Review of the State Coastal Policy 1996

DISCUSSION PAPER

DEPARTMENT OF PRIMARY INDUSTRIES,
WATER AND ENVIRONMENT

SEPTEMBER 2004

Message from the Minister

The Tasmanian Government is committed to the sustainable management and protection of our natural resources. In that commitment we know we reflect the views and feelings of the community, as came out clearly in the development of Tasmania *Together.*

The increased number of visitors to the State and the number of people coming to Tasmania to live represent new challenges.

A specific challenge is the increasing pressures being placed on our coasts. The very values that attract people to live or relax on the coast are put at risk by those people's activities.

In Tasmania we do not want to repeat the mistakes made in other places. Strip coastal developments, as seen in parts of New South Wales and Queensland, are not what we want in Tasmania.

Other things can also pose threats to the coast, including some tourism and recreational activities; industrial and urban pollution; and chemical or nutrient run off from agricultural lands.

The *State Coastal Policy 1996* was developed to assist in ensuring appropriate use, protection and management of our coasts.

Since 1996 there have been significant legislative and policy developments impacting on the management of our coasts, not least being Tasmania *Together*.

The Natural Resource Management Framework has also been developed to provide the State with a systematic way of integrating natural resource management to ensure consistency and efficiency, resulting in improved natural resource outcomes. A Tasmanian Natural Resource Management Council and three regional committees have been established and are in the process of developing regional strategies.

Given the increased pressures likely to be faced due to our growing population and visitor numbers in Tasmania, and the changes to the policy and legislative framework in this State, now is an ideal time to review the *State Coastal Policy 1996.*

The aim of the review is to work out how the *State Coastal Policy 1996* can be improved to ensure that planning and management of Tasmania's coast reflects contemporary sustainable development practices. This will guarantee the natural beauty and ecological integrity of our superb coastal areas for future generations. The review will involve working with Councils and other stakeholders to develop planning tools to assist in interpretation and implementation of the new State Coastal Policy.

Community involvement in this review is crucial. Accordingly, the review process provides a number of opportunities for community participation. Submissions are welcome on any matter you consider relevant to the review of the *State Coastal Policy 1996.*

Judy Jackson
Minister for Environment and Planning

Public Comment Process

This Discussion Paper is intended to assist individuals and organisations to prepare submissions for the review of the *State Coastal Policy 1996*. It outlines the background to the review and identifies issues concerning the content and implementation of the *State Coastal Policy 1996* as well as possible options for addressing those issues.

The Discussion Paper is available for public comment. The closing date for receipt of submissions is **Friday 5 November 2004**. Submissions are welcome on any matter you consider relevant to the review of the *State Coastal Policy 1996*. In making your comments you may wish to answer the specific questions raised throughout the Discussion Paper, or make general comments about the document as a whole.

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MAKING A SUBMISSION

Anyone can make a submission. It may be in hard copy or electronic format. A submission may take a number of forms, ranging from a short letter on a single issue to a much more substantial document covering a range of issues. Where possible, you should provide relevant facts, figures, data, examples and documentation to support your views.

In undertaking this review the Department seeks to have as much information as possible on the public record. Submissions will become publicly available documents once placed on the Department's website. This will occur shortly after receipt of the submission, unless it is marked in confidence. If you wish to provide material in confidence you should provide it under a separate cover, clearly marked IN CONFIDENCE. One option is for participants to provide any confidential information as an attachment to their submission. Return mail addresses and other contact details will not be made public.

Submissions may be sent by mail, facsimile, or email. Where possible, an electronic copy of submissions should be provided on a 3½-inch diskette, a CD or by email. The electronic version should be a text document (.txt, .rtf), a Microsoft Word document (.doc) or similar text format.

The Next Stages

Based on feedback to this Discussion Paper, a revised draft State Coastal Policy will be prepared and released for public comment. If additional supporting material, such as planning tools are produced, they will be released concurrently with the revised draft State Coastal Policy.

After public consultation, the draft State Coastal Policy and any supporting material will be amended to take into account comments received during the public consultation process.

The draft Policy will be considered by the State Government and following its approval, the Premier will refer the State Coastal Policy and associated material to the Resource Planning and Development Commission (RPDC) as required by the *State Policies and Projects Act 1993.*

A further opportunity for public comment will be available through the formal assessment of the draft Policy by the Resource Planning and Development Commission.

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Chapter 1: Introduction

1.1 State Coastal Policy

The Tasmanian *State Coastal Policy 1996* has been in place since October 1996. A copy of the Policy is contained in Appendix 1.

The purpose of the *State Coastal Policy 1996* is to implement the sustainable development objectives of the Resource Management and Planning System in Tasmania's coastal areas (refer to Appendix 2).

The Policy is based on three principles that address these objectives. The principles are interpreted through outcomes that address a range of coastal and marine management and planning issues. The principles are:

- "natural and cultural values of the coast shall be protected;
- the coast shall be used and developed in a sustainable manner; and
- integrated management and protection of the coastal zone is a shared responsibility."

The *State Coastal Policy 1996* was made under the *State Policies and Projects Act 1993* (the Act). A copy of the *State Coastal Policy 1996* is included at Appendix 1.

The Policy applies to all of Tasmania, including all islands, except for Macquarie Island which is subject to a special management regime.

Following a Supreme Court decision concerning the *State Coastal Policy 1996*, which found the Policy to be unlawful, the *State Coastal Policy Validation Act 2003* was enacted to validate the Policy and define the extent of the coastal zone.

1.2 Need for a Review

The Act requires that the Minister must ensure that all State Policies are periodically reviewed to ensure that they remain relevant and are kept up to date.

There has been no formal review of the *State Coastal Policy 1996*, although a report on the effectiveness of its implementation was prepared by the State Coastal Advisory Committee in 2000.

This review responds to the statutory obligation for review of the *State Coastal Policy 1996*. It is also timely to review the Policy to:

- take into account a number of national and State initiatives affecting the regulation and management of the coast;

- explore those matters raised in the State Coastal Advisory Committee's report, particularly the concern that the manner in which the Policy is drafted impacts on the operational effectiveness of the Policy. Other matters include:
    - its use of both policy statements and directive requirements;
    - its lack of guidance on who is obliged to carry out the directive components;
    - the relationship between the Policy and other statutory processes; and
    - the lack of supporting guidelines or tools to assist its implementation.

The existing Policy, that is, the *State Coastal Policy 1996*, will stay in effect during the period of review and until such time as a revised version is granted final approval.

The recommendations of the State Coastal Advisory Committee are set out in Appendix 3 and are discussed, where relevant, in this Discussion Paper.

1.3 Aim and Objectives of the Review

The aim of this review is to ensure that planning and management of Tasmania's coast reflect contemporary sustainable development practices.

The objectives of this review are:

- a State Coastal Policy that incorporates the minimum amount of regulation necessary to obtain its objectives;
- a State Coastal Policy that achieves an integrated approach to the planning and management of the coast by:
    - ensuring appropriate protection and conservation of the environment in the coastal zone;
    - encouraging the orderly and balanced use and development of the coastal zone;
    - maintaining and improving public access;
    - ensuring that consequences arising from the dynamic nature of coastal environments are recognised;
    - ensuring that the visual amenity of the coast zone is appropriately protected;
    - ensuring appropriate protection for Aboriginal and other historic cultural heritage in the coastal zone; and
    - ensuring a better understanding by community, Councils and State Government of how to interpret and implement the State Coastal Policy.

These objectives will be achieved through the development of an improved State Coastal Policy for referral to the Resource Planning and Development Commission as a draft State Policy under the *State Policies and Projects Act 1993*.

1.4 Purpose of this Discussion Paper

The purpose of this Discussion Paper is to canvass issues relevant to the review of the *State Coastal Policy 1996* and to canvass options to ensure an improved Policy.

It is not intended that this review deal with all issues relating to practical implementation of a State Coastal Policy, except in so far as the structure and content of the Policy affects implementation and where amendments to the Policy can improve its implementation.

This Discussion Paper is intended to encourage informed discussion and feedback. This is crucial to developing an improved State Coastal Policy.

A draft State Coastal Policy and supporting material will then be prepared for public consultation.

Chapter 2: Background

2.1 Role of State Policies and their Relationship with the RMPS

2.1.1 Resource Management and Planning System (RMPS)

The Resource Management and Planning System was established in 1994. The aim of the RMPS is to achieve sustainable outcomes from the use and development of the State's natural and physical resources.

Supported by a suite of complementary legislation, the RMPS establishes a holistic approach to resource management and planning. The system is concerned with the use, development, conservation and protection of land and water.

Public involvement in resource management and planning is encouraged and the system includes opportunities for public consultation and participation.

There are several essential elements in ensuring the RMPS is applied effectively. These are:

- strategic planning;
- flexibility and currency;
- whole-of-government approach;
- public participation; and
- monitoring the state of the environment.

2.1.2 State Policies

Tasmanian Sustainable Development Policies (State Policies) are a core element of the RMPS. The preparation and approval of State Policies is provided for in the *State Policies and Projects Act 1993*.

State Policies can be prepared for matters that require a consistent and coordinated approach throughout the State and are, in the opinion of the Minister, of State significance. A State Policy must seek to further the objectives of the RMPS and must incorporate the minimum amount of regulation necessary to obtain its objectives.

A State Policy may contain matters relating to one or more of the following:

- sustainable development of natural and physical resources;
- land use planning;
- land management;
- environmental management;

- environment protection; and
- any other matter that may be prescribed.

State Policies are statutory documents that are given effect primarily, though not exclusively, through the planning system (see section 63(2) of the *Land Use Planning and Approvals Act 1993*).

The central objective of any State Policy is sustainable development. This means it must address the use, development and protection of natural and physical resources together with the objectives relating to public involvement, the sharing of responsibility in resource management and planning, and economic development.

2.2 National and State Developments since 1996

Globally, governments, industry, landowners, land managers and others are now increasingly aware of their shared responsibility for natural resource management.

In Australia, commitment has been fostered by a number of Commonwealth and State Government programs and by regional and local initiatives.

2.2.1 National

Through the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension, all governments in Australia are promoting natural resource management with a focus on integrated regional and catchment management. The Natural Heritage Trust was established in 1997 and has funded large numbers of planning and on-ground management projects. The new regional arrangements were established in Tasmania in 2002-03.

For coastal and marine management and planning, in 1996 all States signed a *Coastal Action Plan Memorandum of Understanding* with the Australian Government and the Australian Local Government Association to introduce a suite of national coastal programs. These programs were developed from the recommendations of the *Resource Assessment Commission Coastal Zone Inquiry 1993* and the *Commonwealth Coastal Policy 1995*. The Memorandum of Understanding was renamed *Coasts and Clean Seas* in 1997 with the introduction of the Natural Heritage Trust by the Australian Government.

In Tasmania the *Coasts and Clean Seas Memorandum of Understanding* acknowledges that the principles and outcomes of the *State Coastal Policy 1996* meet the requirements of the Memorandum of Understanding. Programs included community driven coastal management projects (Coastcare), State coverage of regional strategic plans (Coastal and Marine Planning Program), upgrades to many sewage schemes (Clean Seas Program), training and information access (Capacity Building Program), and a number of marine environment projects.

These national coastal programs ceased in 2002 with the end of NHT1. Future initiatives in the coastal zone are to be delivered within the new Commonwealth and State natural resource management arrangements (see section 2.2.2.2 of this Discussion Paper on the Natural Resource Management Framework).

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* also requires referral of matters of national environmental significance to the Commonwealth for assessment, such as developments potentially impacting on Ramsar wetlands or threatened fauna.

In addition, on 3 October 2003, the national Natural Resource Management Ministerial Council agreed to adopt *A Framework for a National Cooperative Approach to Integrated Coastal Zone Management*. While implementation of the framework has yet to be finalised, the framework itself highlights the importance of integrated management of our coasts, and builds on the successes of national cooperation under *Coasts and Clean Seas*.

2.2.2 State (Tasmania)

2.2.2.1 Tasmania *Together*

Tasmania *Together* has set a vision for the State based on the wishes of the people. It is a long term plan for the State. It includes 24 goals and 212 benchmarks. The following four Tasmanian *Together* goals focus on natural resource management:

- Goal 21: Value, protect and conserve our natural and cultural heritage;
- Goal 22: Value, protect and maintain our natural diversity;
- Goal 23: Ensure there is a balance between environmental protection and economic and social development; and
- Goal 24: Ensure our natural resources are managed in a sustainable way now and for future generations.

2.2.2.2 Natural Resource Management Framework

The Natural Resource Management Framework provides the structure for management of Tasmania's natural resources in a sustainable manner in the long term, achieving a balance between economic and social development and the need to protect the environment.

The Tasmanian Natural Resource Management Framework, launched in February 2002, was developed to provide the State with a systematic way of integrating natural resource management, to ensure consistency, efficiency and improved natural resource outcomes.

It provides the administrative arrangements through which the Tasmanian Government coordinates and integrates the activities of the many entities involved in managing the wide range of natural resources in Tasmania. It will also be the vehicle by which the State and Australian governments will implement and manage national Natural Resource Management funding programs.

The *Natural Resource Management Act 2002* established the Tasmanian Natural Resource Management Council and provided a power to form regional committees for natural resource management. Each regional committee is required to prepare a draft regional natural resource management strategy for its region.

Tasmania has three Regional Committees (south, north and north west) which are currently developing regional strategies for natural resource management.

The boundaries of the regions extend to the limit of State waters and include the coastal zone. Natural Resource Management plans will address coastal issues and provide the opportunity to integrate management at the regional level across the catchment – coast – ocean continuum.

2.2.2.3 Partnership Agreements

A range of partnership agreements have been established between State and Local Government, at individual Council level and with regional bodies. Natural resource management is addressed as a standard item in all partnership agreements between the State Government and individual Councils.

The Simplifying Planning Schemes project, initiated under a Statewide partnership agreement, has advanced a more consistent approach to the format and structure of planning schemes. A template for drafting planning schemes has been developed and implemented as Planning Directive No.1 – the Format and Structure of Planning Schemes. This requires Councils preparing new planning schemes to use the template.

2.2.2.4 State Policies and new Legislation

Since 1996 the *State Policy on Water Quality Management 1997* and the *State Policy on the Protection of Agricultural Land 2000* have been prepared and introduced.

Legislation has also been enacted, or amended, which impacts on the management of our coasts, including the:

- *Living Marine Resources Management Act 1995*, which requires implementation of management plans applying to the use of marine resources by commercial and recreational fishers;
- *Marine Farming Planning Act 1995*, which sets out the process for preparing and approving marine farming development plans;
- *Water Management Act 1999*, under which all fresh water will eventually be covered by water management plans;
- *Natural Resource Management Act 2002*, which establishes a Natural Resource Management Framework including regional committees responsible for development of regional strategies; and
- *Weed Management Act 1999*, which provides for the control and eradication of declared weeds and the promotion of a strategic and sustainable approach to weed management.

2.2.3 Regional and Local Projects

Local Government and community groups have been particularly active in natural resource management. The majority of Natural Heritage Trust grants have been at a smaller scale, based on localised groups, including Coastcare. Theses groups are now largely supported through the Australian Government's Envirofund program. There are numerous local and regional coastal management strategies in Tasmania, which are currently at varying stages of completion and implementation.

The combined effect of these plans and associated works has been to build cooperative networks between community groups, Councils and other stakeholders in a number of areas, and to provide a good base for integrated natural resource management and planning.

Chapter 3: General Issues

3.1 Introduction

This section of the Discussion Paper will canvass the following matters:

- the value of Tasmania's coasts and the potential threats to those values; and
- general principles regarding the structure and format of a State Coastal Policy and consideration of possible tools which may assist in implementing a State Coastal Policy.

3.2 The Values of Tasmania's Coastal Areas

Section 5(1)(b) of the *State Polices and Projects Act 1993* states that "a State Policy may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy."

Tasmania has more coastline per unit land area than any other State in Australia. No place in Tasmania is more than 115 km from the sea and most population centres and major industries are on, or near, the coast. The principal landmass is surrounded by islands, and is indented by a myriad of bays and estuaries.

Areas of particular value in the coastal zone include those of high nature conservation value such as the Tasmanian Wilderness World Heritage Area, international Ramsar wetlands, wetlands of national importance, coastal vegetation (especially heathlands) and offshore islands of significance for seabird breeding and marine habitats.

Tasmania's coast and immediate marine waters also contain habitats for a host of terrestrial and marine life, some of which is endemic to Tasmania and under threat. Areas such as tidal flats, wetlands, beaches and estuaries provide important feeding and breeding areas for many varieties of fish and birds. Proper management is essential to maintaining biodiversity as well as species of economic value to Tasmanian industry.

Coastal areas also contain a range of geological features that illustrate the types of geomorphic processes that have and continue to occur in Tasmania. Some are of particular interest for their scientific and educational value and are listed on Tasmanian Geoheritage Database.

The coast contains a rich historic heritage including lighthouses, shipwrecks, whaling stations, early settlements, fish traps, navigation aids and facilities and graveyards. Such areas and sites are important components and depictions of the State's historical development and require judicious protection, conservation and management.

The character and visual qualities associated with the State's coastline are distinctive. Coastal locations attract holiday makers, those pursuing recreation interests and visitors to the State. Tasmania's coastline is for many tourists a key feature of their experience of Tasmania and for this reason should be regarded as a key economic resource. Distinctive and impressive scenery complements the other aspects of Tasmania which are increasing in their importance as tourism attractions and resources, such as wilderness, heritage and food and wine.

Traditionally, Tasmanians enjoy a high degree of access to the coast. Many live in coastal locations and some families own a seaside shack where they spend holidays. Tasmanians pursue recreational activities, such as swimming, boating, fishing, walking and camping on the coast. As a community we organise cultural events based on the coast and marine waters, including fishing competitions, regattas, the Three Peaks Race, the Sydney to Hobart Yacht Race and the Tasmanian Summer Festival.

Coastal landscapes include cultural landscapes of particular value to Aboriginal people.

In order that ecological systems are protected, economic activity fostered and our enjoyment of the coast retained, sound management of the zone is essential. Coastal management is not simply a matter of environmental protection.

In recent years, factors such as population growth, a strong economy and migration of people to the coast for retirement have increased pressure for further development on our coasts. Such pressures have resulted from increased subdivisions and housing developments in the coastal zone and their related impacts, such as vegetation clearance and infrastructure requirements.

The *Commonwealth Coastal Policy* (May 1995) identifies that “while many of us are concerned about damage to the coastal environment we also want to continue to use the coast for a wide variety of purposes. There is a risk of the coast being loved to death.”

The Tasmania *Together* vision for the State shows that the people of Tasmania support natural resource management, and an approach that ensures a balance between environmental protection and economic and social development.

The challenge is to manage the use of our coasts in such a way that undesirable impacts are avoided or minimised.

A State Coastal Policy that is focused on the following principles may assist in better management of the values of our coasts:

- ensure protection and conservation of the biodiversity and ecological processes of the coastal zone;
- facilitate orderly and sustainable use and development in coastal areas;
- maintain appropriate levels of public access;
- ensure that decision making adequately recognises the dynamic nature of coastal environments;
- ensure that the visual quality of the coastal zone is adequately protected;
- ensure adequate protection of Aboriginal and European heritage in the coastal zone; and
- ensure consistency in understanding, interpretation and implementation of the State Coastal Policy.

Please tell us your views on the principles that a State Coastal Policy should be based on.

3.3 Should a State Policy be a High Level Statement of Policy?

Presently, the *State Coastal Policy 1996* includes strategic policy principles as well as prescriptive regulation. This contrasts with the more recently made *State Policy on the Protection of Agricultural Land 2000* which contains only high level policy statements.

Discussion:

Before considering this issue, it is important to reflect on the purpose of State Policies.

State Policies are intended to provide a mechanism for the State Government to clearly identify matters of State significance and increase the degree of consistency and certainty about resource management and/or planning decisions (see section 2.1.2 on State Policies above). The *State Policies and Projects Act 1993* also specifies that a State Policy should have the minimum amount of regulation necessary to obtain its objectives.

With this purpose in mind, State Policies should contain a clear statement of the Government's position on matters of State significance. This could readily be achieved if the State Policy was a high level statement of policy on a particular matter.

