, and as such a further assessment against the specific clause was not required.

s 31, s 27

s 31, s 27

s 27

Attachments

Attachment	Title (CM reference)
1	State Coastal Policy Validation Act 2003 (24/50430/3)
2	State Coastal Policy 1996 (24/50430/2)
3	s 31

	Name	Phone Number
DPAC contact for more information:	Mathew Healey, Acting Deputy Secretary	
Author, responsible Division	Brian Risby Director State Planning Office	62327066

Hegarty, Corinne

From: Risby, Brian
Sent: Thursday, 2 May 2024 12:54 PM
To: McPhail, Sean; Nettlefold, Nell
Subject: Re: Coastal Policy fix

Thanks. Agree that the prohibition in 1.4.2 needs modification and that's the approach I was looking for.

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From: McPhail, Sean <Sean.McPhail@dpac.tas.gov.au>
Sent: Thursday, May 2, 2024 12:45:49 PM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>; Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Subject: RE: Coastal Policy fix

Thanks Brian. A tricky one!

s 35

s 35

The SCP and the SPPs would need to be amended if you wanted to apply a more risk-based approach as envisaged by the draft TPPs – see strategies at 3.4.4:

3. *Avoid incompatible use and development of land subject to coastal erosion or coastal inundation where a level of tolerable risk cannot be achieved and maintained, or that is not feasible or desirable to be located elsewhere, unless the use and development is:*
 - a) *dependent on a coastal location;*
 - b) *temporary, readily locatable or able to be abandoned;*
 - c) *essential public infrastructure; or*
 - d) *minor redevelopment or intensification of an existing use involving a building or structure that cannot be relocated or abandoned.*
4. *Where incompatible use and development cannot avoid being located on land subject to coastal erosion or coastal inundation, hazard reduction and protection measures must be considered and, where appropriate, incorporated into the siting, design, construction and ongoing functioning of the use and development to reduce the level of risk to people, property and infrastructure to a level of tolerable risk.*

s 35

s 35

From: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Sent: Thursday, May 2, 2024 12:09 PM

To: McPhail, Sean <Sean.McPhail@dpac.tas.gov.au>; Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Subject: Coastal Policy fix

If you have time to consider please?

Just checking the following statements:

1. The SCP contains a clear prohibition of development and works of any kind on actively mobile land unless for engineering or remediation works to protect land, property and human life. This is the relationship between cl.1.4.2 and cl.1.4.1
2. The SPPs treat development for protective and remediation differently and exclude the prohibition
3. For other forms of development the SPPs have included detailed provisions for managing development including performance criteria so that some development might be allowed where it addresses relevant issues that were behind the prohibition in the first place.
4. Notwithstanding these performance criteria, these SPPs still contain the absolute prohibition on actively mobile land because the SCP requires that.
5. These provisions are arguably drafted to provide for safe and sustainable outcomes for any development and the prohibition is not required

6. s 35

7. s 35

8. s 35

Appreciate you're busy so not particularly urgent.

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(m) Out of scope, s 36

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www.planningreform.tas.gov.au | www.dpac.tas.gov.au

Hegarty, Corinne

From: Risby, Brian
Sent: Monday, 6 May 2024 3:44 PM
To: Nettlefold, Nell
Subject: State Coastal Policy - suggested actions

Nell

For your review when you get a chance. The 'cat is out of the bag' now with Min Duigan's Media Release which happened as I was working on this.

Mat,

Here's our thinking about the preferred approach to fixing the SCP issue and specifically the amendments that might be required to the clauses in 1.4 around coastal processes and hazards.

Duplicate

From: Risby, Brian
Sent: Wednesday, 8 May 2024 2:49 PM
To: Healey, Mathew
Cc: Nettlefold, Nell
Subject: Coastal Policy issues

Mat,

Firstly, it seems that there needs to be some clearer communications between Minister's offices and an understanding of who has responsibility for the issue. The public commentary is confused as to who is proposing changes and for what purpose. Let alone what the proposed changes are. The Minister for Planning did not seem to have any line of sight to the media release.

Here's our thinking about the preferred approach to fixing the SCP issue and specifically the amendments that might be required to the clauses in 1.4 around coastal processes and hazards.