The second aspect of the purpose, the need for consistency and certainty, brings into question the degree of prescription, specification or standards contained within a State Policy. To achieve greater certainty and consistency on a Statewide basis some prescription in approach may be necessary. It does not mean, however, that this prescription needs to be incorporated within the Policy itself.

In recent years, the preferred approach for developing State Policies has been for them to be a succinct high level statement of policy designed to establish and convey a State position on policy matters, and providing for local level responses to meet those policy requirements.

However, while generally advisory, a State Policy could be prescriptive in intent. It could provide for the general application of principles or, for example, could explicitly direct a planning authority to ensure that certain issues are taken into account when considering developments.

It can also be argued that an advisory State Policy would be more in line with the spirit of the Resource Management and Planning System where planning authorities are responsible for day to day decision making and the State provides policy guidance at a Statewide level.

Also, it is currently preferred that State Policies should not be self executing, rather, they should rely on other instruments (for example, planning directives, local planning schemes, strategic plans, catchment management plans, etc.) for implementation and for a greater level of detail. There may, therefore, need to be supporting documents to a State Policy designed to assist implementation through those instruments and to achieve a level of consistency across the State.

Please tell us your views on the option of a State Policy including high level statements of policy, with implementation largely achieved through supporting planning instruments.

3.4 Should a State Coastal Policy outline all Current Legislative Obligations?

The *State Coastal Policy 1996* makes reference to issues that are covered by existing legislation as a way of addressing all coastal issues in a single document.

Discussion:

Many of the clauses in the *State Coastal Policy 1996* refer to other legislation which needs to be complied with, to further the relevant outcome.

It has been argued that reference to other legislative processes is required to clarify the relationship of the Policy to those legislative processes.

In many cases however, the Policy does not clarify the relationship with other legislation and simply states that the *State Coastal Policy 1996* can be satisfied if legislative obligations are met. No further obligations to those which already exist in specific legislation or existing policies or codes, are imposed. The inclusion of such references therefore does not require planners to do anything more than is required by legislation. This does not encourage integrated planning. A better approach may be to identify activities that require integration and develop specific principles to achieve such integration. Those principles would be in addition to existing legal obligations.

If, as suggested in section 3.3 above, the revised State Coastal Policy was to be a succinct high level statement of policy, such matters would not be included. This way the focus would be on the high level policy principles to be achieved, rather than the processes to be used to achieve those principles.

Please tell us your views on the need to include comprehensive references to current legislative obligations affecting coastal management.

3.5 Are Tools in Support of a State Coastal Policy required?

The *State Coastal Policy 1996* is not currently formally supported by any other documentation.

Discussion:

The State Coastal Advisory Committee Report (2000) found that one of the main problems with implementation was the "lack of guidelines to assist Local Government and industry to comply with the Policy." It recommended as a priority that the Resource Planning and Development Commission and the Department of Primary Industries, Water and Environment should collaborate to issue best practice guidelines to provide interpretation of the intent of the policy outcomes and options for their implementation.

The need for implementation guidelines would, to some degree, depend on the nature of the Policy. If, as suggested in section 3.3 above, the State Coastal Policy was to be a succinct high level statement of policy, then implementation guidelines would be necessary in order to obtain a level of consistency across the State. It would be likely that without such guidance the interpretation and subsequent implementation of the Policy would vary considerably from

place to place. Even a more prescriptive Policy would require some implementation guidance if a high level of consistency is to be achieved.

In the case of a revised State Coastal Policy, a set of guidelines providing detailed direction and interpretation of specific principles in the Policy could be produced to assist implementation. Guidelines should outline acceptable responses and should be in a form that does not preclude other interpretations where they can be justified. This avoids the one size fits all approach that has caused implementation difficulties in the past.

Some tools that might be considered include:

- guidelines on how to prepare a planning scheme or planning scheme amendment in accordance with the State Coastal Policy together with associated good practice planning provisions; and

- a coastal manual on how to interpret the State Coastal Policy on the ground.

Please tell us your views about tools that should be developed to support better implementation of a State Coastal Policy.

3.6 Implications for a revised State Coastal Policy

Chapters 1 and 2 of this Discussion Paper and the earlier sections of this chapter outline a number of general matters that are likely to have implications for the structure and for the specific content of a revised State Coastal Policy. These have been summarised below in order that they can be drawn on in the discussion of specific issues in chapter 4 of this Discussion Paper.

Section 5 of the *State Polices and Projects Act 1993* outlines the following matters for a State Policy.

- "A State Policy must seek to further the objectives of the Resource Management and Planning System."

  The objectives of the RMPS (see Appendix 2) are quite broad and a State Coastal Policy can provide guidance on how the State considers these objectives should apply in coastal areas.

- "A State Policy may be made only where there is a matter of State significance to be dealt with in the State Policy."

  The particular values and physical processes associated with the coast are regarded as significant at a State level and deserving of special planning and management consideration.

- "A State Policy must seek to ensure that a consistent and coordinated approach is maintained throughout the State with respect to the matters contained in the State Policy and incorporate the minimum amount of regulation necessary to obtain its objectives."

> The proposed approach of developing a State Coastal Policy containing succinct high level statements of policy designed to establish and convey a State position on policy matters, with a set of supporting guidelines providing detailed direction and interpretation of specific principles in the Policy, is intended to provide a consistent and coordinated approach throughout the State, while still enabling local responses to meet policy requirements. This also ensures that a minimum amount of regulation is included in a State Coastal Policy, as directive material would be provided in any documents developed to guide implementation of the Policy.

Where a coastal issue needs to be addressed, but is one which does not involve or require a high level policy to guide planning authorities or fill a regulatory gap, then it may be appropriate to address that issue through tools developed in support of a new State Coastal Policy. It may be that the issue should be addressed through a more prescriptive and/or directive approach, such as through a planning directive, a planning scheme, management plan or the like.

Please tell us your views on an appropriate management and development control structure for the coastal zone.

Chapter 4: Specific Issues

4.1 Introduction

This chapter deals with the clauses of the *State Coastal Policy 1996* and, where appropriate, issues regarding their application.

In some sections of this chapter a general question is posed, in other sections options are identified and a general question posed. If you consider that other issues or options should be considered, your may raise those in your submission to this Discussion Paper.

4.2 Other Jurisdictions

In the discussions outlined below reference is made, where relevant, to other State's planning and management of the coastal zone.

Coastal development is the central issue addressed by all jurisdictions through a combination of legislation, coastal policies and plans. At its inception, the Tasmanian *State Coastal Policy 1996* was acknowledged as providing perhaps the strongest and, in practice, most effective guidance on good coastal development.

It is relevant to consider the approaches used elsewhere. In this case the approach and management instruments used in other Australian jurisdictions have been reviewed as opposed to overseas examples, as they have been prepared/implemented within a common national legislative framework and consequently, are more likely to be of greatest relevance.

In recent years more complex and sophisticated governance and policy approaches have been developed in, for example, Western Australia, Queensland and New South Wales. These States have legislation that provides for the creation of planning instruments similar to State Policies.

Western Australia has a comparable, though not identical planning system to Tasmania. Western Australia has issued a range of planning policies under the *Town Planning and Development Act 1928*. This includes the *Environment and Natural Resources Policy* (2003) and the *State Coastal Planning Policy* (2003) (http://www.wapc.wa.gov.au/). The planning policies primarily aim at providing general planning direction and facilitating the coordination of planning throughout the State by Local Government. They are implemented through planning strategies, planning schemes and decision making by planning authorities.

In Queensland (http://www.ipa.qld.gov.au) the *Integrated Planning Act 1997* is framework legislation that creates a single integrated development assessment system and an integrated framework for planning. It makes provision for State Planning Policies for the development of policy positions on matters of State interest. It is a requirement of the *Integrated Planning Act 1997* for State Planning Policies to be reflected in planning schemes. A State Planning Policy can only be taken into account in a development assessment where the planning scheme does not identify the Policy as being appropriately reflected in the planning scheme, or if the development is outside of a planning scheme area. Under the *Coastal Protection and Management Act 1995* the *State Coastal Management Plan* (2002) and subsequent Regional Coastal Management Plans have the status of State Planning Policies for the purpose of making and amending planning schemes and assessing and deciding development applications.

In New South Wales there is specific purpose coastal legislation, namely, the *Coastal Protection Act 1978*. The New South Wales Government has also issued the *Coastal Policy 1997*. The *Coastal Policy 1997* is a policy document intended to guide decision making, as opposed to legislative arrangements that formally govern decision-making. In addition, a range of specific State Environment Planning Policies have been issued under the *Environmental Planning and Assessment Act 1979*. This Act is concerned with management of developments throughout New South Wales and not just in coastal areas. These instruments have a similar effect to State Policies in Tasmania, but are perhaps more similar to planning directives. For this reason comparisons are made with State Environment Planning Policies rather than to the *Coastal Policy 1997*.

As these States have policies which are comparable to those in Tasmania, their planning instruments and approaches are often used to highlight where either a similar, or a different, approach is adopted to govern planning and management in coastal areas.

4.3 Application to the Crown and other Statutory Bodies

The *State Coastal Policy 1996* applies to the Crown in all its capacities, subject to contrary statutory provisions. Section 13C of the *State Policy and Projects Act 1993* states that "a State Policy binds: (a) the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities; and (b) a council."

Section 13B(3) states, in relation to the application of State Polices to statutory authorities and statutory office holders, that "a statutory authority or statutory office holder is not to be required to undertake activities, perform functions or exercise powers that are inconsistent with the statutory functions or powers of the statutory authority or statutory office holder."

Please tell us your views as to whether the current provisions binding the Crown are appropriate.

4.4 Geographical Coverage

The *State Coastal Policy 1996* applies to "all of Tasmania, including all islands except for Macquarie Island that is subject to a special management regime."

In including all of the islands of Tasmania there may be concerns about adopting a one size fits all approach. It may be that specific objectives and/or principles in the Policy should not apply to off shore islands, for example, where there is not likely to be any urban development.

The consequence of not including off shore islands (except Macquarie Island) within the Policy could be that activities conducted on them might not be consistent with sustainable development principles and protection of natural values including threatened species.

Macquarie Island was excluded at the inception of the *State Coastal Policy 1996* because of its unique situation and because it has a comprehensive management plan.

Please tell us your views as to whether the geographical coverage of the Policy is suitable.

4.5 Extent of the Coastal Zone

Under section 5(1) of 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”, where State waters has the same meaning as in the *Living Marine Resources Management Act 1995*.

Section 5 of the *Living Marine Resources Management Act 1995* states the following in relation to the meaning of State waters.

5(1) State waters are –

(a) any waters of the territorial sea of Australia that are –

(i) within 3 nautical miles of the baseline by reference to which the territorial limits of Australia are defined for the purposes of international law; and

(ii) adjacent to the State; and

(b) any marine or tidal waters that are on the landward side of that baseline and are adjacent to the State, except inland waters; and

(c) any land which is swept by those waters to the highest landward extent; and

(d) in relation to a fishery managed under a law of Tasmania under an arrangement, any waters to which the arrangement relates; and

(e) in relation to recreational fishing to which the Commonwealth Act does not apply, any waters to which the legislative powers of Tasmania extend.

(2) In relation to a fishery managed under a law other than a law of Tasmania under an arrangement, State waters do not include any waters to which the arrangement relates.

Discussion:

The original definition of the coastal zone in the Policy was intentionally flexible to take into account the fact that coastal processes are complex and can be impacted on by activities taking place many kilometres inland. It provided, for example, that “the zone extends inland to the extent necessary: 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 to achieve the principles, objectives and outcomes of this Policy.”

The original definition of the coastal zone was the subject of a Supreme Court appeal that found the *State Coastal Policy 1996* to be *ultra vires* for want of consistency in terminology.

The *State Coastal Policy Validation Act 2003* was introduced to clarify the definition of the coastal zone and validate the Policy. That Act defined the coastal zone as a distance of one kilometre inland from the high water mark.

In adopting an arbitrary line on a map, legal certainty was provided, but it is an inflexible approach. It means that the Policy covers substantially modified man made environments and cannot take into account uses further inland that have a capacity to impact on the coastal zone.

It is clear that any definition of the coastal zone must provide certainty while allowing for integrated management of impacts on the coastal zone.

An option may be to retain an arbitrary line as defined by legislation as this provides legal certainty.

Another approach may be to enable coastal councils to define the extent of the coastal zone within their planning schemes (for example, by an overlay) or satisfy the State Coastal Policy by insertion of appropriate performance based provisions. The extent of the coastal zone to be based on minimum requirements, such as, the coastal zone must include Ramsar wetlands, estuaries, and the like.

Other Jurisdictions:

In Western Australia the *State Coastal Planning Policy* (2003) applies to the "coast throughout Western Australia, including:

- coastal seabed, reefs, rocky outcrops and headlands, beaches, foreshores, dune systems, mangroves, wetlands and flats subject to sea action and coastal processes;
- near shore marine waters;
- all islands within the State lying seawards of the mainland; and
- land use and development abutting the coast."

It also allows town planning schemes and local planning strategies to identify areas of coastal influence to which that Policy will apply. The *State Coastal Planning Policy* does not apply to estuaries which are predominantly riverine in character.

In New South Wales the *Coastal Protection Act 1979* defines the coast in similar terms to that within the *State Coastal Policy 1996*. The New South Wales *Coastal Protection* State Environmental Planning Policy (2002) defines the "sensitive coastal zone" as "land within 100 metres above high water mark of the sea, a bay or an estuary and includes coastal lakes, Ramsar wetlands or World Heritage Area within the meaning of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, aquatic reserves, wetlands, marine parks, and land within 100 metres of identified coastal features."

Options:

- That a State Coastal Policy should determine the coastal zone to be an arbitrary distance as presently defined in the *State Coastal Policy Validation Act 2003*.
- That a State Coastal Policy should allow councils to define the extent of the coastal zone through amendments to their planning schemes (for example, through an overlay) and/or the adoption of performance based standards in compliance with the general principles in a State Coastal Policy. The coastal zone to be required to include particular coastal features. In the absence of an amendment to a planning scheme, then an arbitrary distance would continue to apply in accordance with the *State Coastal Policy Validation Act 2003*.

Please tell us your views on the appropriate definition of the coastal zone in a State Coastal Policy.

4.6 Interpretation / Definitions

The *State Coastal Policy 1996* is a legal document and so it is important to address issues of interpretation in the Policy. The use of an interpretation, or definitions, section is an important means of ensuring certainty and consistency of interpretation.

The current Policy includes a definitions section, with the majority of the definitions being reproduced in full as written in relevant Tasmanian legislation at the date at which the Policy was made. This compares with the current practice of drafting Tasmanian legislation in which the interpretation section of an Act will, where relevant, refer to definitions contained in another piece of legislation, rather than reproducing that definition.

For example, section 3 of the *Marine Farming Planning Act 1995* defines Council to mean "a Council as defined in the *Local Government Act 1993*." The advantage of this mechanism is that interpretation across the various instruments is always the same and does not rely on each of the relevant instruments being updated identically in the future.

Where relevant, discussion of the interpretation of specific terms is included throughout this Discussion Paper, for example, see the previous section on the extent of the coastal zone. In general, terms will be defined in an interpretation section of the Policy where it is both practical and necessary to do so.

It should be noted that some terms have not been defined in the Policy, or in any other Tasmanian legislation, because they are based on Common law interpretation by the Courts (for example, high water mark). Where this is the case it might be more appropriate to continue to have that term interpreted by the Courts based on case law. This would ensure consistency with other State laws also relying on a Common law interpretation of the term.

Please tell us your views on terms that should be defined in the State Coastal Policy.

4.7 Objectives and Principles of the State Coastal Policy

A State Policy must seek to further the objectives of the Resource Management and Planning System and promote sustainable development and the maintenance of genetic diversity (see Appendix 2). Thus the primary objective of any State Policy is sustainable development.

In addition to the objectives, three principals are identified in the *State Coastal Policy 1996*, namely:

- "natural and cultural values of the coast shall be protected;
- the coast shall be used and developed in a sustainable manner; and
- integrated management and protection of the coastal zone is a shared responsibility."

The principles are then supported by specific outcomes.

Discussion:

Given that the objectives of the Resource Management and Planning System apply through the section 5(1)(a) of the *State Policies and Projects Act 1993*, it may be redundant to include them as the objectives of the State Coastal Policy. The preamble or introduction section to a State Coastal Policy could include reference to the Resource Management and Planning System objectives.

It may be more appropriate for specific objectives to be developed for the State Coastal Policy, as in the *State Policy on the Protection of Agricultural Land 2000*.

The three principles in the *State Coastal Policy 1996* could be seen as objectives for a revised State Coastal Policy. Another approach may be to develop specific objectives in line with the approach in other jurisdictions.

Other Jurisdictions:

The four objectives of the Western Australian *State Coastal Planning Policy* (2003) “are to:

- protect conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;
- provide for public foreshore access to these on the coast;
- ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and
- ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.”

The aims of the New South Wales *Coastal Protection* State Environmental Planning Policy (2002) include:

- “to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast;
- to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore;
- to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge;
- to ensure that the visual amenity of the coast is protected;
- to protect and preserve beach environments and beach amenity;
- to protect and preserve native coastal vegetation and the marine environment of New South Wales;

- to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area; and

- to manage the coastal zone in accordance with the principles of ecologically sustainable development and to encourage a strategic approach to coastal management."

Options:

- Identify the three principles in the *State Coastal Policy 1996* as the objectives for a revised State Coastal Policy.

- Develop a more comprehensive list of objectives for a State Coastal Policy.

Please tell us your views on what objectives should be included in a State Coastal Policy.

4.8 Outcomes of the State Coastal Policy

Under each of the four outcomes, the *State Coastal Policy 1996* has a number of clauses. Rather than focus on the current categorisation of issues under outcome headings, a decision has been made to deal with like subject matter under the following headings:

- Cultural Protection;
- Coastal Environment;
- Coastal Processes and Hazards;
- Coastal and Catchment Resource Use;
- Coastal Development;
- Public Land;
- Public Access and Recreation; and
- Other Issues.

Each clause of the *State Coastal Policy 1996* has been addressed under the broad topics identified. Outcomes 3 and 4 are separately covered in chapter 5 of this Discussion Paper.

4.9 Cultural Protection

Cultural protection is addressed in clauses 1.2.1, 1.2.2 and 1.3.1 of the *State Coastal Policy 1996*. These clauses are discussed in the following two sections relating to Aboriginal heritage and other historic heritage.

4.9.1 Cultural Protection (Aboriginal Heritage)

The following clauses of the *State Coastal Policy 1996* deal with the identification and protection of Aboriginal heritage.

> *1.2.1 Areas within which Aboriginal sites and relics are identified will be legally protected and conserved where appropriate.*
>
> *1.2.2 All Aboriginal sites and relics in the coastal zone are protected and will be identified and managed in consultation with the Aboriginal people in accordance with relevant State and Commonwealth legislation.*

Discussion:

The central principle of clauses 1.2.1 and 1.2.2 is the legal protection, identification and management of Aboriginal sites and relics, which is to be achieved in consultation with Aboriginal people, in accordance with State and Commonwealth legislation.

Coastal areas probably contain the greatest concentration and diversity of Aboriginal objects and sites. For this reason they are highly regarded for their heritage value.

Coastal landscapes have also been described as cultural landscapes which are of particular value to Aboriginal people, and undoubtedly appreciated by the majority of residents and visitor, though perhaps for different reasons.

The protection and management of Aboriginal heritage is governed by the *Aboriginal Relics Act 1975* which focuses on pre-1876 objects, sites and places. Planning and management issues, may not always be adequately addressed through the *Aboriginal Relics Act 1975.*

Clauses 1.2.1 and 1.2.2 do not override the *Aboriginal Relics Act 1975* and could be said to only restate a current legislative requirement. Reference is made to consultation with the Aboriginal people, but only in accordance with existing State and Commonwealth legislation and therefore the clause does not place an additional legal obligation for planning authorities to consult with Aboriginal people.

It should be noted however, that the issues surrounding the practical implementation of the *Aboriginal Relics Act 1975* are not within the ambit of the review of the State Coastal Policy.

The clauses do, however impose a specific obligation upon a planning authority to proactively identify and manage Aboriginal heritage in the coastal zone.

Given the importance of coastal areas as repositories of Aboriginal heritage, it may be appropriate for a State Coastal Policy to provide a specific obligation for planning authorities to identify and protect Aboriginal heritage in the coastal zone.

Other Jurisdictions:

One of the four objectives of the Western Australian *State Coastal Planning Policy* (2003) is to "protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance." That Policy also includes a requirement for planning instruments and decisions to "protect significant natural, indigenous and cultural features of the coast."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is: "the living culture of Indigenous Traditional Owners and their connection with cultural resources within the coastal zone is valued and continues for future generations of Indigenous Traditional Owners."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "protection and preservation of Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge";
- "protecting and managing the natural, cultural, recreational and economic attributes of the New South Wales coast";
- "measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals"; and
- "the conservation and preservation of items of heritage, archaeological or historic significance."

Options:

- Remove reference to the identification and protection of Aboriginal cultural heritage, as the issues are adequately addressed by the *Aboriginal Relics Act 1975.*
- Retain clauses similar to 1.2.1 and 1.2.2 in a State Coastal Policy, with reference to relevant legislation and planning instruments included as part of a preamble or introduction to the Policy.

Please tell us your views on how the State Coastal Policy and/or other tools might assist in the identification, protection and maintenance of Aboriginal cultural heritage.

4.9.2 Cultural Protection (Other Historic Heritage)

The following clause of the *State Coastal Policy 1996* deal with the identification and protection of historic cultural heritage.

> *1.3.1 Places and items of cultural heritage will be identified, legally protected, managed and conserved where appropriate.*

Discussion:

The central principle of clause 1.3.1 is the identification, legal protection and management of cultural heritage.

Settlement of Tasmania by Europeans and others initially occurred in the coastal areas of the State. This pattern of settlement is the reason why we have such a rich historic cultural heritage in coastal areas today. There is therefore a rich supply of sites and features in coastal

areas, which are of historic value ranging from ship wrecks to coastal towns, light houses to grave yards, and navigation aids to fish traps. They are important elements of the State's maritime history with which there are many who have strong and continuing connections.

Historic cultural heritage must already be identified, protected, managed and conserved pursuant to the provisions of the *Historical Cultural Heritage Act 1995*. Clause 1.3.1 of the *State Coastal Policy 1996* does not override that Act.

The clause does, however, impose an obligation upon a planning authority to proactively identify and manage cultural heritage in the coastal zone. It may be appropriate for a State Coastal Policy to provide an obligation for planners to identify and protect historic cultural heritage.

Other Jurisdictions:

One of the four objectives of the Western Australian *State Coastal Planning Policy* (2003) is to "protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is: "places, buildings and objects with important cultural heritage values located on the coast are appreciated, conserved, managed and passed on to future generations." Two relevant principles under this outcome are: "that cultural heritage on the coast is identified, valued and conserved"; and "decisions concerning cultural heritage are undertaken with the involvement of the relevant members of the community."

Options:

- That a State Coastal Policy not include an objective and/or principle about the identification and protection of historic cultural heritage as the issue is adequately addressed by the *Historic Cultural Heritage Act 1995.*

- That clauses similar to 1.2.1 and 1.2.2 be retained in a State Coastal Policy and possibly supplemented by heritage guidelines or similar.

Please tell us your views as to how the State Coastal Policy and/or other tools might assist in the maintenance and protection of historic cultural heritage.

4.10 Coastal Environment

4.10.1 Coastal Environment (Ecological and other values)

The following clauses of the *State Coastal Policy 1996* are applicable to sustainability of ecosystems and natural processes.

> *1.1.1 The coastal zone will be managed to ensure sustainability of major ecosystems and natural processes.*

> *1.1.2 The coastal zone will be managed to protect ecological, geomorphological and geological coastal features and aquatic environments of conservation value.*

Discussion:

As has been noted in section 3.2 of this Discussion Paper, Tasmania's coastal and immediate marine waters contain habitats for a host of terrestrial and marine life. Areas such as tidal flats, wetlands, beaches and estuaries provide important feeding and breeding areas for many varieties of fish and birds.

The coastal zone contains many varieties of plants including many which are endemic and/or threatened, for example, New Holland daisy, saltbush, coast banksia, *Euphrasia amphisysepala* and robust leek orchid. The State of the Environment Report states that coastal heathland communities have shrunk by 47 per cent and saltmarshes by 17 per cent since European settlement. Sea grass beds in many areas have been significantly reduced in size over the last 20-40 years. Proper management and conservation of such areas is imperative.

Coastal areas also contain a range of geological features, which illustrate the types of geomorphic processes that have occurred and continue to occur in Tasmania. Some are of particular interest and value for their scientific and educational value and are listed on the Tasmanian Geoheritage Database.

As such the proper management of the coastal zone is essential to maintaining biodiversity and geodiversity, as well as ensuring the protection of species which are of economic value.

The sustainability of major ecosystems, continuation of natural processes and protection of aquatic and coastal environments of conservation value are key responsibilities in planning and management of the coastal zone.

The question is therefore not whether these issues need to be dealt with in a revised State Coastal Policy but how they should be dealt with.

Clauses 1.1.1 and 1.1.2 refer only to management of the coastal zone and make no reference to 'planning and management' of the coastal zone. If theses clauses were also to refer to planning and management they may be considered appropriate objectives of a State Coastal Policy, as they would guide planning authorities as to what is intended to be achieved through the planning and regulation of planning activities in or affecting the coastal zone.

Other Jurisdictions:

One of the four objectives of the Western Australian *State Coastal Planning Policy* (2003) is to "protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is: "coastal ecosystems, including their ecological processes, opportunities for survival, biological diversity and potential for continuing evolutionary adaptation, are maintained, enhanced and restored."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken

into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast"; and

- "to manage the coastal zone in accordance with the principles of ecologically sustainable development and to encourage a strategic approach to coastal management."

Options:

- Include an additional objective in a State Coastal Policy which requires that planning and management ensure the sustainability of ecosystems and natural processes and protect ecological, geomorphological and geological coastal features and aquatic environments of conservation value.

- Retain clauses 1.1.1 and 1.1.2 in their current form.

Please tell us your views on whether a further objective should be included in a State Coastal Policy which requires protection of ecosystems, natural processes and conservation values through planning and management.

4.10.2 Coastal Environment (Identification and Protection of Ecosystems, etc)

The following clauses of the *State Coastal Policy 1996* apply to the identification and protection of representative ecosystems and areas of special conservation value.

> *1.1.7 Representative ecosystems and areas of special conservation value or special aesthetic quality will be identified and protected as appropriate.*
>
> *1.1.9 Important wetlands will be identified, protected, repaired and managed so that their full potential for nature conservation and public benefit is realised. Some wetlands will be managed for multiple use, such as recreation and aquaculture, provided conservation values are not compromised.*

Discussion:

The central principle of clauses 1.1.7 and 1.1.9 is the identification and protection of representative ecosystems, wetlands, and areas of special conservation value or aesthetic quality. Clause 1.1.9 also provides specific detail as to how wetlands should be managed.

The Policy also contains a requirement for planning authorities to identify such areas and to determine appropriate protection measures. This is implemented to varying extents around the State: the stage at which a significant degree of this work is undertaken is in the preparation of development applications.

Since 1996 there has been a range of Government programs aimed at the identification and protection of representative ecosystems and areas of special conservation value. The *Nature Conservation Act 2002* also supports the identification and protection of areas of special conservation value in the State.

Wetlands are areas of special conservation value. Most of the significant wetlands in Tasmania have been identified and some are securely protected. Of the 89 wetlands listed in the Directory of Important Wetlands in Australia, approximately half are coastal. As well, nine of the ten Tasmanian Ramsar sites are coastal. However, many coastal wetlands are on private land, which makes protection difficult.

The imminent release of the Wetlands Strategy and the development of regional Natural Resource Management strategies will provide a framework for management of wetlands.

Given the particular and varied circumstances surrounding the different types of natural areas it may be that specific issues relating to use of representative ecosystems, wetlands and areas of special conservation value or aesthetic quality, are best dealt with through specific management plans.

<u>Other Jurisdictions:</u>

The Western Australian *Environment and Natural Resources Policy* (2003) requires that "planning strategies, schemes and decision making should:

- consider mechanisms to protect, manage, conserve and enhance: wetlands of importance, Ramsar wetlands and wetlands identified in any relevant *Environmental Protection Policy*; waterways; estuaries; marine environments; public drinking water source areas; and other water sources which sustain catchments and identified environmental values";

- "ensure the provision of adequate setbacks between development and the foreshores of wetlands, waterways, estuaries and the coast, in order to maintain or improve the ecological and physical function of water bodies."; and

- "identify and safeguard landscapes with high geological, geomorphological or ecological values, as well as those of aesthetic, cultural or historical value to the community, and encourage the restoration of those that are degraded."

In addition, the Western Australian *State Coastal Planning Policy* (2003) includes a policy measure stating that planning instruments and decisions should "protect significant natural, indigenous and cultural features of the coast. These include sites and features significant as coastal habitats and for their biodiversity, cultural, built, archaeological, ethnographic, geological, geomorphological, visual or wilderness values."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is that "coastal ecosystems, including their ecological processes, opportunities for survival, biological diversity and potential for continuing evolutionary adaptation, are maintained, enhanced and restored." Principles under this outcome, state that: "the biological diversity of marine, freshwater and terrestrial systems and the ecological processes essential for their continued existence should be conserved"; and the "further loss or degradation of coastal wetlands, including the loss of biological diversity and abundance of wetland dependent wildlife, should be avoided wherever possible."

Options:

- The State Coastal Policy not include a specific principle aimed at requiring planning authorities to identify and protect representative ecosystems as the *Nature Conservation Act 2002*, Wetlands Strategy and other Government initiatives are sufficient.
- That a State Coastal Policy should retain principles similar to clauses 1.1.7 and 1.1.9.

Please tell us your views on whether identifying and protecting representative ecosystems, wetlands, and areas of special conservation value and/or special aesthetic quality should be included in a State Coastal Policy.

4.10.3 Coastal Environment (Marine Protected Areas)

The following clause of the State Coastal Policy is applicable to the establishment of marine protected areas.

> *1.1.8 An effective system of marine reserves will continue to be established to protect marine ecosystems and fish nursery areas.*

Discussion:

The central principle of clause 1.1.8 is the establishment of marine reserves to protect marine ecosystems and fish nursery areas.

In the period since the *State Coastal Policy 1996* came into effect, the Government has adopted the *Tasmanian Marine Protected Areas Strategy*. The primary goal of this Strategy is: to establish and manage a comprehensive, adequate and representative system of marine protected areas; to contribute to the long term ecological viability of marine and estuarine systems; to maintain ecological processes and systems; and to protect Tasmania's biological diversity. As such, the Strategy relates to clause 1.1.8 regarding establishment of reserves to protect marine ecosystems.

The *Tasmanian Marine Protected Areas Strategy* was developed through an extensive process of public consultation. Through the Strategy the State Government committed to ensuring the long term ecological viability of Tasmania's marine environment, and the protection of its biodiversity.

Under the *Tasmanian Marine Protected Areas Strategy*, the Resource Planning and Development Commission was asked to identify and select new marine protected areas in accordance with the process outlined in the Strategy.

The *Living Marine Resources Management Act 1995* specifically provides powers for the establishment of marine resources protected areas (section 105) and habitat protection plans (section 118). A habitat protection plan may relate to a habitat that is critical for spawning, shelter or any other reason.

Given the enactment of the *Living Marine Resources Management Act 1995* and the launch of the *Tasmanian Marine Protected Areas Strategy* it is worth considering whether these matters should also to be addressed in the State Coastal Policy.

Section 5(1)(d) of the *State Polices and Projects Act 1993* directs that a State Policy must incorporate the minimum amount of regulation necessary to obtain its objectives. This part of the Act suggests that clause 1.1.8 of the Policy could be removed unless there is some matter relating to the protection of marine ecosystems that is not (and can not be) addressed by the legislation and the *Tasmanian Marine Protected Areas Strategy*.

Other Jurisdictions:

Refer to sections 4.7 and 4.12.1 of this Discussion Paper.

Options:

- That a State Coastal Policy not include an objective and/or principle about the creation of marine protected areas, as the issue is adequately addressed by legislation and Government initiatives.

- That a State Coastal Policy continue to include reference to creating marine protected areas.

Please tell us your views as to whether an objective and/or principle which supports creating marine protected areas and fish nurseries, should be included in a State Policy.

4.10.4 Coastal Environment (Native Flora and Fauna)

Native coastal flora and fauna is important for biodiversity conservation because they comprise species specially adapted to the coastal environment, and some species found nowhere else.

Along with clauses 1.1.1, 1.1.2 and 1.1.7, the following specific clauses of the *State Coastal Policy 1996* are applicable to management and protection of native flora and fauna.

1.1.3 The coastal zone will be managed to conserve the diversity of all native flora and fauna and their habitats, including seagrass and seaweed beds, spawning and breeding areas. Appropriate conservation measures will be adopted for the protection of migratory species and the protection and recovery of rare, vulnerable and endangered species in accordance with this Policy and other relevant Acts and policies.

1.1.4 Exotic weeds in the coastal zone will be managed and controlled, where possible, and the use of native flora encouraged.

1.1.6 Appropriate monitoring programs and environmental studies will be conducted to improve knowledge, ensure guidelines and standards are met, deal with contaminants or introduced species and generally ensure sustainability of coastal ecosystems and processes and ensure that human health is not threatened.

1.1.11 Fire management, for whatever purpose, shall be carried out in a manner which will maintain ecological processes, geomorphological processes and genetic diversity of the natural resources located within the coastal zone.

Discussion:

The above clauses are aimed at the management and conservation of native flora and fauna and their habitats, management of weeds, monitoring and environmental studies and fire management.

Native vegetation is an integral part of the coast because it comprises species adapted to the coastal environment, and some species found nowhere else. Vegetation provides specific ecosystem services such as sand dune stabilisation.

Some parts of Tasmania, in particular the south east Tasmanian dolerite coast, are foci of rare and threatened animal and plant species. Also, the coast and offshore islands are areas where new species may occur.

The current issues and problems for native flora and fauna on the Tasmanian mainland largely relate to human pressure on the coast, in the main resulting from agriculture, settlements and recreation.

Coastal areas are subject to the effects of native vegetation loss through land clearance, on private land and through illegal activity on Crown land. Impacts include erosion, sedimentation, water quality deterioration, loss of habitat and the spread of weeds. Removal of vegetation from land in excess of one hectare or involving more than 100 tonnes or is vulnerable requires approval of the Forest Practices Board. Areas or volumes outside this requirement may not be subject to any control in many cases.

Loss of native vegetation is mostly caused by land clearance activity. Disturbance of land containing native vegetation also provides conditions for weed invasion.

There can be no doubt that maintenance and management of native vegetation in coastal areas is important, the question is how can the outcome be best achieved.

Since inception of the Policy in 1996, a range of national and State legislation has been introduced, including enactment of the Commonwealth *Environment Protection and Biodiversity Control Act 1999* and the Tasmanian *Weed Management Act 1999,* and amendment to the *Forest Practices Act 1985* to include regulations on clearing certain forest communities. Some Tasmanian Government policies have also been developed, including the *Nature Conservation Strategy 2002*.

It may be that clauses 1.1.4, 1.1.6 and 1.1.11 are superfluous because of changed legislative arrangements, particularly relating to weed management, or are issues more appropriately covered in other planning documents.

Thus better outcomes might be achieved by ensuring that appropriate vegetation removal controls are in place in planning schemes, and by managing the impacts of human settlements through planning to encouraging cluster development rather than ribbon and/or ad hoc developments.

It may also be that principles similar to the current clauses 1.1.1, 1.1.2 and 1.1.7 are sufficient to ensure the "diversity of all native flora and fauna and their habitats."

The issue is whether it is necessary to provide further specific principles to fill the gap in the present regulatory framework for the delivery and protection of diversity of native flora and fauna and their habitats in the coastal zone.

It may be sufficient to include the general principle of protecting and preserving coastal flora and fauna, in a State Coastal Policy, with the specifics of on-ground management (for example, weed and fire management) dealt with through either specific purpose legislation or local coastal management plans.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes policy measures stating that planning instruments and decisions should:

- "support conservation, protection and management of native remnant vegetation where possible, to enhance soil and land quality, water quality, biodiversity, fauna habitat, landscape, amenity values and ecosystem function";
- "seek to avoid or minimise any adverse impacts, directly or indirectly, on areas of high biodiversity or conservation value as a result of changes in land use or development";
- "assist in establishing a comprehensive, adequate and representative conservation reserve system throughout the State for flora, fauna habitat, landscapes, waterways, estuaries and wetlands";
- "support the use of management plans to protect areas of high biodiversity conservation value in the long term";
- "protect significant natural, indigenous and cultural features of the coast"; and
- "avoid any significant and permanent negative impacts on the environment and coastal processes, either on or off site."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is that "coastal ecosystems, including their ecological processes, opportunities for survival, biological diversity and potential for continuing evolutionary adaptation, are maintained, enhanced and restored." Principles under this outcome, state that: "further loss or degradation of native vegetation on the coast, particularly of endangered regional ecosystems, is to be avoided wherever possible"; and that "further loss or degradation of coastal habitats, particularly habitats for rare, threatened and migratory species, is to be avoided wherever possible."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "protection and preservation of coastal vegetation";
- "existing wildlife corridors and the impact of development on these corridors"; and
- "measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats."

Options:

- That an objective be developed relating specifically to the maintenance and protection of diversity of native flora and fauna and their habitats, with specific principles adopted in support of that objective. Those principles should take into account differences between environments substantially modified by human intervention and those which are not.

- That the State Coastal Policy expand the general objective regarding sustainability to include ecological values, with no additional principles in support because the existing regulatory framework provides adequate regulatory tools to maintain and protect the diversity of native flora and fauna.

- That a coastal manual be developed to provide guidance to assist planning bodies in the maintenance and protection of biodiversity of native flora and fauna and their habitats, with a manual covering such issues as weed and fire management.

Please tell us your views as to how the State Coastal Policy and/or other tools might assist in the maintenance and protection of diversity of native flora and fauna and their habitats in the coastal zone.

4.10.5 Coastal Environment (Water Quality and Pollution)

The following clauses of the *State Coastal Policy 1996* deal with water quality and marine pollution issues:

1.1.5 Water quality in the coastal zone will be improved, protected and enhanced to maintain coastal and marine ecosystems, and to support other values and uses, such as contact recreation, fishing and aquaculture in designated areas.

2.1.16 Water quality in the coastal zone and in ground water aquifers will accord with the requirements and guidelines established by the Environmental Management and Pollution Control Act 1994 or the Environmental Protection (Sea Dumping) Act 1987 (as appropriate) and any other relevant State and Commonwealth Policies and statutes.

2.1.17 Water discharge into the coastal zone, including offshore waters, or likely to affect groundwater aquifers, must comply with the provisions of the Environmental Management and Pollution Control Act 1994 or the Environmental Protection (Sea Dumping) Act 1987 (as appropriate) and any other relevant State and Commonwealth Policies.

2.1.18 Where oil pollution occurs in the coastal zone, and, or, offshore areas, the National Plan to combat Pollution of the Sea by Oil, Tasmanian Supplement, will apply. Efforts to prevent or mitigate maritime accidents and pollution shall be based upon relevant ANZECC and other guidelines.

Discussion:

The central principle of clauses 1.1.5, 2.1.16, 2.1.17 and 2.1.18 is the importance of water quality and dealing with oil pollution.

Good water quality is important to Tasmania's marine ecosystems and for the protection of human health. It also is necessary for the important recreation and marine fisheries sectors and for the State's image as a clean and healthy place.

Since the inception of the Tasmanian *State Coastal Policy 1996* the following legislative and policy initiatives have occurred:

- introduction of the *Water Management Act 1999*; and the
- creation of the *State Policy on Water Quality Management 1997.*

As part of the *Water Management Act 1999* all fresh water will eventually be covered by water management plans. When preparing water management plans under this Act "the Secretary must have regard to the consistency of the plan with any relevant State Policy." This ensures that no water management plan can be developed which is inconsistent with a State Policy. In addition, a recent amendment to the *Water Management Act 1999* requires water management plans to be amended where necessary to ensure the consistency of the plan with any relevant State Policy. This ensures that water management plans are updated if there is a relevant change in a State Policy.