1. Retrospective removal of doubt for developments on actively mobile landforms

s 35

2. Amendment of the SCP to change those clauses from qualified prohibition to risk based assessment

s 35

3. Validation legislation and concurrent amendment of the SCP

s 35

Revised 16 April 2003 in accordance with the
State Coastal Policy Validation Act 2003

Revised to take account of a minor amendment
that was *Gazetted* on 25 February 2009

i.

Coastal Zone

Under the *State Coastal Policy Validation Act 2003*, a reference in the *State Coastal Policy 1996* to the coastal zone is to be taken as a reference to State waters and to all land to a distance of one kilometre inland from the high-water mark.

The Act states that "State waters" has the same meaning as in the *Living Marine Resources Management Act 1995*.

d. s 31, s 35

e. s 35

f.

g.

The following TPPs provide an indication of the next level down policy statement that an amendment to the SCP should facilitate.

s 35

4. The SCP outcomes are mostly drafted to instruct other legislative and subordinate instruments to deliver the intent.

- a. This is supported by Outcome 4.2 "The main vehicles for implementation of this Policy will be land use planning controls....."
- b. Another relevant Outcome is 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."
- c. Outcome 2.1.3 is also relevant to a change to allow some developments even on actively mobile landforms "Siting, design, construction and maintenance of buildings, engineering works and other infrastructure, including access routes within the coastal zone will be sensitive to the natural and aesthetic qualities of the coastal environment"
- d. The intent of the current 1.4.1 seems appropriate as it refers to identifying areas of risk and managing them to minimise the need for future interventions to protect land, property and human life.

- e. Outcome 1.4.2 needs to be changed to allow some development in areas that are identified in 1.4.1 where there is a need for its location and it is subject to assessment to achieve a tolerable risk.

5. Potential wording of a revised 1.4.2

a.

s 35

6.

s 35

Brian Risby FPIA | Director

State Planning Office

Department of Premier and Cabinet

Level 7 / 15 Murray Street, Hobart TAS 7000 | GPO Box 123, Hobart TAS 7001

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(m) Out of scope, s 36

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Hegarty, Corinne

From: Risby, Brian
Sent: Friday, 10 May 2024 9:14 AM
To: State Planning Office Distribution List; Shirley, Pip; Gibson, Martin; McLennan, Cameron; Hiscock, Simon
Subject: QTB - State Planning Office - State Coastal Policy (Premier)
Attachments: QTB - State Planning Office - State Coastal Policy (Premier).DOCX

FYI folks

-----< Content Manager Record Information >-----

Record Number: 24/55463

Title: QTB - State Planning Office - State Coastal Policy (Premier)

QUESTION TIME BRIEF

PREMIER

Subject: **State Coastal Policy**

Current as at: **09-May-2024**

KEY MESSAGES:

- The Government has advice the recent interpretation of the State Coastal Policy in relation to the Robbins Island wind project may put at risk a range of developments on the coast.
- Tasmanians value the coast and the recreational opportunities it provides and the Government is moving to ensure that existing infrastructure to support this is not deemed to be illegal.
- To achieve this, we will be introducing legislation to validate any approvals made in relation to the Coastal Policy so that any doubt is removed.

s 27

TALKING POINTS:

- The State Coastal Policy is a critically important part of Tasmania's Resource Management and Planning System and it has served us well in protecting the coast and providing for sustainable development.
- When the Policy was introduced in 1996 the planning system was a mess, characterised by over 100 planning schemes dating back to the 1960s, with little or no recognition of coastal values and certainly no appropriate controls to allocated areas for development or assess proposals to protect the coast's values.
- Under these circumstances the original blanket prohibition of any development on actively mobile land was appropriate.

- However, in 2009 the Policy was amended when it was realised that this precluded even engineering works to protect life and reduce the need for further remediation in the future.
- Notwithstanding this, a lot of what was defined as development continued to be technically prohibited, compounded by the lack of clear guidance as to what an 'actively mobile landform' actually meant.
- The advice the Government has recently received throws even more doubt on this.
- The reality is that Tasmania has numerous developments on the coast which provide access, recreation, and help conserve areas of fragile environment.

s 27

s 27

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s 27

FAQS:



s 27

BACKGROUND:

- The State Coastal Policy Validation Act 2003 (Attachment 1) was passed to ensure that any act or thing done or omitted or required to be done or omitted (including development approvals and approval of subordinate planning instruments) is taken to have been validly done.
- It did this by legislating that the State Coastal Policy (SCP) (Attachment 2) is and was always valid notwithstanding the Supreme Court decision of it being void for uncertainty in spatial application.
- The Act remains on the statute books and subject to advice for the Office of Parliamentary Council could be amended to serve a similar purpose to address this current doubt.
- The intent and application of cl.1.4.2 has been subject to consideration over a number of years with its amendment in 2009 arising directly from a concern that its original wording was in the form of an absolute prohibition of any development on actively mobile landforms.
- The SCP uses the definition of development from the Land Use Planning and Approvals Act 1993 (LUPAA) which includes construction of buildings, carrying out of works, subdivision, and putting up signs. 'Works' are separately defined as including any change to the natural condition or topography of land including removal of vegetation and soil.
- Consequently, the original wording of cl.1.4.2 prohibited everything including rehabilitation works, erection of fences for safety or to facilitate rehabilitation, placing of signs and any form of earthworks including dredging of rivers or bays where the planning scheme applies.
- The 2009 amendment was made to exempt developments designed to limit future works and to protect land, property and human life.



	Name	Position
Prepared by	Brian Risby	Director – State Planning Office
Cleared by	Mat Healey	Acting Deputy Secretary, Policy and Delivery

DPAC contact for more information: Brian Risby **Out of scope, s 36**

Hegarty, Corinne

From: Risby, Brian
Sent: Monday, 13 May 2024 9:35 AM
To: Healey, Mathew
Subject: Coastal Policy legislation drafting

Hi Mat,
Just checking on expectations around the next stages for the Coastal Policy?

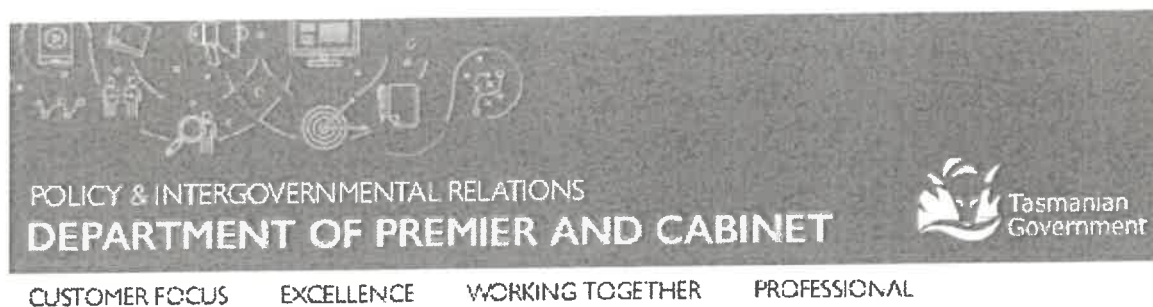
Is the Premier expecting a Cabinet Minute to commence drafting validation legislation and an amendment to the SCP? If so we may need to have early discussions with Jenny Rudolf and Kate Woodward **s 31**

s 31

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Heart, Corinne

From: Risby, Brian
Sent: Tuesday, 14 May 2024 12:15 PM
To: Healey, Mathew; Dawes, Melanie; Woodward, Katherine; Rudolf, Jenny (DoJ)
Subject: State Coastal Policy - supporting documents
Attachments: State_Coastal_Policy_1996.pdf; State Coastal Policy Validation Act 2003.html; s 31 pdf;
Minute to Premier - State Coastal Policy validation and amendment - April 2024.PDF; Coastal Policy issues

Colleagues,



Regards,
Brian

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Hegarty, Corinne

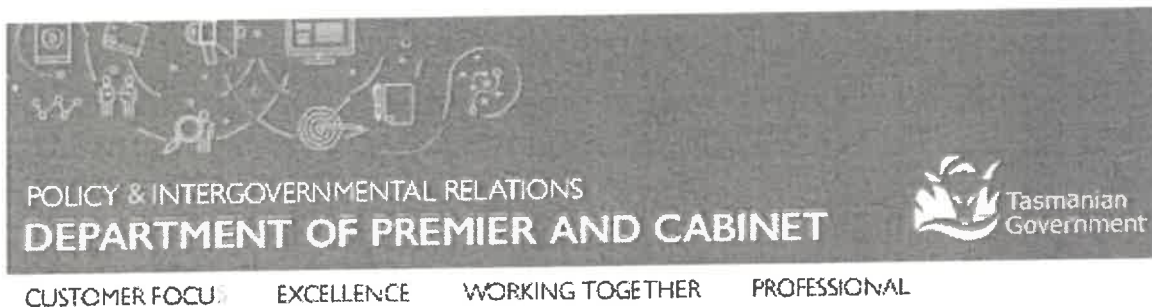
From: Risby, Brian
Sent: Tuesday, 21 May 2024 9:21 AM
To: Nettlefold, Nell
Subject: RE: work load