The *State Policy on Water Quality Management 1997* involves the establishment of protected environmental values and water quality objectives and the management of point and diffuse source pollution.

The *Water Management Act 1999* and the *State Policy on Water Quality Management 1997* may mean that clause 1.1.5 is no longer necessary to protect water quality in the coastal zone. The remaining clauses only restate the current legislative requirements and/or national and State agreements and do not provide any specific additional obligation to maintain and improve water quality in the coastal zone and adjoining marine waters.

The issue is whether there are any issues relating to water quality impacting on the coastal zone that are not covered by the *Water Management Act 1999* and/or the *State Policy on Water Quality Management 1997* that should be dealt with in a State Coastal Policy.

It may be that the greatest potential impacts on water quality in coastal areas are those associated with increased human habitation in coastal areas without adequate regard to the infrastructure requirements necessary to ensure water quality is maintained or improved. Specific principles similar to those adopted in other jurisdictions may be considered.

<u>Other Jurisdictions:</u>

One of the three objectives of the Western Australian *Environment and Natural Resources Policy* (2003) is "to integrate environment and natural resource management with broader land use planning and decision making." That Policy applies throughout Western Australia, not just to the coastal zone. That Policy also includes a measure requiring that "planning strategies, schemes and decision making should encourage urban water management through water sensitive design approaches which better manage stormwater quality and quantity; that reduce the impact of stormwater flows to streams, wetlands and coastal waters; and that control or remove pollutants and nutrients so as to improve water quality, retain habitats, conserve water and provide for recreational opportunities and conservation functions through multiple use drainage systems."

The Western Australian *State Coastal Planning Policy* (2003) includes policy measures requiring that planning instruments and decisions should:

- "ensure development located on or adjacent to the coast does not cause discharges of waste and storm water that would be likely to degrade the coastal environment, including the coastal foreshore reserve, coastal waters and marine ecosystems"; and

- "support the use of water sensitive urban design best management practice for adjacent development to avoid discharge of waste and storm water into the coastal foreshore reserve. The discharge of some storm water may be acceptable if there is no alternative disposal method and provision is made for pre-treatment to remove solids, reduce nutrients and other contaminants."

The coastal management outcome relating to conserving nature in the Queensland *State Coastal Management Plan* (2002) is that "water quality in the coastal zone is maintained at a standard that protects and maintains coastal ecosystems and their ability to support human use." Principles under this outcome include: "the release of contaminants into watercourses, estuaries and the ocean is eliminated where practicable, and otherwise managed in accordance with best practice environmental management ensuring that the level and type of contaminants released do not exceed water quality objectives" and that "changes to run off quantity and quality from coastal catchments from human use and management practices are managed to minimise impacts on water quality and meet water quality objectives."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the "the likely impacts of development on the water quality of coastal water bodies" "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies."

Options:

- That a State Coastal Policy not include an objective and/or principle relating to water quality management in the coastal zone as the regulatory regime under the *Water Management Act 1999* and the *State Policy on Water Quality Management 1997* is sufficient to protect water quality in the coastal zone.

- That an objective and/or principles be developed relating to water quality management in the coastal zone. The focus of a State Coastal Policy would be on issues not adequately addressed by the *Water Management Act 1999* and the *State Policy on Water Quality Management 1997*, for example, the need for appropriate infrastructure planning in development and expansion of human settlements.

- That reference to the current water quality management and marine pollution arrangements should be included in a preamble or introduction to a State Coastal Policy, to ensure that an interested party can easily identify all relevant information relating to coastal management and development.

Please tell us your views as to how a State Coastal Policy and/or other tools might assist in the management of water quality in the coastal zone and any response to marine pollution.

4.11 Coastal Processes and Hazards

Issues relating to coastal processes and hazards are mainly addressed in clause 1.4.1 of the Policy, reproduced below.

> *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.*

Specific issues relating to development on actively mobile landforms is discussed in section 4.11.1, while planning for management of sea level rise is discussed in section 4.11.2.

Discussion:

The central principle of clause 1.4.1 is to identify and manage areas subject to risk from coastal processes and hazards in order to minimise the need for engineering or remediation works to protect land, property and human life.

The main issue to be addressed is the situation regarding natural coastal processes and built assets. Natural coastal processes and, in particular sea level rise, combined with the attractiveness of the coast, has resulted in potential conflicts between natural coastal processes and built assets.

There is no specific legislation in Tasmania dealing with coastal processes and hazards. The primary mechanisms for managing such processes are Local Government planning schemes and management plans, for example, management plans under the *Parks and Reserves Management Act 2002*. Planning schemes can restrict development to existing developed zones thereby containing potential conflict to a smaller range of areas than otherwise might have been the case.

If coastal development is not appropriately sited and designed significant risk to life and property could be caused. The natural physical coastal processes and hazards need to be identified and understood, in order that adequate development and other forms of planning can occur.

It is appropriate that the Coastal Policy should contain a principle concerning the identification of natural coastal processes and areas of hazard, and the need for adequate and appropriate planning and management.

However, clause 1.4.1 may not identify all coastal processes which must be planned for, such as accretion, storm surges, tides, and wave conditions which are identified in the Western Australian *State Coastal Planning Policy* (2003).

Specific guidance as to how such a clause should be interpreted on-ground may also be necessary, for example, through guidelines which provide best practice planning standards.

Other Jurisdictions:

One of the three objectives of the Western Australian *Environment and Natural Resources Policy* (2003) is "to integrate environment and natural resource management with broader land use planning and decision making." That Policy applies throughout Western Australia,

not just to the coastal zone. That Policy also includes a requirement that "planning strategies, schemes and decision making should have regard to the capability of land to accommodate different land uses and developments, including erosion hazard, the absorptive capacity of soils, slope stability, potential for variable settlement or subsidence, active fault lines and dune migration."

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure requiring that planning instruments and decisions relating to the coast should "ensure that new buildings and foreshore infrastructure on the coast are positioned to avoid risk of damage from coastal processes and, where possible, avoid the need for physical structures to protect development from potential damage caused by physical processes on the coast."

In order to guide the determination of appropriate setbacks to accommodate coastal processes, the Western Australian Policy includes a schedule containing "Coastal Development Setback Guidelines for Physical Processes." These guidelines are based on a 100 year planning time frame. Whilst there is a case by case assessment process, this will in general equate to a setback of about 80 to 100 metres from the horizontal setback datum for sandy shores.

The outcome of the Queensland *State Coastal Management Plan* (2002) which relates to physical coastal processes is: "the coast is managed to allow for natural fluctuations to occur, including any that occur as a result of climate change and sea level rise, and provide protection for life and property." Principles under this outcome, state that:

- "the consequences of physical coastal processes are recognised and such processes generally are allowed to occur naturally"; and
- "erosion prone areas which exist on open coasts and along tidal waterways are secured and maintained largely free from development."

As outlined in section 4.11.2 of this Discussion Paper, a hierarchy of approaches to conflict between coastal processes and development is: avoid; planned retreat; accommodate; and protect (built assets). Under this approach, structural engineering and stabilisation works should be initiated only as a last resort if at all.

Options:

- That a State Coastal Policy not include an objective and/or principle relating to natural coastal processes as planning schemes and management plans can adequately deal with these issues.
- That an objective and/or principles be retained in a State Coastal Policy relating to natural coastal processes.

Please tell us your views on how a State Coastal Policy and/or supporting tools might assist in planning for coastal processes and hazards.

4.11.1 Coastal Processes and Hazards (Development on Actively Mobile Landforms)

In addition to clause 1.4.1, the following clause of the *State Coastal Policy 1996* is applicable to development on actively mobile landforms.

> *1.4.2 Development on actively mobile landforms such as frontal dunes will not be permitted.*

In relation to clause 1.4.2, development on actively mobile landforms, the Government referred a proposed amendment to the Resource Planning and Development Commission, which has subsequently been withdrawn.

The proposed amendment to clause 1.4.2 was:

> *1.4.2 Development on actively mobile land must not be permitted unless:*
>
> *(a) the development is for the purpose of protecting the stability of the mobile land or the natural or cultural values associated with it; or*
>
> *(b) it is not reasonably foreseeable that coastal protection works will be required to protect the development in the future.*

Discussion:

The central principle of clause 1.4.2 clause is that development should not occur on actively mobile landforms. It was included in the *State Coastal Policy 1996* to exclude all forms of development, not just construction.

The Policy defines the term development according to the definition in the *Land Use Planning and Approvals Act 1993*, and this includes the term works. Thus, in its current form, the Policy inadvertently prohibits activities such as fencing, signage, access, revegetation and weed removal that may be appropriate land management activities in the protection of land forms such as frontal dunes. Management agencies and community groups have nonetheless carried out such activities since October 1996, theoretically in disregard of the Policy.

There has been legal debate over the practical interpretation of the term actively mobile landforms. The current Policy acts to prevent residential development on actively mobile landforms in situations where adjoining blocks have already been built on. In addition, development, or more specifically, works such as fencing and signage, which aim to protect or enhance actively mobile landforms are also not permitted by the Policy.

Clause 1.4.2 does not fit within the criteria of a high level policy statement and is quite specific. This specificity is problematic as outlined above.

It may be preferable to have a high level statement objective, such as clause 1.4.1, and supporting principles, such as in other jurisdictions, with supporting guidelines as to how that objective and those principles can be implemented. That guidance could take the form of best practice planning provisions and/or a coastal manual.

Other Jurisdictions:

See section 4.11 of this Discussion Paper.

The Queensland *State Coastal Management Plan* (2002) contains a principle that "the natural topography and physical features of coastal dune systems which provide adjacent areas with protection from inland erosion are to be protected and managed on an ecologically sustainable basis."

Options:

- That a State Coastal Policy not include a specific objective and/or principle relating to development on actively mobile landforms, with the issue of development on mobile landforms being dealt with through case by case interpretation based on supporting planning tools, particularly planning schemes.

- That an objective and/or principles be developed relating to developments on actively mobile landforms, in line with the proposed amendment to clause 1.4.2.

Please tell us your views on how a State Coastal Policy should deal with developments on actively mobile landforms.

4.11.2 Coastal Processes and Hazards (Climate Change)

In addition to clause 1.4.1, the following clause of the *State Coastal Policy 1996* is applicable to climate change.

> *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.*

Discussion:

The central principle of clauses 1.4.1 and 1.4.3 is that appropriate policies should be developed and appropriate management practices employed, to respond to the potential effects of climate change on use and development in the coastal zone. Clause 1.4.3 in particular was included in the *State Coastal Policy 1996* because the phenomenon of global warming had not been addressed specifically, particularly through planning schemes, and that the Policy should identify who had responsibility for developing the policies.

In relation to clause 1.4.3, responding to the potential effects of climate change, the Government has commenced work on a Climate Change Project to facilitate the development of adaptation strategies for Tasmania to address climate change impacts, in particular those associated with changing sea levels, temperature and water availability.

It is intended that the strategy will be implemented through the input of climatic projections into a range of planning processes, most particularly planning schemes.

There is no specific legislation in Tasmania dealing with the impacts of climate change. The primary mechanisms for managing the impacts of such processes are Local Government planning schemes and other management plans, for example, management plans under the *Parks and Reserves Management Act 2002*.

Planning schemes can restrict development to existing developed zones thereby containing potential impacts to a smaller range of areas than otherwise might have been the case.

It is at least arguable that clause 1.4.3 of the *State Coastal Policy 1996* is not as strong as clause 1.4.1 where climate change impacts must be identified and managed.

The State Government Climate Change Project should assist in the identification of areas that may be impacted by inundation potentially caused by climate change impacts. This should assist planning authorities in managing those impacts through integration of appropriate clauses in planning schemes.

The issue is what guidance should be provided in a State Coastal Policy to assist planning authorities.

A general principle could be included in a revised State Coastal Policy, such as clause 1.4.1, while specific information in the form of maps and model planning standards could be incorporated into planning schemes and other management plans.

<u>Other Jurisdictions:</u>

One of the three objectives of the Western Australian *Environment and Natural Resources Policy* (2003) is "to integrate environment and natural resource management with broader land use planning and decision making." That Policy applies throughout Western Australia, not just to the coastal zone. Also, the Western Australian Policy includes a measure requiring that "planning strategies, schemes and decision making should take into account the potential for impacts from changes in climate and weather on human activities and cultural heritage including coastal and urban communities, natural systems and water resources."

The Queensland *State Coastal Management Plan* (2002) addresses potential impacts of climate change in the coastal zone. It includes a requirement that "trends in climate change including sea level rise, more extensive storm tide flooding and associated potential impacts are taken into account in planning processes."

It recognises that "recent scientific research indicates that the enhanced greenhouse effect will have an impact on global climate. The extent of changes such as a rise in global mean sea level, higher average air and sea temperatures and possibly increased climatic variability, and the implications for Queensland are being assessed. Predicted changes will have physical, social and economic impacts on the coastal zone and human settlements."

It states the policy position to be "knowledge and understanding of greenhouse issues and climate change impacts should be improved amongst the public and private sectors with the aim of setting the foundation for cost effective adaptation measures. The four target areas are: avoidance of development on vulnerable areas; improved knowledge and understanding of climate change; assessments of impacts and vulnerability; and incorporating adaptation strategies into coastal planning and management."

Planning for the coast must address the potential impacts of climate change through the following hierarchy of approaches:

- "avoid — focus on locating new development in areas not vulnerable to the impacts of climate change;

- planned retreat — focus on systematic abandonment of land, ecosystems and structures in vulnerable areas;
- accommodate — focus on continued occupation of near coastal areas but with adjustments such as altered building design; and
- protect — focus on the defence of vulnerable areas, population centres, economic activities and coastal resources."

Options:

- That a State Coastal Policy not include an objective and/or principle relating to climate change as the range of impact information will change as improved projections and local information become available, and will be included in the variety of planning instruments as a normal part of the strategic planning process.
- That an objective and/or principles be developed specifically relating to the impacts of climate change. That the objective/principles be supported by a range of additional resources to guide planners. The additional resources could include best practice planning scheme schedules for adoption as appropriate, maps of hazard areas, and other topic specific tools.

Please tell us your views on how or whether a State Coastal Policy should deal with climate change.

4.12 Coastal and Catchment Resource Use

4.12.1 Coastal and Catchment Resource Use (Marine Farming)

The following clauses of the *State Coastal Policy 1996* are applicable to marine farm planning.

2.1.4 Competing demands for use and development in the coastal zone will be resolved by relevant statutory bodies and processes, in particular the Land Use Planning Review Panel, the Resource Management and Planning Appeal Tribunal and the Marine Farming Planning Review Panel. Planning schemes, marine farming development plans and other statutory plans will provide guidance for resource allocation and development in accordance with this Policy.

2.2.1 Marine farming will be planned, developed and conducted in the coastal zone having regard to sustainable development considerations and in accordance with the Marine Farming Planning Act 1995 and other relevant terrestrial and marine resource management and planning legislation and consistent with this Policy.

2.2.2 Marine Farming Development Plans will be prepared, approved and gazetted under the Marine Farming Planning Act 1995 and consistent with the objectives, principles and outcomes of this Policy.

Other clauses of the Policy relevant to marine farm planning are clauses 1.1.5, 1.1.9, 2.1.1, 2.1.6, 3.1.5, 4.3 and 4.2.

Discussion:

Marine farming has expanded rapidly in Tasmania to become one of the State's major industries.

The marine farming industry is regulated by the Department of Primary Industries, Water and Environment under the *Living Marine Resources Management Act 1995* and the *Marine Farming Planning Act 1995*. Using the process prescribed in the *Marine Farming Planning Act 199*5 the Department prepares marine farming development plans for specific regions of the State waters. These plans determine, by way of a zoning concept, where marine farming may occur.

There is an obligation under section 21(ga) of the *Marine Farming Planning Act 199*5 that a draft marine farm development plan must be consistent with State Polices made under section 11 of the *State Policies and Projects Act 1993*.

Draft marine farm development plans are required under section 21(a) of the *Marine Farming Planning Act 199*5 to further the objectives of the Resources Management and Planning System. Those objectives are set out in Schedule 1 of the *Marine Farming Planning Act 199*5 and are reproduced at Appendix 2.

On the basis of the above and that the objectives of the *State Policies and Projects Act 1993* under which State Policies are established are also laid out in the *Marine Farming Planning Act 199*5, is it redundant to set out the current legislative provisions as is provided in clauses 2.1.4, 2.2.1 and 2.2.2 of the *State Coastal Policy 1996*?

Marine farm planning may simply need to be undertaken in accordance with the general principles applying to management and planning in the coastal zone as for any other industrial use and development on the coast.

Other Jurisdictions:

The Western Australian *Environment and Natural Resources Policy* (2003) includes a policy measure requiring that "planning strategies, schemes and decision making should:

- take account of the location of areas of significance for recreational and commercial fishing and aquaculture, having regard to State, regional and local issues and characteristics. This should include land based infrastructure that supports these industries."; and

- "seek to avoid or minimise any adverse impacts, directly or indirectly, on areas of significance for commercial and recreational fishing and aquaculture as a result of adjacent land use planning decisions and actions."

In New South Wales the *Fisheries Management Act 1994* regulates commercial aquaculture. Commercial aquaculture must be undertaken in accordance with aquaculture industry development plans. Permits for approval for commercial aquaculture are deemed to be State significant developments pursuant to the *Environmental Planning and Assessment Act 1979*, which means that the Minister is the consent authority for the development application to the exclusion of the local Council, except for such functions as are specified.

The New South Wales State Environmental Planning Policies relating to the coast do not refer specifically to commercial aquaculture management. The New South Wales *Coastal Protection* State Environmental Planning Policy (2002) does, however, outline a general aim of "protection and preservation of the marine environment of New South Wales."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "measures to reduce the potential for conflict between land based and water based coastal activities"; and

- "measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats."

<u>Options:</u>

- To remove all references to marine farm planning in the State Coastal Policy as there is already an interrelationship between the Policy, given it status under the *State Policies and Projects Act 1993*, and the *Marine Farming Planning Act 1995*. Retention of the provisions would only repeat what is already required by law.

- That a State Coastal Policy should retain the current provision in relation to marine farm planning.

- Outline in the State Coastal Policy a set of principles that should be achieved in coastal areas where marine farms are to be planned and developed under the *Marine Farming Planning Act 1995*. This could be achieved by linking the objectives of the *Marine Farming Planning Act 1995* with statements of principles in the State Coastal Policy to ensure that there was consistency between the two instruments.

- To reiterate in the preamble or introduction to a State Coastal Policy that the *Marine Farming Planning Act 1995* is the mechanism by which the State Coastal Policy is implemented in areas within the scope of the *Marine Farming Planning Act 1995*. It could go on to state that marine farm plans need to be undertaken in the context of the wider outcomes of the State Coastal Policy and cannot be inconsistent with it.

Please tell us your views as to how or whether a State Coastal Policy should deal with marine farming planning in coastal areas.

4.12.2 Coastal and Catchment Resource Use (Other Marine)

The *State Coastal Policy 1996* contains the following clauses in relation to recreational and commercial fisheries.

> *2.1.14 Management arrangements for commercial and recreational fisheries will be further developed in accordance with the objectives, principles and outcomes of this Policy, through a management planning framework designed to maintain sustainability and diversity of fish resources and their habitats and promote economic efficiency under the Living Marine Resources Management Act 1995.*

> *2.1.15 Harvesting of marine plants shall be conducted in a sustainable manner in accordance with relevant State legislation and this Policy.*

Discussion:

Aquaculture in freshwater is managed by the Inland Fisheries Services under the *Inland Fisheries Act 1995*.

The provisions of the *Living Marine Resource Management Act 1995* are relevant in considering these issues. Under section 7(2) of the *Living Marine Resource Management Act 1995* there is an obligation that a person must perform any function or exercise any power in a manner which furthers the objective of resource management objectives. These objectives are the Sustainable Development Objectives of the Resource Management and Planning System of Tasmania.

The rationale for the *Living Marine Resource Management Act 1995* is to provide, achieve and maintain the sustainable development of living marine resources.

The *Living Marine Resource Management Act 1995* was established to promote the sustainable management of living marine resources. It provides for the establishment of management plans relating to fish resources. The provisions of the Act in relation to management plans for fish include marine plants. The Act establishes licences for fishing and marine farming, as well as fish processing and handling and the establishment of quotas for any species or class of fish under a management plan. Further, under section 33 the Minister may make rules in respect of a management plan or a fishery in respect of which there is no management plan.

On the basis of the above it may not be necessary to retain principles like those in clauses 2.1.14 and 2.1.15 of the *State Coastal Policy 1996*.

Options:

- Remove clauses 2.1.14 and 2.1.15 from a revised State Coastal Policy, given that management of issues such as commercial and recreational fishing and the protection of the marine ecosystem are effectively managed through the provisions of the *Living Marine Resource Management Act 1995*.
- Retain clauses 2.1.14 and 2.1.15 of the *State Coastal Policy 1996*.

- Include in a State Coastal Policy a set of principles that are linked to the objectives of the *Living Marine Resource Management Act 1995* such that there is no inconsistency between the two.

- To reiterate in a preamble or introduction to the State Coastal Policy that the *Living Marine Resource Management Act 1995* is the mechanism by which the State Coastal Policy is implemented. It could go on to state that the development of management plans need to be undertaken in the context of the wider outcomes of the State Coastal Policy and cannot be inconsistent with it.

Please tell us your views as to how or whether a State Coastal Policy should deal with the management of recreational and/or commercial fisheries and the harvesting of marine plants.

4.12.3 Coastal and Catchment Resource Use (Introduced Marine Pests)

The *State Coastal Policy 1996* contains the following clause in relation to the introduction of marine pests.

> *2.1.19 Every effort will be made to prevent the introduction of foreign marine organisms and species. Relevant Commonwealth provisions for quarantine and ballast water or other ship discharges shall apply.*

Discussion:

The management of marine pests is an issue that involves both Commonwealth and State policy and regulatory instruments.

An Intergovernmental Agreement is currently being negotiated which will establish a national system for the prevention and management of marine pest incursions and will address the responsibilities of the Commonwealth and the State governments on the management of introduced marine pests.

The objectives of the national system are to prevent the introduction and translocation of marine pests, as well as to provide emergency preparedness and response to outbreaks, plus the management and control marine pests. Under the national system both the Commonwealth and State governments will have defined roles while the States, through a combination of model legislation and management practices, will address issues of marine pest translocation.

Establishment of a national system combined with the introduction of specific legislation by the State government, may be an appropriate way to deal with the matter of marine pests outside the State Coastal Policy.

The alternative may be to establish a high level set of principles related to the protection of Tasmania's indigenous marine organisms and species which would provide policy direction for coastal development and conservation and assist planning authorities in developing planning schemes.

Other Jurisdictions:

the Queensland *State Coastal Management Plan* (2002) addresses introduced marine pests under the nature conservation coastal management outcome, which states: "coastal ecosystems, including their ecological processes, opportunities for survival, biological diversity and potential for continuing evolutionary adaptation, are maintained, enhanced and restored."

The policy response included in the Queensland Plan states that "the focus of pest management activities is on minimising the risk of introducing new pest species and reducing or at least controlling the impact of pest species infestations."

Options:

- Remove clause 2.1.19 from a revised State Coastal Policy, as management of this issue is likely to be sufficiently covered by an Intergovernmental Agreement.
- Retain the current clauses in a State Coastal Policy.
- Include reference to the national arrangements in a preamble or introduction to a State Coastal Policy to ensure that an interested party can easily identify all relevant information relating to coastal management and development.

Please tell us your views as to how or whether a State Coastal Policy should deal with the issue of the introduction of foreign marine organisms and species.

4.13 Coastal Development

4.13.1 The current Coastal Development (Precautionary Principle)

The *State Coastal Policy 1996* includes the following clause concerning adoption of the precautionary principle in the coastal zone.

> *2.1.5 The precautionary principle will be applied to development which may pose serious or irreversible environmental damage to ensure that environmental degradation can be avoided, remedied or mitigated. Development proposals shall include strategies to avoid or mitigate potential adverse environmental effects.*

Discussion:

The Sustainable Development Advisory Council report noted that the precautionary principle was, at that time, "receiving some currency, by being enacted into domestic law within Australia and is finding its way into a number of international conventions."

The definition of the precautionary principle used in the *State Coastal Policy 1996* is as contained in the *Intergovernmental Agreement on the Environment* (1992). The above presents a statement about how and when the precautionary principle will be applied.

The *State Coastal Policy 1996* and the *State Policy on Water Quality Management 1997* are the only statutory documents in Tasmania incorporating the precautionary principle as contained in the *Intergovernmental Agreement on the Environment* (1992). One of the objectives of the *Environmental Management and Pollution Control Act 1994* is "to adopt a precautionary approach when assessing environmental risk …".

It is, however, difficult to assess the effectiveness of this clause in practice.

Given the complex and interrelated nature of biophysical systems and processes on the coast, and the increasing level of human activity in the coastal zone, it may be important to retain the precautionary principle as an overarching policy principle in considering future use and development on the coast.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes policy measures stating that planning instruments and decisions should:

- "avoid any significant and permanent negative impacts on the environment and coastal processes, either on or off site"; and
- "ensure that the use of the coast, including the marine environment, for recreation, conservation, tourism, commerce, industry, housing ocean access and other appropriate activities, is sustainable and located in suitable areas."

In the Queensland system, ecological sustainability is defined in section 1.3.3 of the *Integrated Planning Act 1997* as "a balance that integrates: protection of ecological processes and natural systems at local, regional, State and wider levels; economic development; and maintenance of the cultural, economic, physical and social wellbeing of people and communities." This Act also outlines that decision making processes must apply the precautionary principle, where "the precautionary principle is the principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage."

The Queensland *State Coastal Management Plan* (2002) contains a principle which requires that "coastal use and development is planned and managed to ensure that significant adverse effects of activities on the natural environment are avoided, mitigated or remedied." It goes on to say that the "precautionary principle should be adopted in making decisions where there is a risk of significant adverse impacts on coastal resources."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "manage the coastal zone in accordance with the principles of ecological sustainable development"; and

- "the suitability of development given its type, location and design and its relationship with the surrounding area."

Options:

- Remove reference to the precautionary principle in a State Coastal Policy as it is already included in the Resource Management and Planning System Objectives.
- Retain the current wording of clause 2.1.5 of the Policy and the *Intergovernmental Agreement on the Environment* definition of the precautionary principle.

Your views are sought as to how or whether a State Coastal Policy should incorporate the precautionary principle.

4.13.2 Coastal Development (Sustainability)

The *State Coastal Policy 1996* contains the following clauses in relation to general use and development in the coastal zone.

> *2.1.1 The coastal zone shall be used and developed in a sustainable manner subject to the objectives, principles and outcomes of this Policy. It is acknowledged that there are conservation reserves and other areas within the coastal zone which will not be available for development.*
>
> *2.1.2 Development proposals will be subject to environmental impact assessment as and where required by State legislation including the Environmental Management and Pollution Control Act 1994.*
>
> *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.*

Refer also to clause 2.1.4, which is dealt with in section 4.12.1 of this Discussion Paper.

Discussion:

The central principle of clauses 2.1.1, 2.1.2 and 2.1.6 is the achievement of sustainable development in the coastal zone. This is to be attained through measuring the performance of uses or developments against environmental factors, determining whether the use or development requires a coastal location and more generally by ensuring that uses and developments further sustainable development principles. Clause 2.1.1 also recognises that there are pristine areas within the coast that are not suitable for development.

Sustainable development is enshrined in the Resource Management and Planning System. In fact, State Policies are described under the *State Policies and Projects Act 1993* as Tasmanian Sustainable Development Policies.

New development on the coast is probably the most sensitive coastal management and planning issue. While no official statistics are available to verify this, it is safe to say that there has been a dramatic escalation in the market for coastal land over the last two years. Similarly, there has been a marked increase in proposals for coastal subdivision in some parts

of the State. In the future, development may not be sustained at the current rate, but nonetheless, will continue to occur in the coastal zone as the trend for the population to gravitate to the coast will remain with us for the foreseeable future.

Any State Policy must have as its central principle, the achievement of sustainable development. The question is therefore not whether such a principle needs to be expressed in a revised State Coastal Policy but in what form should it be.

If, as suggested in section 3.3, the revised Policy was to be a succinct high level statement of policy, it would be appropriate to include a principle similar to that espoused in the first sentence of clause 2.1.1. In line with the sustainability principle, it may also be appropriate to include as a principle that if development is to take place, it is to be coastal dependent.

The same could not be said in relation to the second sentence of clause 2.1.1 and clause 2.1.2 (environmental impact assessment), as they are not high level principles. In the case of the second sentence of clause 2.1.1, it is a clarifying statement only. The statement was included in the *State Coastal Policy 1996* by the Sustainable Development Advisory Council based on submissions that the original outcome was seen as pro-development and under emphasising the core objective of the Resource Management and Planning System, that is, sustainable development.

The concept of sustainable development has evolved within the community since that time and it is considered that there is now a better understanding that sustainable development also requires the protection of natural and physical resources. The statement is also problematic as it suggests that no development may be entertained in some areas of the coast. The Policy defines the term development according to the definition in the *Land Use and Planning Approvals Act 1993* which is broadly based and includes works. Accordingly, it fails to recognise that some necessary works, such as weed removal and fencing, may be necessary from time to time to protect the values of an area.

Clause 2.1.2 is a machinery clause which restates a current legislative requirement. It does not impose a requirement for environmental assessment for all development on the coast as many fall below the level 2 criteria under the *Environmental Management and Pollution Control Act 1994*, the principle legislation requiring environmental assessment. In the model advocated in section 3.3, such a requirement should be included in the planning instruments (planning schemes, management plans) designed to implement the Policy (refer also to chapter 5 of this Discussion Paper).

While it is acknowledged that some development in highly modified areas of the coast would require limited assessment, it is important that a consistent approach to environmental assessment in the coastal zone is maintained. Currently in planning instruments, there is little consistency in the need for environmental assessment and, if required, the level of such an assessment.

<u>Other Jurisdictions:</u>

See section 4.13.1 of this Discussion Paper.

Options:

- That the State Coastal Policy retains a sustainable development objective; supplemented with more specific principles which outline how this objective would be applied.

- Include as principles of a revised State Coastal Policy the need for use and development to be sustainable (remove clause referring to acknowledgment of conservation reserves) and that use and development in coastal areas need to be dependent on a coastal location. The explanatory and informational parts of clauses 2.1.1 and 2.1.2 would be contained in a preamble or introduction to a State Coastal Policy, or a more detailed document such as a coastal manual.

Please tell us your views as to how a State Coastal Policy and/or supporting tools should deal with the issue of sustainable development and the requirement for environmental impact assessments.

4.13.3 Coastal Development (Urban and Residential)

The Tasmanian *State Coastal Policy 1996* contains the following clauses in relation to urban and residential development in the coastal zone.

2.4.1 Care will be taken to minimise, or where possible totally avoid, any impact on environmentally sensitive areas from the expansion of urban and residential areas, including the provision of infrastructure for urban and residential areas.

2.4.2 Urban and residential development in the coastal zone will be based on existing towns and townships. Compact and contained planned urban and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast.

2.4.3 Any urban and residential development in the coastal zone, future and existing, will be identified through designation of areas in planning schemes consistent with the objectives, principles and outcomes of this Policy.

Discussion:

The central principle of clauses 2.4.1, 2.4.2 and 2.4.3 is the achievement of sustainable urban and residential development in the coastal zone.

Since 1996, the Policy has sought to prevent continuation of the often ad hoc and poorly planned residential development that had occurred in Tasmania in the preceding three to four decades. These clauses of the Policy, and clause 2.4.2 in particular, have had the most far reaching effect on coastal development of any clauses in the Policy, largely preventing unrelated cluster developments and significantly reducing ribbon development for the life of the Policy.

The Policy reflects best practice planning principles which recognise the social, economic and environmental advantages to the community of consolidating development around existing towns and townships. The Policy also seeks to keep development away from areas where important natural and cultural values might be compromised or lost (including landscape

values), or areas of unstable land where property would be at risk or would incur high costs to the community in protecting it. Prevention of ribbon development also has benefits from a tourism perspective in that natural scenery is retained and coastal processes and ecology are not disrupted.

The existing Policy, however, fails to provide certainty in two important areas. There is no definition of the words town and township, on which future development was intended to be based (clause 2.4.2), and there is no clarity regarding building dwellings on existing titles in rural coastal areas. Both these issues have made implementation of the Policy problematic.

On the first issue, numerous appeals to the Resource Management and Planning Appeals Tribunal since 1996 have concerned coastal residential development. The Tribunal's interpretation of the relevant clauses of the Policy has evolved from initially considering their intent to later applying strict legal analysis to the words. The intent of clause 2.4.2 has been undermined by the lack of a definition for towns and townships in the Policy, leading to a recent Tribunal decision, J 159/2001 (W Manning and Others v Break O'Day Council & R Morris-Nunn from (35) to (42)), equating a town with any small group of dwellings. This interpretation arguably opens the coast up to considerable potential subdivision pressure at a time when the demand for coastal land is at an historic high.

On the second issue, large numbers of individual dwellings have been approved since 1996 on existing waterfront land parcels in rural areas, many outside any existing settlement. Further, lack of adequate planning controls has resulted in a number of these being visually prominent and, arguably, built on inappropriate sites. Insensitive choice of scale, design, colour, orientation, and lack of screening can significantly degrade the broader community's enjoyment of an otherwise largely natural location or view field. Examples include: houses on prominent headlands which can greatly detract from a view; and buildings dominating public beaches which can create discomfort for public users of the beach.

Implementation of clauses 2.4.1, 2.4.2 and 2.4.3 has been further hindered by the failure to fully incorporate them in all planning schemes that apply to the coast. Some useful tools have been developed by Councils to support best practice coastal planning in some regions, but in general there has been inconsistency in application of the Policy.

There are other more specific shortcomings. A lack of definition for the term environmentally sensitive has made clause 2.4.1 difficult to interpret and therefore to implement. Clause 2.4.3 requires that planning schemes should identify designated areas for urban and residential development in the coastal zone. The State Coastal Advisory Committee report found, however, that the Policy has not been integrated into a number of planning schemes throughout the State.

New development on the coast remains probably the most sensitive and complex coastal management and planning issue. It is central to the challenge of ecologically sustainable development in the coastal zone. The clauses relating to use and development in the coastal zone have been critical to the protection of the remaining natural and aesthetic values of our coasts, and arguably little has changed regarding the appropriateness of the current policy direction.

Any State Policy must have as its central principle, achievement of sustainable and appropriate urban and residential development. The question is therefore not whether such a principle should be included in a revised State Coastal Policy, rather the form in which it

should be included and the nature of tools (for example, model planning schedule) which need to be developed to assist in ensuring that the Policy can be implemented.

Experience in implementing the existing Policy shows that the residential development clauses and/or supporting tools need to:

- be underpinned by legally robust definitions;
- be readily incorporated in planning schemes;
- support well designed and appropriately located development;
- protect important coastal values and processes;
- be readily monitored and enforced; and
- as far as possible achieve ecologically sustainable development.

<u>Other Jurisdictions:</u>

The Western Australian *State Coastal Planning Policy* (2003) includes policy measures stating that planning instruments and decisions should:

- "ensure that use of the coast, including the marine environment, for recreation, conservation, tourism, commerce, industry, housing, ocean access and other appropriate activities, is sustainable and located in suitable areas"; and
- "encourage urban development to be concentrated in and around existing settlements, particularly those with established infrastructure and services. Continuous linear urban development along the coast should be discouraged or, where it has occurred carefully controlled. Proposed major urban developments outside existing settlements will only be supported where a genuine community need has been demonstrated and the environmental capability has been properly assessed."

The coastal management outcome relating to coastal use and development in the Queensland *State Coastal Management Plan* (2002) is that "use and development of the coastal zone occurs in an ecologically sustainable manner." Two relevant principles under this outcome are that: "the cumulative impacts of human use are taken into account in planning and managing coastal resources"; and "development and use of the coast is to maintain and, where possible, enhance the quality of life for residents and visitors."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area";
- "the suitability of development given its type, location and design and its relationship with the surrounding area";

- "any detrimental impact that development may have on the amenity of the coastal foreshore, including any overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore"; and

- "only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities".

It should be noted that the final requirement, to take into account "the means to encourage compact towns and cities", only applies when a Council prepares a draft local environmental plan concerning land covered by the New South Wales *Coastal Protection* Policy.

Options:

- Remove reference to urban settlement on the coast from the State Coastal Policy and instead rely on municipal strategies and planning schemes.

- Retain the existing policy direction in the State Coastal Policy, with improved legal definitions, and develop supporting planning tools to assist in existing consistency in coastal planning.

Your views are sought as to how a State Coastal Policy and/or supporting tools should deal with urban and residential development impacting on the coastal zone.

4.13.4 Coastal Development (Aesthetic Qualities)

In addition to clause 2.4.2 relating to ribbon development, the *State Coastal Policy 1996* includes the following clauses relating to the interaction between the siting, design, construction and maintenance of developments on the coast and the safeguarding of natural, landscape and aesthetic values. Clause 2.3.4 also makes reference to the interaction between siting of coastal tourism development and maintenance of natural and aesthetic qualities.

> *1.1.10 The design and siting of buildings, engineering works and other infrastructure, including access routes in the coastal zone, will be subject to planning controls to ensure compatibility with natural landscapes.*
>
> *2.1.3 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.*

Discussion:

The above clauses have as their central principle the protection of visual amenity in the coastal zone and are generally aimed at ensuring sustainable development.

Clause 2.1.3 was included in the *State Coastal Policy 1996* in response to submissions to the Sustainable Development Advisory Council that the height, colour and reflectivity of buildings in the coastal zone and the impact of those features on the natural and aesthetic qualities of the coastal environment needed to be addressed in the coastal zone.

As outlined in section 4.13.3, the clauses of the Policy relating to use and development in the coastal zone have contributed to protecting the remaining natural and aesthetic values of our coasts.

Visual amenity, landscape values, scenic values, aesthetic qualities or whatever term is used to describe the visual appreciation of the coast are, for most residents and visitors, the dominant value which attracts them to the coast. There is usually a high level of sensitivity to any changes or intrusions into coastal landscapes, and numerous appeals against development proposals have centred on this issue.

Accordingly, any State Coastal Policy should have as a central principle, consideration of the protection of visual amenity. The issue is what form that principle should take in a revised State Coastal Policy.

The terminology used in the current clauses of the *State Coastal Policy 1996* is not clear and may be difficult to implement. Clauses 1.1.10 and 2.1.3 use the phrases 'natural landscapes' and 'natural and aesthetic qualities', which are not defined in the policy. These phrases also cover both natural environmental values as well as visual amenity values.

Some States, most notably Queensland and to a lesser extent Western Australia, have separately identified visual amenity values in their policy approaches to the coast. In Queensland, coastal landscapes, which are defined to be only the visual amenity values, are separately addressed in a section of their own. While in Western Australia, all landscape values are addressed in a single section, yet a distinction is made between natural environmental values (geological, geomorphological or ecological) and visual amenity values (aesthetic, cultural or historical value to the community).

It may be appropriate to clarify any principle concerning visual amenity in the coastal zone. To assist in the practical implementation of such clauses, it may be appropriate to develop model planning instruments and/or siting guidelines (refer to section 3.3 and chapter 5 of this Discussion Paper).

Other Jurisdictions:

The Western Australian *Environment and Natural Resources Policy* (2003) addresses landscapes in a section of its own. It recognises that "it is necessary to identify the landscape types and features requiring special attention, and to develop appropriate management and planning policies that can positively contribute to their maintenance and enhancement." The Policy also states that "planning strategies, schemes and decision making should:

- identify and safeguard landscapes with high geological, geomorphological or ecological values, as well as those of aesthetic, cultural or historical value to the community, and encourage the restoration of those that are degraded";
- "consider the need for a landscape, cultural or visual impact assessment for land use or development proposals that may have a significant impact on sensitive landscapes"; and
- "support conservation, protection and management of native remnant vegetation where possible, to enhance soil and land quality, water quality, biodiversity, fauna habitat, landscape, amenity values and ecosystem function."