Yes can talk about SCP issue following meeting yesterday

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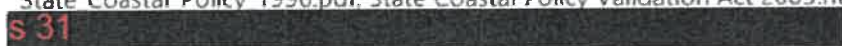
From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 9:13 AM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: work load

Morning

I'm a bit light on for work at the moment now that DAP is off my desk and on to yours.
Will follow up with some of the regional settlement hierarchy work I was looking at for Ange but if there's anything else I've got spare capacity.
Is anything happening on the SCP issues? Is it worth getting on the front foot and pulling some info together that might inform a report for future consultation? (Just a thought?)

Nell Nettlefold | Senior Project Manager, Tasmanian Planning Policies
State Planning Office
Department of Premier and Cabinet
Level 7 / 15 Murray Street, Hobart TAS 7000 | GPO Box 123, Hobart TAS 7001
(p) 03 6232 7163

Hegarty, Corinne

From: Risby, Brian
Sent: Tuesday, 21 May 2024 11:03 AM
To: Nettlefold, Nell
Subject: FW: State Coastal Policy - supporting documents
Attachments: State Coastal Policy 1996.pdf; State Coastal Policy Validation Act 2003.html;  pdf;
 S 31
Minute to Premier - State Coastal Policy validation and amendment - April 2024.PDF; Coastal Policy issues

Hi Nell,





s 31

s 42, s 31

s 42, s 31

s 42, s 31

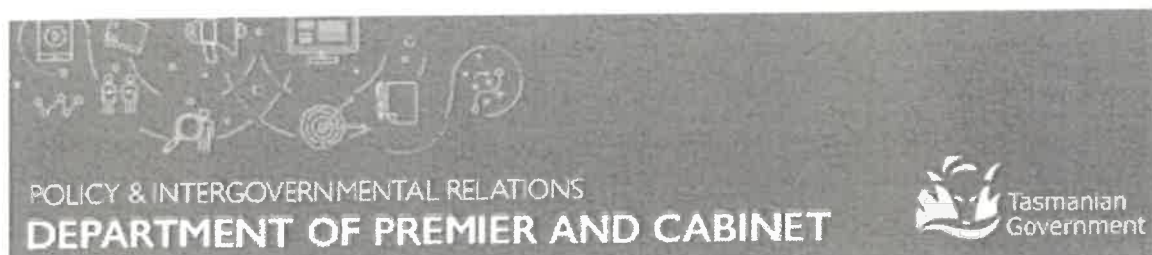
s 35

When you've digested this we can discuss.

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CUSTOMER FOCUS EXCELLENCE WORKING TOGETHER PROFESSIONAL

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From: Risby, Brian

Sent: Tuesday, May 14, 2024 12:15 PM

Duplicate

Hegarty, Corinne

From: Risby, Brian
Sent: Tuesday, 21 May 2024 12:07 PM
To: Nettlefold, Nell
Subject: RE: State Coastal Policy - supporting documents

Hmm – a good thought too.

s 35

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From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 11:26 AM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: RE: State Coastal Policy - supporting documents

Thanks for all that. I understand the issues. I will turn my mind to amending the SCP and all that is involved in that process.

s 35

From: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 11:03 AM
To: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Subject: FW: State Coastal Policy - supporting documents

Hi Nell,

Hegarty, Corinne

From: Risby, Brian
Sent: Tuesday, 21 May 2024 2:01 PM
To: Nettlefold, Nell
Subject: SCP again

Thanks for the note from Pam on the last amendment. That's useful.

s 31

s 31

s 31

What constitutes and Actively Mobile landform

See Soft sediment coasts sandy shores, sand dunes, marsh lands and estuarine shores (nre.tas.gov.au)