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure which requires that planning instruments and decisions should "ensure that, when selecting a development location, regard is given to infrastructure capacity, and where possible existing infrastructure be upgraded and improved."

The Queensland *State Coastal Management Plan* (2002) addresses coastal landscapes in a section of its own and nature conservation in another. The relevant management outcome is that "the scenic and cultural values associated with coastal landscapes are protected." The plan defines coastal landscapes as "the visible landscape of the coastal zones, its aesthetic attributes and cultural associations", where landscapes include "natural landscapes, cultural landscapes and seascapes." Visual coastal landscape values are recognised for their importance to the quality of life of both residents and visitors, as well as to economic development and growth.

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- to ensure that the visual amenity of the coast is protected;
- to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area;
- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore; and
- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities."

Options:

- That a revised State Coastal Policy not deal with visual amenity in the coastal zone, allowing for planning schemes and management plans to deal with these issues.
- That the existing Policy direction be retained. Complementary implementation tools be developed to ensure Statewide consistency in coastal planning outcomes.

Please tell us your views as to how a State Coastal Policy should deal with safeguarding natural environmental values and visual amenity values in the coastal zone

4.13.5 Coastal Development (Tourism Developments)

The *State Coastal Policy 1996* provides the following clauses in relation to tourism use and development in the coastal zone.

> *2.3.1 Tourism use and development in the coastal zone, including visitor accommodation and other facilities, will be directed to suitable locations based on the objectives, principles and outcomes of this Policy and subject to planning controls.*
>
> *2.3.2 Tourism development proposals in the coastal zone will be subject to environmental impact assessment as required by State legislation including a water safety assessment to indicate the level and type of lifesaving facilities and personnel required to protect people.*
>
> *2.3.3 Opportunities for tourism development will be identified wherever strategic planning occurs for the coastal zone or any part of it.*
>
> *2.3.4 Tourism development will be located where there is environmental capacity and where it does not significantly conflict with the natural and aesthetic qualities of the coastal zone.*

Discussion:

The central principles of clauses 2.3.1, 2.3.2, 2.3.3 and 2.3.4 are that tourism use and development will be planned to ensure that such developments are situated in suitable locations. They also require tourism development proposals to be subject to environmental impact assessments as required by State legislation.

Currently, Tasmania is experiencing significant tourism development pressure on the coast. Proposals are often large, sometimes incorporate a substantial residential component and seek waterfront and often relatively pristine sites. Tourism development in coastal areas should be possible, but not where it is inconsistent with other principles in a State Coastal Policy.

The nature of tourism in Tasmania has meant that many developments have sought to be sensitive to the natural environment. Tourism developments require careful planning, especially relating to infrastructure requirements (for example, water demand and management, access, and car parking) to avoid conflicts between operational requirements and environmental impact objectives.

Clause 2.3.1 requires that tourism use and development in the coastal zone should be directed to suitable locations taking into account the broader principles within the Policy.

Clause 2.3.3 requires that tourism opportunities be identified in strategic planning. Tourism development in Tasmania could be said to be well planned at a strategic level. Tourism Tasmania has developed a precinct planning approach, developing tourism routes and iconic areas in the State, for example, the Coles Bay Freycinet region. There is also considerable strategic tourism planning at a regional level. The issue is whether there is a need for such a clause in a State Coastal Policy given the extent of strategic planning relating to tourism that occurs in this State.

Clause 2.3.2 is a machinery clause which restates a current legislative requirement, though it does require consideration of water safety and lifesaving facilities. It does not impose a requirement for environmental assessment for all development in the coastal zone. In practice, this clause has been applied to large green field proposals that would require careful consideration under the *Land Use Planning and Approvals Act 1993* and, in some circumstances, the *Environmental Management and Pollution Control Act 1994*. In the model advocated in section 3.3 of this Discussion Paper, such a requirement would be included in the planning instruments (planning schemes, management plans) designed to implement the Policy (refer also to chapter 5 of this Discussion Paper).

Clause 2.3.4 is linked to clauses 1.1.10 and 2.1.3 of the *State Coastal Policy 1996*, because of the second sentence of clauses 2.3.4 “where it does not significantly conflict with the natural and aesthetic qualities of the coastal zone.” Infrastructure capacity and the natural and aesthetic qualities of the coastal zone are important issues for all developments in the coastal zone. It may be more appropriate to include generally applicable principles concerning infrastructure and aesthetic qualities in the coastal zone (refer to section 4.13.4 of this Discussion Paper) within a revised State Coastal Policy.

An emerging issue is the rapid increase in the number of ecotourism businesses that depend on the natural values of the coast. This includes scuba diving, walking tours, marine fauna cruises, penguin tours, sea kayaking tours, and so on. Each of these has its own potential to affect the values it is based on, and gradual cumulative impacts which can result from trampling, disturbing wildlife and vegetation, rubbish, weed and pest introductions. Mitigation of user impacts may not require a principle in the State Coastal Policy. Instead guidelines, codes of practice, accreditation schemes and licensing and the like may be more appropriate ways to deal with such issues.

Other Jurisdictions:

The Western Australian *Environment and Natural Resources Policy* (2003) requires that “planning strategies, schemes and decision making should ensure use and development on or adjacent to the coast is compatible with its future sustainable use for conservation, recreation and tourism in appropriate areas.”

One of the four objectives of the Western Australian *State Coastal Planning Policy* (2003) is to “ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities.” That Policy also includes a policy measure stating that planning instruments and decisions should “ensure that, when identifying areas suitable for development, consideration is given to strategic sites for coastal access and commercial development that is demonstrably dependent on a foreshore location including ports, boat harbours, and regional boat ramps.”

The Queensland *State Coastal Management Plan* (2002) includes an outcome and supporting principles regarding coastal use and development, but no specific reference is made to tourism as a category of development except in the general policy statements which support the principles.

The New South Wales *Coastal Protection* State Environmental Planning Policy (2002) requires that a range of developments, including “tourist facilities”, on land to which the policy applies are deemed to be “State significant developments” pursuant to the *Environmental Planning and Assessment Act 1979*, which means the Minister is the consent authority for the development application to the exclusion of a Council, except for such functions as are specified.

Options:

- Remove existing clauses 2.3.1 and 2.2.2 from the Policy – tourism use and development would be required to comply with the same principles that apply to all other use and development in the coastal zone.

- Retain clauses 2.3.1 and 2.3.2. Matters such as infrastructure implications and the natural and aesthetic impacts of such developments could be subject to principles which would apply generally to all use and development in the coastal zone.

Please tell us your views on how a State Coastal Policy and/or supporting tools should deal tourism use and development in the coastal zone.

4.13.6 Coastal Development (Transport Infrastructure)

The *State Coastal Policy 1996* provides the following provisions in relation to transport and associated facilities in the coastal zone.

2.5.1 All transport infrastructure and associated services will be planned, developed and maintained consistent with the State Coastal Policy.

2.5.2 Significant scenic coastal transport routes and associated facilities will be identified, planned and managed to ensure sustainable benefits for tourism and recreation value and amenity.

2.5.3 New coast hugging roads will be avoided where possible with vehicular access to the coast being provided by spur roads planned, developed and maintained consistent with the State Coastal Policy.

Discussion:

The central principle of clauses 2.5.1, 2.5.2 and 2.5.3 is the achievement of appropriate planning and development of transport infrastructure, maintenance of scenic coastal routes and the avoidance of new coast hugging roads. Whilst the emphasis is on roads, transport infrastructure in the coastal zone includes the majority of Tasmania's airports, a number of railway lines, and port facilities.

Ports are discussed separately in section 4.13.8. It should be noted however, that ports usually represent important interchange nodes between the transport modes of road, rail and shipping.

The report by the Sustainable Development Advisory Council on the draft State Coastal Policy identified that the historical development and settlement pattern of Tasmania reflects the maritime nature of the State. All major urban centres are located within the coastal zone. Many major and local roads hug the coast and a large number of transport related structures, services and settlements are spread around it. In recognition of this, the proposed clauses were included to ensure a focus on management and planning for transport infrastructure in the coastal zone.

Clause 2.5.1 deals with the issue of planning and management of transport and associated infrastructure in the coastal zone. Clauses 2.5.2 and 2.5.3, in summary, deal with the visual impacts of coastal transport routes and new coastal roads.

These clauses do not, however, deal with non-transport infrastructure in the coastal zone. The linkage between these clauses and other clauses is also not clear, for example, clauses 1.1.10 and 2.1.3, which deal primarily with the aesthetic issues associated with the siting of buildings, engineering works, and other infrastructure in the coastal zone.

The issue is whether a State Coastal Policy should have as a central principle, consideration of planning and management of transport and associated infrastructure in the coastal zone and the visual impacts of such infrastructure.

It may be that these clauses are not required as coastal transport and infrastructure are simply a use and development in the coastal zone which would need to comply with the general principles in a State Coastal Policy. Planning along tourist routes and new roads could be a matter for planning instruments.

An alternate approach may be to introduce a general principle similar to that included in the Western Australian *State Coastal Planning Policy* (2003), that use and development, including roads, adjacent to the coast should be sited and designed to complement and enhance the coastal environment.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure outlining that planning instruments and decisions should "ensure that land use and development, including roads, adjacent to the coast is sited and designed to complement and enhance the coastal environment in terms of its visual, amenity, social and ecological values."

Options:

- Remove clauses 2.5.1, 2.5.2 and 2.5.3 in the Policy and deal with transport infrastructure through use and development provisions.
- Retain clauses 2.5.1, 2.5.2 and 2.5.3 in a revised State Coastal Policy.

Please tell us your views as to how a State Coastal Policy and/or supporting tools should deal with the issue of transport infrastructure in the coastal zone

4.13.7 Coastal Development (Industrial Development and Extraction Activities)

The *State Coastal Policy 1996* provides the following provisions in relation to industrial developments and extraction activities (for example, sand mining) in the coastal zone.

> *2.1.7 New industrial developments will be encouraged to locate in specified industrial zones.*
>
> *2.1.8 Extraction of construction materials, mineral, oil and natural gas deposits in the coastal zone will be allowed provided access to areas is allowed under the provisions of the Mining Act 1929.*

2.1.9 *Exploration will be conducted in accordance with environmental standards under relevant legislation and the Mineral Exploration Code of Practice. Adequate rehabilitation shall be carried out.*

2.1.10 *Extraction will be subject to the Quarry Code of Practice and environmental assessment as required by State legislation including the Environmental Management and Pollution Control Act 1994. Adequate rehabilitation shall be carried out.*

2.1.11 *Extraction of sand will be provided for by zoning of appropriate areas in planning schemes.*

Discussion:

The *Mining Act 1929* has been superseded by the *Mineral Resources Development Act 1995*. The *Mining (Strategic Prospectivity Zones) Act 1993* deals with access to particular classes of land.

Clauses 2.1.8, 2.1.9, and 2.1.10 add no further obligation than that imposed by current legislation and policies and only restate the legal situation as it stood at the time of inception of the Policy.

Clause 2.1.7 provides specific direction to planning bodies to locate industrial activities in specified areas. Use of the word encouraged is, however, problematic as it is difficult to legally interpret and may undermine the intention of the clause, which is that industrial activities should be located in dedicated zones. Also, there could be situations where an industry might need to be located in a non specific zone, for example, a produce processing operation in an agricultural area (rural zone).

Clause 2.1.11 provides a specific direction to planning bodies concerning the need to zone for sand extraction. Planning authorities may already undertake such zoning but in any event the zoning of land does not directly add to the sustainability or otherwise of the operation.

An option is to include information on the legislative and policy requirements about mining in a preamble to a State Coastal Policy.

Another approach may be to develop a general objective based on requiring sustainable mining activities in the coastal zone. This could be supplemented with a specific principle aimed at ensuring that operations and/or the zoning of land for industrial activity and sand mining takes into account other principles relating to impacts on the natural environment, rehabilitation and the need for appropriate infrastructure to support such activities.

Other Jurisdictions:

The Western Australian *Environment and Natural Resources Policy* (2003) provides that "planning strategies, schemes and decision making should consider mechanisms to protect identify important basic raw material resources and economic mineral resources to enable mineral exploration and mining in accordance with acceptable environmental standards."

Options:

- Remove references to complying with other legislation but develop an objective to require sustainable mining activities in the coastal zone. Supplement this with a specific principle aimed at ensuring that operations and/or zoning of land for industrial activity and sand mining, take into account other principles relating to impacts on the natural environment, rehabilitation and the need for appropriate infrastructure to support such activities.

- That the current clauses of the State Coastal Policy be retained.

- To reiterate in a preamble or introduction to the State Coastal Policy that the *Mineral Resources Development Act 1995*, the *Mining (Strategic Prospectivity Zones) Act 1993* and the *Environmental Management and Pollution and Control Act 1994* are the mechanisms by which the State Coastal Policy is implemented in areas within the scope of that Act. It could go on to state that development needs to be undertaken in the context of the wider outcomes of the State Coastal Policy and cannot be inconsistent with it.

Please tell us your views as to how or whether a State Coastal Policy should deal with industrial development, mineral exploration and extractive mining in the coastal zone.

4.13.8 Coastal Development (Ports)

The current *State Coastal Policy 1996* provides the following provisions in relation to port areas and marine structures in the coastal zone.

2.5.4 Marine structures will be designed, sited and constructed and managed in accordance with best practice environmental management and subject to environmental impact assessment having regard to statutory requirements.

2.5.5 The multiple use of port areas will be encouraged but priority will be given to efficient port operations and safety requirements subject to cultural, natural and aesthetic values not being compromised.

In addition, clause 4.3 refers to marine boards in regards to integration and consultation.

Discussion:

Clause 2.5.4 is principally aimed at ensuring marine structures are suitably sited and designed and subject to legislative requirements. Clause 2.5.5 is aimed to encourage multiple use port areas without compromising safety, cultural, natural and aesthetic values.

It should be noted that at the time of the introduction of the *State Coastal Policy 1996*, Tasmanian ports were managed by Marine Boards which had their own planning functions under the former *Marine Act 1976*. All Tasmanian coastal waters were under the jurisdiction of a Marine Board in 1996 and, at this time, Marine Boards were considering preparation of maritime plans to cover areas under their responsibility. Clause 4.3 of the Policy reflects this situation.

Planning and management of coastal waters is now mainly subject to the provisions of the *Land Use Planning and Approvals Act 1993*, *National Parks and Reserves Management Act 2002* and the *Marine Farming Planning Act 1995*. The *Marine and Safety Authority Act 1997* allocates responsibility for any facility, structure or equipment used in relation to the navigation and operation of vessels in coastal waters, to the Marine and Safety Authority of Tasmania.

Clause 2.5.5 encourages multiple uses within ports. This may have reflected an expectation in the mid 1990s that ports would seek to diversify their activities, without compromising safety and the cultural, natural and aesthetic values of the coastal zone.

Under section 20(10) of the *Land Use Planning and Approvals Act 1993*, a planning scheme is not to prohibit or require a discretionary permit for the use or development of a proclaimed wharf area, for port and shipping purposes. This means that a planning scheme must provide for port and shipping activities in a proclaimed wharf area to be 'as of right' or permitted. Where a planning scheme provides that such activities are permitted, a council may apply conditions to a proposal for use or development. Non port and shipping activities and development outside and within proclaimed ports, are subject to normal planning approval processes.

Ports and shipping activities do have planning and environmental management implications. The issue is whether specific principles should be applied to those activities within a proclaimed wharf area.

Clause 2.5.4 applies to marine structures, which are not defined in the *State Coastal Policy 1996*. The second part of clause 2.5.4 requires an environmental impact assessment of such developments as required by statute. This adds no further obligation than that currently required by legislation. The issue is whether such structures need to be treated any differently from other use and development in the coastal zone.

For non port and shipping activities within a proclaimed port, if the general principles in a State Coastal Policy regarding natural, aesthetic and cultural values, siting and design and the like, apply to use and development in the coastal zone, it may be that this is sufficient.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure outlining that planning instruments and decisions should "ensure that, when identifying areas suitable for development, consideration is given to strategic sites for coastal access and commercial development that is demonstrably dependent on a foreshore location including ports, boat harbours and regional boat ramps."

Options:

- Remove clauses 2.5.4 and 2.5.5 from a State Coastal Policy, with general principles for use and development in the coastal zone applying to proclaimed ports (including proclaimed airports).

- Remove clauses 2.5.4 and 2.5.5 from a State Coastal Policy, with general principles developed for ports and shipping activities within a proclaimed wharf area. The general

principles for use and development in a coastal zone to apply to a proclaimed port (including proclaimed airports).

- Retain the current clauses.

Please tell us your views on how or whether, a State Coastal Policy should deal with ports and marine structures in the coastal zone.

4.13.9 Coastal Development (Agriculture and Timber Harvesting)

The *State Coastal Policy 1996* includes the following clauses in relation to timber harvesting and reforestation in the coastal zone.

> *2.1.12 Timber harvesting and reforestation in the coastal zone will be conducted in accordance with the Forest Practices Code and have regard to this Policy.*
>
> *2.1.13 Whole farm planning and sustainable farming activities will be encouraged on agricultural land in the coastal zone and in coastal catchments in order to minimise problems such as erosion, sedimentation and pollution of coastal waters including surface and ground waters.*

Discussion:

Clauses 2.1.12 and 2.1.13 deal with timber harvesting and reforestation and agricultural activities.

Clause 2.1.12 requires that timber harvesting and reforestation in the coastal zone must be conducted in accordance with the Forest Practices Code and have regard to the *State Coastal Policy 1996*.

The Sustainable Development Advisory Council Report on the then draft State Coastal Policy includes a reference to timber harvesting and reforestation based on the exclusion of forestry from the definition of works in the *Land Use Planning and Approvals Act 1993*. It was the view of the Council that forestry activities would still be required to conform to a State Coastal Policy as no exemption is provided in the provisions of the *State Policies and Projects Act 1993*. Clause 2.1.12 was therefore included in response to public concern to clarify the applicability of the State Coastal Policy.

Since 1996 it has been made clear in the Forest Practices Code that such activities must accord with State Policies. The Forest Practices Code provides that “the sustainable management of natural and cultural values within production forests under the forest practices system will be determined in accordance with ...... State Policies.” In addition, page 104 of the Code contains a reference in the bibliography to the *State Coastal Policy 1996*.

Also, clause 2.1.12 refers only to timber harvesting and reforestation, which does not strictly match with application of the Code. The Code itself applies to forest practices, as defined in the *Forest Practices Act 1985*, and is broader than just timber harvesting and reforestation.

In light of the above, State Policies, including the *State Coastal Policy 1996* are taken into account during forest planning and activities. As such, a specific reference within the State Coastal Policy is not a necessity.

Clause 2.1.13 encourages whole farm planning and sustainable farming activities on agricultural land in the coastal zone and in coastal catchments to minimise impacts of such activities.

Since 1996 whole farm planning (property planning or property based planning) has continued to play an important role in sustainable natural resource management in Tasmania. Continuing to support and encourage whole farm planning has been recognised as a priority in the draft regional strategies recently prepared for the three Tasmanian Natural Resource Management Regions.

Whole farm planning also underpins the State Government's new initiative, the Non Forest Vegetation Program, through the development of property based vegetation management plans and agreements. Through this program it is anticipated that some types of property plans may be accredited as meeting certain regulatory requirements, such as those relating to vegetation management under existing and new planning schemes. Accredited property plans are a potential tool in the future to not only enhance natural resource management outcomes in agricultural areas, but also to provide management security to landowners.

Options:

- That clause 2.1.12 concerning timber harvesting and reforestation be removed and clause 2.1.13 relating to whole farm planning be retained.
- That both clauses be retained.

Please tell us your views on how or whether a State Coastal Policy should deal with agriculture activities and timber harvesting in the coastal zone.

4.14 Public Land

The *State Coastal Policy 1996* includes the following clauses in relation to public land in the coastal zone.

2.7.1 All future use and development of public land in the coastal zone will be consistent with this Policy, and subject to planning controls unless otherwise provided by statute.

2.7.2 Future development of camping areas on public land in the coastal zone will only be permitted where such development does not conflict with the protection of natural features and cultural values, but not within 30 metres above high water mark.

2.7.3 Expansion of shack sites on public land in the coastal zone will not be permitted.

2.7.4 Shacks currently located on public land in the coastal zone will continue to be subject to review under the Shack Site Categorisation Program of the Tasmanian Property Services Group.

Discussion:

The above clauses refer specifically to public coastal land. The 1995 Sustainable Development Advisory Council report on the draft Policy described the public land holdings in the coastal zone as extensive but differing in nature, purpose and condition.

The Policy describes public land as including but not being limited to that defined in the *Public Land (Administration and Forests) Act 1991*. This is the broadest definition of public land in use in Tasmanian legislation and would appear to cover all forms of public land ownership by State and Local Government.

Clause 2.7.1 requires that use and development on public land will be consistent with the Policy. Clause 2.7.1 goes on to state that use and development on public land will be subject to planning controls where applicable. Planning controls are broadly defined in the Policy as relating to planning schemes and interim orders under the *Land Use Planning and Approvals Act 1993* and management or development plans under the *Forestry Act 1920*, the *Living Marine Resources Management Act 1995*, the *Marine Farming Planning Act 1995*; and the *Crown Lands Act 1976*. It should also be noted that the *Land Use Planning and Approvals Amendment Act (No. 2) 2001* contains a provision that has not yet commenced clarifying that all lands reserved under the *Parks and Reserves Management Act 2002* are subject to the provisions of the *Land Use Planning and Approvals Act 1993*.

The Sustainable Development Advisory Council report states that under Tasmania's Resource Management and Planning System, Crown land is subject to the same policies and processes as for private land. The clause was included to ensure that this requirement was made clear. The public is probably now more aware of the legislation making up the Resource Management and Planning system, and the position regarding National Parks and reserves has now been clarified (the amendment to be proclaimed). It may not be necessary for a State Coastal Policy to include a statement which does not place any obligation on the Crown with respect to planning and management beyond that which already exists in legislation.

The Public Land Use Commission *Report into Tasmanian Crown Land Classifications* (1995), recommended that the majority of coastal reserves be classified as Conservation Areas. The Government has commenced a project to assess the classification of Crown lands in cooperation with local Councils. This project will improve the management regime for public coastal land.

In spite of the special status of public land, which is seen as belonging to the public, the issues associated with public land planning will be similar to those facing private land. The general principles contained in the Policy would apply equally to private and public land. The issue is whether there are any issues relating to planning and management for public lands in the coastal zone, which require special consideration in a State Coastal Policy.

The *State Coastal Policy 1996* also deals with two specific issues relating to public land: coastal camping (clause 2.7.2); and shacks (clauses 2.7.3 and 2.7.4).

Coastal Camping

Clause 2.7.2 requires public land managers to only develop camping areas on public coastal land in locations where such development does not conflict with the protection of natural features and cultural values: it explicitly prohibits camping areas within 30 metres above the high water mark. The Policy does not make such a specific statement for other types of development, or even for the development of camping areas on private land.

The development of a camping area on public land, whether in a park, reserve, State forest, Crown land or council owned land is subject to the provisions of the *Land Use Planning and Approvals Act 1993*. Such a development would be assessed like any other development, that is, in accordance with the relevant planning scheme. The assessment would take into consideration such things as the protection of natural features and cultural values and the appropriate set back from high water mark.

The issue of setbacks is a key matter requiring Statewide consistency. The Western Australian *State Coastal Planning Policy* (2003), for example, specifically includes a schedule on setbacks for a variety of activities and situations.

Given that an appropriate set back from high water mark will be determined through the development approval process, if such a specific statement is appropriate then it might be better placed in tools in a supporting document, such as a planning scheme schedule.

Shacks

Clauses 2.7.3 and 2.7.4 relate to shack sites on public land. Since the *State Coastal Policy 1996* was introduced, the State Government has developed its policy on shack sites through the *Crown Lands (Shack Sites) Act 1997*. It is Government policy to sell all shacks on Crown land where appropriate, to remove those inappropriately sited and retain any in *Nature Conservation Act 2002* reserves on long term leases. No new shack sites are to be made available on public land. Within this context, the need to retain these clauses is questionable.

An ongoing issue with regard to shacks might be requests for new shack sites. It is, however, Government policy that no further shacks should be allowed on Crown land. It may be appropriate for this to be confirmed in a State Coastal Policy.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure requiring that planning instruments and decisions should "support public ownership of the coast, including where appropriate the provision of a coastal foreshore reserve and accommodation of regional and local recreational needs." The Western Australian Policy includes a comprehensive suite of provisions relating to public interest and coastal foreshore reserves.

Options:

- Remove clauses concerning Crown land in a revised State Coastal Policy, on the basis that publicly owned land should be subject to the same arrangements and controls that apply to privately owned land. The issue of setbacks would be dealt through an appropriate supporting document, for example, a planning scheme schedule.
- That a State Coastal Policy should retain the current clauses relating to public land.
- Include in a State Coastal Policy special requirements for publicly owned land, for example, restating Government policy on proliferation of new shacks on Crown land.

Please tell us your views on what, if any, requirements should apply in relation to public lands (that are different to those placed upon privately owned land).

4.15 Public Access and Recreation

4.15.1 Public Access

The *State Coastal Policy 1996* includes the following clauses in relation to public access to and along the coast.

> *2.6.1 The public's common right of access to and along the coast, from both land and water, will be maintained and enhanced where it does not conflict with the protection of natural and cultural coastal values, health and safety and security requirements.*
>
> *2.6.2 Public access to and along the coast will be directed to identified access points. Uncontrolled access which has the potential to cause significant damage to the fragile coastal environment and is inconsistent with this Policy will be prevented.*
>
> *2.6.3 Agreements between landowners, landholders and councils or State Government to grant public access to the coast, and Aborigines access to Aboriginal sites and relics in the coastal zone over private and public land will be encouraged and shall be considered when preparing plans or approving development proposals.*
>
> *2.6.4 Public facilities such as life saving facilities and essential emergency services, parking facilities, toilet blocks, picnic sites, rubbish disposal containers, boat ramps and jetties will be provided at appropriate locations consistent with the objectives, principles and outcomes of this Policy to facilitate access to and enjoyment of the recreational amenity of the coast and estuarine foreshores.*
>
> *2.6.5 Councils will ensure that there will be a coastal safety assessment for any new coastal development likely to attract people to the coast to indicate the level and type of lifesaving facilities and personnel required.*
>
> *2.6.6 Developer contributions will be encouraged in respect to the costs of providing public access and safety services for the community.*

Discussion:

Clauses 2.6.1 through to 2.6.6 facilitate appropriate public access to and along the coast and the realisation of opportunities to improve such access. It requires that public access should not have an adverse impact on natural and cultural coastal values or conflict with health, safety and security requirements. Also, the Policy addresses the provision of public amenities to facilitate access to and enjoyment of coast.

Clause 2.6.1 acknowledges the public's expectation of a right of access, both to the coast and along the coast, and seeks to ensure that it is maintained and enhanced where appropriate. Clause 2.6.2 addresses the issue from the perspective of where access in not appropriate and seeks to ensure the prevention of uncontrolled access that risks environmental degradation.

It would appear that these clauses provide high level outcomes in relation to public access to the coast. Within this it establishes a hierarchy with natural and cultural values having

primacy over the uncontrolled use of the coast for access purposes. It also acknowledges that health, safety and security requirements must be met regarding appropriate public access.

The report by the Sustainable Development Advisory Council on the draft State Coastal Policy outlined that the above clauses were contradictory as “common rights of access cannot be preserved and at the same time access only be permitted where it is identified and in a controlled manner.” Western Australia, Queensland and New South Wales do not refer to a “common right of access”, with Queensland addressing the matter through the phrase “the public expectation to access the coast from both land and water”.

Clause 2.6.3 outlines a particular approach to the implementation of the higher level outcome encompassed in clause 2.6.1. It encourages the development of agreements for public access to the coast and for Aborigines to access significant sites and relics as matters which should be addressed in planning and approval processes. This approach does not appear to include the creation of public access during subdivision processes.

The remaining clauses are more specific and may provide appropriate direction to assist in planning and management of public access to the coast. Clause 2.6.4 reinforces the practice of consolidating use and development in the coast at particular locations in order to minimise damage to the coastal environment. In addition, clause 2.6.4 says that public facilities “will be provided”, implying that the Policy is providing a right for these facilities to be established in the coastal zone, albeit subject to them being “at appropriate locations consistent with the objectives, principles and outcomes of this Policy”.

Clause 2.6.5 is directed at identifying the need for lifesaving facilities and personnel prior to the approval of a development that is likely to generate a need for such services. This ensures that the extent of any required lifesaving services are known at the time the development is assessed. Clause 2.6.6 encourages public bodies to seek contributions from developers in relation to public access/facilities associated with, or consequent to, their development.

Please also see the next section of this Discussion Paper concerning recreational use of the coastal zone, including the use of special recreational vehicles.

Other Jurisdictions:

One of the four objectives of the Western Australian *State Coastal Planning Policy* (2003) is to “provide for public foreshore areas and access to these on the coast.” That Policy makes particular use of setback mechanisms, where the “setback will provide for both physical processes and other factors such as ecological values and public access to be provided for in a coastal foreshore reserve.”

The Western Australian *State Coastal Planning Policy* (2003) also includes policy measures stating that planning instruments and decisions should:

- “require the provision of public access to the coast that is consistent with the values and management objectives of the area including, the interests of security, safety and protection of coastal resources, as well as the recreational opportunities, both on and offshore, of that section of coast”;

- “ensure that the identification of land to be set aside for public ownership for conservation, management, public access and recreation, is undertaken during the

planning process. Generally this land, from the total setback line seaward, should be given up free of cost at the time of development, subdivision or strata subdivision, over and above the required provision of public open space";

- "ensure that the identification of coastal foreshore reserves takes into account consideration of ecological values, landscape, seascape, visual amenity, indigenous and cultural heritage, public access, public recreation needs and safety to lives and property"; and

- "ensure that, when identifying areas suitable for development, consideration is given to strategic sites for coastal access and commercial development that is demonstrably dependent on a foreshore location including ports, boat harbours and regional boat ramps."

The outcome of the Queensland *State Coastal Management Plan* (2002) which relates to public access is: "opportunities for public access to the coast are maintained and enhanced, consistent with the conservation of coastal resources and provision of public safety." Principles under this outcome, state that:

- "the public expectation to access the coast from both land and water is recognised";

- "access to the coast is planned and managed to protect the coastal resources, their values and public safety";

- "access facilities to the foreshore, ocean and adjacent features (such as headland lookouts) are planned and managed in a coordinated manner to avoid or minimise adverse impacts"; and

- "management of access to Indigenous Traditional Owner cultural resources recognises the significance of the areas to Indigenous Traditional Owners."

The policy measures in the Queensland Plan include:

- "any new urban land uses will seek to maintain public access to the coast to protect the public's expectation of access";

- "any new private structures proposed over State land on the coast (refer to policies 2.1.5 and 2.9.4) or public waters that are not major private infrastructure of State economic importance, should not interfere with public access, useability or enjoyment of that land or water"; and

- "when the State Government assesses applications for private use of State land on the coast (including renewals of existing use), regard must be had to … maximising public access to the coast."

This approach to managing the "public's expectation of access" is counterbalanced by the recognition that "unmanaged pedestrian and vehicular access to the coast can result in significant damage, depending on levels of use. Such damage can affect the long-term stability of dunes, degrade coastal wetlands and other types of landforms, and lead to the introduction of non-native plants and animals."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- "protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore";
- "ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore";
- "existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved"; and
- "opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability."

The New South Wales Policy also includes a control on development such that "a consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore."

Options:

- Remove clauses 2.6.3, 2.6.4, 2.6.5 and 2.6.6 as they can be implemented through planning schemes, management plans and business plans, but retain principles similar to those in clauses 2.6.1 and 2.6.2 regarding public access generally.
- Retain the current clauses in a revised State Coastal Policy.

Please tell us your views on what, if any, requirements should be made in relation to public access in the coastal zone.

4.15.2 Recreation

The *State Coastal Policy 1996* provides the following clauses in relation to public recreation in the coastal zone.

2.8.1 Recreational use of the coastal zone will be encouraged where activities can be conducted in a safe and environmentally responsible manner.

2.8.2 Suitable recreation opportunities will be identified through strategic planning and may be provided in appropriate locations where they do not adversely affect sensitive coastal ecosystems and landforms or in designated areas where such effects can be remedied or mitigated.

2.8.3 Special recreational vehicle areas may be established as an environmental protection measure and as a means of limiting unauthorised motor vehicle activity in environmentally sensitive areas.

Discussion:

Clauses 2.8.1, 2.8.2 and 2.8.3 encourage appropriate recreational use in the coastal zone and the identification of suitable recreation opportunities through strategic planning. Recreational uses should not have an adverse impact on the coastal environment. The Policy also seeks to address the unauthorised use of recreational vehicles in the coastal zone.

It would appear that clause 2.8.1 provides a high level outcome for the use of the coast for recreational purposes. Within this it establishes a hierarchy with the environment having primacy over the use of the coast for recreational purposes.

Clauses 2.8.2 and 2.8.3 are more specific and may provide appropriate direction to assist in planning and management of the coast for recreational purposes in an environmentally sustainable manner.

Clause 2.8.3 was included in the *State Coastal Policy 1996* in response to submissions to the Sustainable Development Advisory Council concerning recreational vehicle use of coastal Crown land. The purpose of the clause is to accommodate recreational vehicle use by providing the option to set aside a specified area in an appropriate location.

Since 1996, measures have been taken by Government to assist in the management of recreational vehicle use in Tasmania. A *Policy for Recreational Vehicles on State owned Lands in Tasmania* (1999) has been released with an associated code of practice. The Recreational Vehicles Policy has recently been revised and is in the process of being formally adopted by all land managers and stakeholder groups. It may be that the Recreational Vehicles Policy and code of practice and specific management plans for Parks and Reserves are sufficient and therefore a revised State Coastal Policy may not need to include a specific provision regarding recreational vehicle use.

Other Jurisdictions:

The Western Australian *State Coastal Planning Policy* (2003) includes a policy measure stating that planning instruments and decisions should "require the provision of public access to the coast that is consistent with the values and management objectives of the area including, the interests of security, safety and protection of coastal resources, as well as the recreational opportunities, both on and offshore, of that section of coast."

The Queensland *State Coastal Management Plan* (2002) includes an outcome that "opportunities for pubic access the coast are maintained and enhanced, consistent with the conservation of coastal resources and the provision of public safety."

Under the New South Wales *Coastal Protection* State Environmental Planning Policy (2002), the following matters "should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies":

- to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore";

- “to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore”;

- “that existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved”; and

- “opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.”

Options:

- Remove clauses 2.8.2 and 2.8.3 as they can be implemented through planning schemes and management plans, but retain a principle similar to that in clause 2.8.1 regarding recreational use generally.

- Retain the current clauses in a revised State Coastal Policy.

Please tell us your views on what, if any, requirements should be made in relation to public recreation in the coastal zone.

4.16 Other Issues

The *State Coastal Policy 1996* addresses those coastal issues that were recognised in the mid 1990s as being of most relevance to Tasmania. Given the passage of time and the further development of coastal policy in other jurisdictions there is likely to be other issues that should be considered for inclusion in a State Coastal Policy.

Please tell us your views on what other, if any, issues should be addressed by a Tasmanian State Coastal Policy.

Chapter 5: Implementation

5.1 Introduction

This chapter deals with outcomes 3 and 4 of the *State Coastal Policy 1996*.

As has been indicated, it is not intended that this review deal will all issues relating to practical implementation of a State Coastal Policy, except in so far as the structure and content of the Policy affects implementation and where amendments to the Policy can improve its implementation.

5.2 Implementation of State Policies

State Policies bind the Crown and Councils (section 13, *State Policies and Projects Act 1993*). Section 13B of the *State Policies and Projects Act 1993* states that a State Policy may require a statutory authority or statutory office holder to undertake activities, perform functions and exercise powers provided this activity is not inconsistent with its own statutory powers.

As set out in section 5(1)(c) of the *State Policies and Projects Act 1993* all government bodies at State and local level are required to give effect to a State Policy "to ensure that a consistent and coordinated approach is maintained throughout the State."

Of major importance with regard to implementation and enforcement of a State Policy are the provisions of sections 13 and 14. Section 13(1) of the Act provides that "where there is an inconsistency between a provision of a State Policy and the provision of a planning scheme or a special planning order in force at the time when the State Policy comes into operation, the provision of the planning scheme or special planning order is void to the extent of the inconsistency."

The Resource Planning and Development Commission may remove inconsistencies between a State Policy and planning schemes and interim orders.

All new planning schemes are required to be prepared in accordance with any State Policy that is in effect when the scheme is prepared: the *State Coastal Policy 1996* specifically requires planning authorities to implement the Policy.

In February 1997 the predecessor of the Resource Planning and Development Commission, the Land Use Planning Review Panel, made a generic amendment to all planning schemes, being to incorporate reference to the *State Coastal Policy 1996*. The amendment, known as SP1, effectively reinforced section 13(1) of the *State Policies and Projects Act 1993*. SP1 states that "where a planning authority determines that a proposed use or development would be inconsistent with the State Coastal Policy, that use or development is, unless prohibited by this scheme and notwithstanding any other provisions of the scheme, a use or development which the planning authority has a discretion to refuse or permit."

Compliance with a State Policy is enforced through the provisions of section 14(1) of the same Act. It provides that "a person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable on summary conviction in accordance with subsection (2)."

5.3 Implementation of the *State Coastal Policy 1996*

The *State Coastal Policy 1996* has been in operation since October 1996. It was the first Tasmanian Sustainable Development Policy (State Policy).

Implementation guidance is contained in the Policy under outcomes 3 and 4, and it includes provisions for:

- public participation and consultation;
- coordination and collaboration within and between governments and other stakeholders;
- achievement of consistency of all planning instruments with the Policy;
- resources for implementation;
- coordinating implementation through a State Coastal Advisory Committee; and
- monitoring and review of the Policy.

Implementation of the Policy has largely been through planning scheme amendments, new planning schemes, decisions of planning authorities, and decisions of the Resource Management and Planning Appeal Tribunal.

In the non-statutory area there has been significant activity across Tasmania including advice, education and specific coastal and marine management projects, programs, and regional strategic planning.

However, only around ten new planning schemes have been developed for coastal municipalities since October 1996. This arguably constitutes a failure to implement the critical Policy clauses 3.1.1 and 4.2.

The State Coastal Advisory Committee 2000 report found that "the lack of implementation through changes to planning schemes has resulted in the Policy being applied unevenly and controversially at the development application stage under the power of the SP1 amendment which was only ever intended as an interim measure."

5.4 Institutional Arrangements

The *State Coastal Policy 1996* provides for the formation of a State Coastal Advisory Committee comprising representatives of State and Local governments and the community to facilitate the implementation and evaluation of the Policy (clause 3.2.1).

Until recently, most States of Australia had coastal bodies formed under legislation or more informally.

The recognition of the need to encourage integrated coastal planning has seen some States move away from this model. The New South Wales Coastal Council, for example, was recently dissolved and some of its functions taken up by the peak new Natural Resource Commission. In Western Australia, the former Coastal Zone Council has been reconstituted as a statutory committee under the Western Australian Planning Commission.

5.5 Review and Monitoring

The *State Policies and Projects Act 1993* requires that State Policies must be reviewed periodically. Clause 3.2.6 of the *State Coastal Policy 1996* also requires that the Policy must be reviewed. Review of a State Policy is important to assess the effectiveness of the Policy and, if necessary, allow for updating of the Policy.

The *State Coastal Policy 1996* also outlines that a report on the coastal zone will be included in State of the Environment Reports submitted to the Minister.

5.6 Framework for Implementation

The State Coastal Advisory Committee Report (2000) found that the manner in which the *State Coastal Policy 1996* is drafted impacts on the operational effectiveness of the Policy. The Committee also noted that the lack of supporting guidelines or tools to assist its implementation of the Policy had hampered implementation.