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Hegarty, Corinne

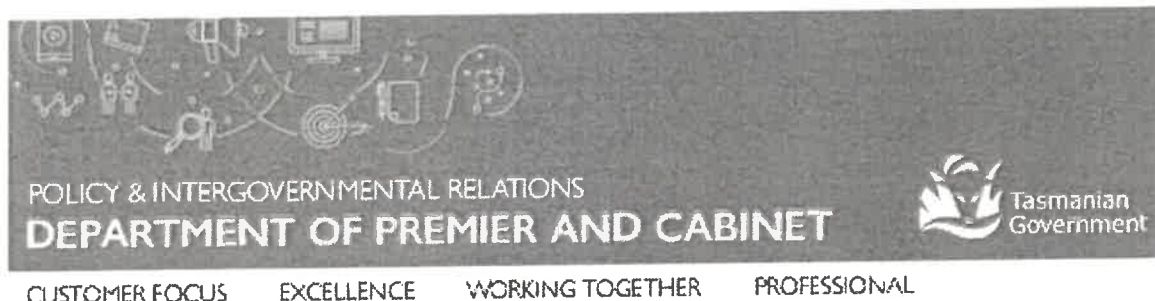
From: Risby, Brian
Sent: Tuesday, 21 May 2024 2:14 PM
To: Nettlefold, Nell
Subject: FW: SCP again

https://williamccromer.com/content/uploads/2015/03/SharplesOpinion_CoastalDuneTerminology_PolicyImplications_v3_May2012.pdf

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From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 2:04 PM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: RE: SCP again

Thanks for that. Very useful

From: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 2:01 PM
To: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Subject: SCP again

Duplicate

Hegarty, Corinne

From: Risby, Brian
Sent: Tuesday, 21 May 2024 4:01 PM
To: Nettlefold, Nell
Subject: RE: SCP

s 31

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From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Tuesday, May 21, 2024 3:53 PM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: SCP

Brian,

s 31

Nell Nettlefold | Senior Project Manager, Tasmanian Planning Policies
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(p) 03 6232 7163

Nell.Nettlefold@dpac.tas.gov.au

Hegarty, Corinne

From: Risby, Brian
Sent: Friday, 24 May 2024 1:57 PM
To: Rudolf, Jenny (DoJ)
Cc: Nettlefold, Nell
Subject: s 31

Hi Jenny,



I look forward to any thoughts you have on this.

Regards,
Brian

Brian Risby FPIA | Director
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Hegarty, Corinne

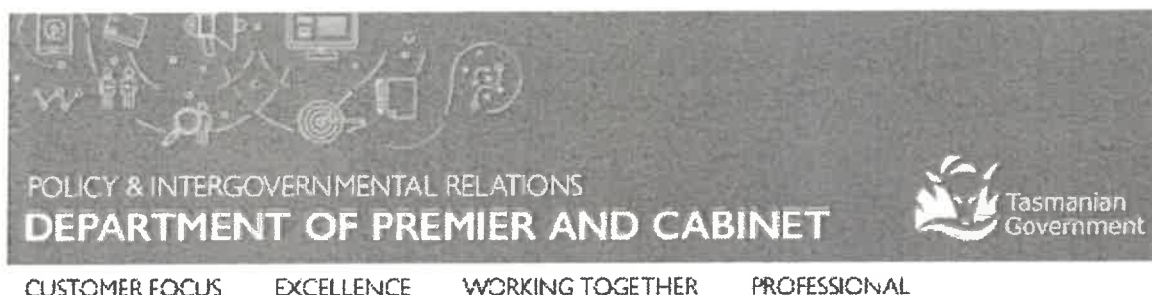
From: Risby, Brian
Sent: Monday, 27 May 2024 1:56 PM
To: Nettlefold, Nell
Subject: RE: possible retrospective reform re State Policies and Projects Act and/or State Coastal Policy

That all looks very sensible Nell.. Nice work

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Please consider the environment before printing this message

From: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>
Sent: Monday, May 27, 2024 1:52 PM
To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>
Subject: FW: **s 31**

For what its worth I think the quickest and easiest solution is to:

- 1.
2. **s 35**
- 3.
- 4.

s 35

5.

s 35

From: Rudolf, Jenny <Jenny.Rudolf@justice.tas.gov.au>

Sent: Friday, May 24, 2024 4:57 PM

To: Risby, Brian <Brian.Risby@dpac.tas.gov.au>

Cc: Nettlefold, Nell <Nell.Nettlefold@dpac.tas.gov.au>; Healey, Mathew <Mathew.Healey@dpac.tas.gov.au>; Woodward, Katherine <Katherine.Woodward@dpac.tas.gov.au>

Subject: s 31

Dear Brian

s 31

These are just preliminary views, and I'm happy to discuss the issues further if that assists.