If a State Coastal Policy was drafted to include clear statements of the Government's position on matters of State significance, and supported by appropriate tools to assist coastal planners and managers, this may provide a framework that facilitates improved management in the coastal zone.

A framework for implementation presupposes that the necessary regulation could be limited to a requirement for planning authorities to implement through planning documents and/or guidelines.

In the case of a revised State Coastal Policy, a set of guidelines that provide detailed direction and interpretation of specific principles in the Policy could be produced to assist implementation. The guidelines would be in the form of acceptable responses that do not preclude other interpretations where they can be justified. This overcomes the one size fits all approach that has caused implementation difficulties in the past.

> Please tell us your views on mechanisms which would improve implementation of a State Coastal Policy.

Appendix 1: *State Coastal Policy 1996*

On 16 April 2003 the *State Coastal Policy Validation Act 2003* came into effect. This Act replaces the former definition of the Coastal Zone in the *State Coastal Policy 1996* and reinstates the Policy. The Act also validates all previous decisions made under the Policy. The revised *State Coastal Policy 1996* is reproduced below.

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PREAMBLE

The State Coastal Policy is a policy created under the *State Policies and Projects Act 1993*. State policies, also known as Tasmanian Sustainable Development Policies, are a new policy mechanism created under the Tasmanian Resource Management and Planning System and they apply across the State.

A State Policy is a statutory document which is intermediate between the provisions of an Act and the lesser policies and provisions of planning schemes and other mechanisms identified in the relevant legislation comprising the System.

The *State Policies and Projects Act 1993* determines the functions of a State Policy and what it can contain:

S.5(1) A State Policy:

(a) must seek to further the objectives set out in Schedule 1; and

(b) may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy; and

(c) must seek to ensure that a consistent and coordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and

(d) must incorporate the minimum amount of regulation necessary to obtain its objectives.

The central objective of any State Policy is sustainable development. This means that it must address the use, development and protection of natural and physical resources together with the objectives relating to public involvement and the sharing of responsibility in resource management and planning as well as those relating to economic development. The State Coastal Policy incorporates the Schedule 1 objectives for sustainable development.

In order to be effective a State Policy has to be implemented fully. A number of statutory and non-statutory implementation tools exist for use by State and local government. It is likely that each State Policy will require a different combination of implementation mechanisms, dependent on its subject matter.

Statutory tools include provisions under statutes comprising the Resource Management and Planning System and discretionary and other actions provided for in existing statutes. Non-statutory tools include: Ministerial advice; Cabinet directives; Codes of Practice; review and development, guidelines and educational initiatives; the budgetary process; and a range of economic instruments. Establishing institutional arrangements such as the State Coastal Advisory Committee (SCAC) will also aid policy implementation.

Of major importance with regard to implementation and enforcement of a State Policy are the provisions of the *State Policies and Projects Act 1993* contained in sections 13 and 14.

S.13(1) Where there is an inconsistency between a provision of a State Policy and the provision of a planning scheme or a special planning order in force at the time

when the State Policy comes into operation, the provision of the planning scheme or special planning order is void to the extent of the inconsistency.

To avoid any inconsistencies the State's peak planning body, the Land Use Planning Review Panel, is required to remove inconsistencies between a State Policy and planning schemes and interim orders.

S.13(3) The Panel must, as soon as practicable after a State Policy comes into operation, amend a planning scheme or an interim order to remove any inconsistency between it and the State Policy.

All new schemes, of course, are required to be consistent with any State Policy that is in effect when the scheme is prepared. In addition, this particular State Policy, the State Coastal Policy, specifically requires planning authorities to implement it. Compliance with a State Policy is enforced through the provisions of section 14(1).

S.14(1) A person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable on summary conviction in accordance with subsection (2).

S.14 (2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 500 penalty units, and a person who is so convicted in respect of a continuing contravention of or failure to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy-

(a) is liable, in addition to the fine otherwise applicable to that offence, to a fine for each day during which the contravention or failure to comply continued of not more than 50 penalty units; and

(b) if the contravention or failure to comply continues after the person is convicted, is guilty of a further offence against subsection (1) and is liable, in addition to the fine otherwise applicable to that further offence, to a fine for each day during which that contravention or failure to comply continued after that conviction of not more than 50 penalty units.

On the whole, all government bodies at State and local level are required to give effect to a State Policy 'to ensure that a consistent and coordinated approach is maintained throughout the State' as set out in section 5(1)(c) of the *State Policies and Projects Act 1993*.

For further information on the State Coastal Policy please contact:

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GPO Box 44
Hobart TAS 7001
Phone: 03 6233 3963
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Email: Coastal.Enquiries@dpiwe.tas.gov.au

APPLICATION OF THE STATE COASTAL POLICY

This Policy applies to the Crown in all its capacities, in particular by force of sections 4 and 14 of the *State Policies and Projects Act 1993* and section 63(2) of the *Land Use Planning and Approvals Act 1993*. Subject to contrary statutory provision, it also applies to statutory authorities.

Planning authorities are also required to give effect to this Policy.

The State Coastal Policy applies to all of Tasmania, including all islands except for Macquarie Island which is subject to a special management regime.

DEFINITIONS

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.*

Sustainable Development

(Schedule 1, *State Policies and Projects Act 1993*)

The term "sustainable development" means managing the use, development and protection of natural and physical 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.

Activities

"activities" means any human action occurring in the coastal zone including use and development.

Amenity Value

(*Environmental Management and Pollution Control Bill 1993*)

"amenity value" of an area includes any quality or condition of the area that is conducive to its enjoyment.

Development

(*Land Use Planning and Approvals Act 1993*)

"development" includes:

(a) the construction, exterior alteration or exterior decoration of a building; and

(b) the demolition or removal of a building or works; and

(c) the construction or carrying out of works; and

(d) the subdivision and consolidation of land, including buildings or airspace; and

(e) the placing or relocation of a building or works on land; and

(f) the construction or putting up for display of signs or hoardings.

Works

(*Land Use Planning and Approvals Act 1993*)

"works" includes 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.

Environment

(*Environmental Management and Pollution Control Act 1994*)

"environment" means land, air, water, organisms and ecosystems, and includes:

(a) human-made or modified structures or areas; and

(b) the amenity values of an area.

Land

(*Land Use Planning and Approvals Act 1993*)

"land" includes:

(a) buildings and structures permanently fixed to land; and

(b) land covered with water; and

(c) water covering land; and

(d) any estate, interest, easement, servitude, privilege or right in or over land.

Planning Schemes

(*Land Use Planning and Approvals Act 1993*)

"planning schemes" means any planning scheme in force under section 29 of the *Land Use Planning and Approvals Act 1993*.

Precautionary Principle

(Intergovernmental Agreement on the Environment, 1992)

"precautionary principle" means where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and

(ii) an assessment of the risk-weighted consequences of various options.

Shack

A “shack” is a dwelling used for recreational and other purposes on a temporary occupancy basis at intermittent periods throughout the year.

State Waters

Under the *State Coastal Policy Validation Act 2003*, a reference to “State waters” has the same meaning as in the *Living Marine Resources Management Act 1995*.

Use

(*Land Use Planning and Approvals Act 1993*)

“use” in relation to land, includes use or proposed use for the purpose for which the land has been, is being or may be developed.

Public Land

“public land” means but shall not be limited to public land as defined in the *Public Land (Administration and Forests) Act 1991*.

Planning Controls

“planning controls” means a planning scheme or interim order under the *Land Use Planning and Approvals Act 1993*, a management plan prepared under the *Forestry Act 1920*, the *National Parks and Wildlife Act 1970*, or the *Living Marine Resources Management Act 1995*, a marine farming development plan under the *Marine Farming Planning Act 1995*, or a plan of management prepared for an area reserved under the *Crown Lands Act 1976*.

OBJECTIVES

(Schedule 1, *State Policies and Projects Act 1993*)

Sustainable Development Objectives of the Resource Management and Planning System, Tasmania:
(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
(c) to encourage public involvement in resource management and planning; and
(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
(e) to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State.

The Sustainable Development Objectives are central to the Policy's intent and all other provisions are based on these objectives either explicitly or implicitly.

PRINCIPLES

The purpose of these Policy principles is to guide the outcomes of the Tasmanian State Coastal Policy. No one principle should be read in isolation from the others to imply a particular action or consequence.

The principles are not listed in priority order.

Three main principles guide Tasmania's State Coastal Policy:

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.

Each of these principles are based on the understanding of a variety of factors.

Natural and cultural values of the coast shall be protected.

This principle recognises:

- that Tasmania comprises a number of islands and has more coastline per unit/area than any other State in Australia;
- that the natural character of the coastal zone is of special cultural value to Tasmanians and to visitors from elsewhere;
- the importance of the coastal zone to Aboriginal people, in particular traditional use and Aboriginal culture;
- the dynamic, complex and interconnected nature of biological and physical processes in the coastal zone (terrestrial and marine);
- the susceptibility of the coast to the effects of natural events, including sea-level rise;
- the importance of good water quality to Tasmania's marine ecosystems;
- the importance of maintaining representative or significant natural ecosystems and sites of biological importance, and the biodiversity of Tasmania's indigenous coastal flora and fauna; and
- that protection of coastal sites and features of cultural and historic value is of State and regional significance.

The coast shall be used and developed in a sustainable manner.

This principle recognises:

- that Tasmania's coast is a major economic asset, which contains the State's major concentrations of population and industry;
- that some activities are dependent on or gain an advantage from a coastal location;
- the economic and social values of sea ports and airports, mineral and forest resources, agriculture, marine farming and fisheries to Tasmania, and the legitimate aspirations of individuals and communities for allocation of space and resources in the coastal zone for these activities;
- the importance of protecting valuable fish nursery habitat for future fishing activities;
- the importance of good water quality to Tasmania's marine-based food industries;
- the economic and social values of tourism and recreation in the coastal zone;
- that the availability of the coastal zone for some activities, uses and development will be limited by the ability of natural and physical resources to meet the foreseeable needs of future generations and by the need to sustain the life-supporting capacity of air, water, soil and ecosystems;
- the importance of public access to and along the coast consistent with protection of natural coastal values, systems and processes; and
- that the coastal environment is being affected by activities, uses and development occurring outside the coastal zone.

Integrated management and protection of the coastal zone is a shared responsibility.

This principle recognises:

- that it is the duty of all government agencies which manage part of the coastal zone to further the sustainable development objectives of the resource management and planning system of Tasmania;
- the need for integrated, coordinated and cooperative management of the coast (marine and terrestrial systems), which is effective across the whole of government and that it covers many disciplines;
- that management responsibility for the coast is shared between:
    - communities, especially those who gain directly by the use and development of coastal resources and those who have traditionally used them;

- Local Government;
- State Government; and
- Commonwealth Government;

- the importance of generating and sharing knowledge and information about coastal resources and processes;
- that governments at all levels acknowledge that there are responsibilities created by a number of international conventions and agreements relating to the coastal zone;
- that the State Government has primary management responsibility for the Tasmanian coastal zone;
- that planning authorities have a key role in sustainable development of the coastal zone under the *Land Use Planning and Approvals Act 1993* through planning schemes and decisions which are guided by the State Coastal Policy;
- that where the scale of effects of use or development is of State significance, the project may become a Project of State Significance under the *State Policies and Projects Act 1993*; and
- that communities have an important role to play in coastal management through:
  - participation in decision making;
  - input to policies and plans; and
  - direct management.

OUTCOMES

1 Protection of Natural and Cultural Values of the Coastal Zone

1.1 NATURAL RESOURCES AND ECOSYSTEMS

1.1.1 The coastal zone will be managed to ensure sustainability of major ecosystems and natural processes.

1.1.2 The coastal zone will be managed to protect ecological, geomorphological and geological coastal features and aquatic environments of conservation value.

1.1.3 The coastal zone will be managed to conserve the diversity of all native flora and fauna and their habitats, including seagrass and seaweed beds, spawning and breeding areas. Appropriate conservation measures will be adopted for the protection of migratory species and the protection and recovery of rare, vulnerable and endangered species in accordance with this Policy and other relevant Acts and policies.

1.1.4 Exotic weeds within the coastal zone will be managed and controlled, where possible, and the use of native flora encouraged.

1.1.5 Water quality in the coastal zone will be improved, protected and enhanced to maintain coastal and marine ecosystems, and to support other values and uses, such as contact recreation, fishing and aquaculture in designated areas.

1.1.6 Appropriate monitoring programs and environmental studies will be conducted to improve knowledge, ensure guidelines and standards are met, deal with contaminants or introduced species and generally ensure sustainability of coastal ecosystems and processes and ensure that human health is not threatened.

1.1.7 Representative ecosystems and areas of special conservation value or special aesthetic quality will be identified and protected as appropriate.

1.1.8 An effective system of marine reserves will continue to be established to protect marine ecosystems and fish nursery areas.

1.1.9 Important coastal wetlands will be identified, protected, repaired and managed so that their full potential for nature conservation and public benefit is realised. Some wetlands will be managed for multiple use, such as recreation and aquaculture, provided conservation values are not compromised.

1.1.10 The design and siting of buildings, engineering works and other infrastructure, including access routes in the coastal zone, will be subject to planning controls to ensure compatibility with natural landscapes.

1.1.11 Fire management, for whatever purpose, shall be carried out in a manner which will maintain ecological processes, geomorphological processes and genetic diversity of the natural resources located within the coastal zone.

1.2 CULTURAL AND HISTORIC RESOURCES

1.2.1 Areas within which Aboriginal sites and relics are identified will be legally protected and conserved where appropriate.

1.2.2 All Aboriginal sites and relics in the coastal zone are protected and will be identified and managed in consultation with Tasmanian Aboriginal people in accordance with relevant State and Commonwealth legislation

1.3 CULTURAL HERITAGE

1.3.1 Places and items of cultural heritage will be identified, legally protected, managed and conserved where appropriate.

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.

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.

2 Sustainable Development of Coastal Areas and Resources

2.1 COASTAL USES AND DEVELOPMENT

2.1.1 The coastal zone shall be used and developed in a sustainable manner subject to the objectives, principles and outcomes of this Policy. It is acknowledged that there are conservation reserves and other areas within the coastal zone which will not be available for development.

2.1.2 Development proposals will be subject to environmental impact assessment as and where required by State legislation including the *Environmental Management and Pollution Control Act 1994*.

2.1.3 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.

2.1.4 Competing demands for use and development in the coastal zone will be resolved by relevant statutory bodies and processes, in particular the Land Use Planning Review Panel, the Resource Management and Planning Appeal Tribunal and the Marine Farming Planning Review Panel. Planning schemes, marine farming development plans and other statutory plans will provide guidance for resource allocation and development in accordance with this Policy.

2.1.5 The precautionary principle will be applied to development which may pose serious or irreversible environmental damage to ensure that environmental degradation can be avoided, remedied or mitigated. Development proposals shall include strategies to avoid or mitigate potential adverse environmental effects.

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.

2.1.7 New industrial developments will be encouraged to locate in specified industrial zones.

2.1.8 Extraction of construction materials, mineral, oil, and natural gas deposits in the coastal zone will be allowed provided access to areas is allowed under the provisions of the *Mining Act 1929*.

2.1.9 Exploration will be conducted in accordance with environmental standards under relevant legislation and the Mineral Exploration Code of Practice. Adequate rehabilitation shall be carried out

2.1.10 Extraction will be subject to the Quarry Code of Practice and environmental assessment as required by State legislation including the *Environmental Management and Pollution Control Act 1994*. Adequate rehabilitation shall be carried out.

2.1.11 Extraction of sand will be provided for by zoning of appropriate areas in planning schemes.

2.1.12 Timber harvesting and reforestation in the coastal zone will be conducted in accordance with the Forest Practices Code and have regard to this Policy.

2.1.13 Whole farm planning and sustainable farming activities will be encouraged on agricultural land in the coastal zone and in coastal catchments in order to minimise problems such as erosion, sedimentation and pollution of coastal waters including surface and ground waters.

2.1.14 Management arrangements for commercial and recreational fisheries will be further developed in accordance with the objectives, principles and outcomes of this Policy, through a management planning framework designed to maintain sustainability and diversity of fish resources and their habitats and promote economic efficiency under the *Living Marine Resources Management Act 1995*.

2.1.15 Harvesting of marine plants shall be conducted in a sustainable manner in accordance with relevant State legislation and this Policy.

2.1.16 Water quality in the coastal zone and in ground water aquifers will accord with the requirements and guidelines established by the *Environmental Management and Pollution Control Act 1994* or the *Environment Protection (Sea Dumping) Act 1987* (as appropriate) and any other relevant State and Commonwealth Policies and statutes.

2.1.17 Waste discharge into the coastal zone, including offshore waters, or likely to affect groundwater aquifers, must comply with provisions of the *Environmental Management and Pollution Control Act 1994* or the *Environment Protection (Sea Dumping) Act 1987* (as appropriate) and any relevant State and Commonwealth Policies.

2.1.18 Where oil pollution occurs in the coastal zone, and, or, offshore areas, the National Plan to combat Pollution of the Sea by Oil, Tasmanian Supplement, will apply. Efforts to prevent or mitigate maritime accidents and pollution shall be based upon relevant ANZECC and other guidelines.

2.1.19 Every effort will be made to prevent the introduction of foreign marine organisms and species. Relevant Commonwealth provisions for quarantine and ballast water or other ship discharges shall apply.

2.2 MARINE FARMING

2.2.1 Marine farming will be planned, developed and conducted in the coastal zone having regard to sustainable development considerations and in accordance with the *Marine Farming Planning Act 1995* and other relevant terrestrial and marine resource management and planning legislation and consistent with this Policy.

2.2.2 Marine Farming Development Plans will be prepared, approved and gazetted under the *Marine Farming Planning Act 1995* and consistent with the objectives, principles and outcomes of this Policy.

2.3 TOURISM

2.3.1 Tourism use and development in the coastal zone, including visitor accommodation and other facilities, will be directed to suitable locations based on the objectives, principles and outcomes of this Policy and subject to planning controls.

2.3.2 Tourism development proposals in the coastal zone will be subject to environmental impact assessment as required by State legislation including a water safety assessment to indicate the level and type of lifesaving facilities and personnel required to protect people.

2.3.3 Opportunities for tourism development will be identified wherever strategic planning occurs for the coastal zone or any part of it.

2.3.4 Tourism development will be located where there is environmental capacity and where it does not significantly conflict with the natural and aesthetic qualities of the coastal zone.

2.4 URBAN AND RESIDENTIAL DEVELOPMENT

2.4.1 Care will be taken to minimise, or where possible totally avoid, any impact on environmentally sensitive areas from the expansion of urban and residential areas, including the provision of infrastructure for urban and residential areas.

2.4.2 Urban and residential development in the coastal zone will be based on existing towns and townships. Compact and contained planned urban and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast.

2.4.3 Any urban and residential development in the coastal zone, future and existing, will be identified through designation of areas in planning schemes consistent with the objectives, principles and outcomes of this Policy.

2.5 TRANSPORT

2.5.1 All transport infrastructure and associated services will be planned, developed and maintained consistent with the State Coastal Policy.

2.5.2 Significant scenic coastal transport routes and associated facilities will be identified, planned and managed to ensure sustainable benefits for tourism and recreation value and amenity.

2.5.3 New coast hugging roads will be avoided where possible with vehicular access to the coast being provided by spur roads planned, developed and maintained consistent with the State Coastal Policy.

2.5.4 Marine structures will be designed, sited, constructed and managed in accordance with best practice environmental management and subject to environmental impact assessment having regard to statutory requirements.

2.5.5 The multiple use of port areas will be encouraged but priority will be given to efficient port operations and safety requirements subject to cultural, natural and aesthetic values not being compromised.

2.6 PUBLIC ACCESS AND SAFETY

2.6.1 The public's common right of access to and along the coast, from both land and water, will be maintained and enhanced where it does not conflict with the protection of natural and cultural coastal values, health and safety and security requirements.

2.6.2 Public access to and along the coast will be directed to identified access points. Uncontrolled access which has the potential to cause significant damage to the fragile coastal environment and is inconsistent with this Policy will be prevented.

2.6.3 Agreements between landowners, landholders and councils or State Government to grant public access to the coast, and Aborigines access to Aboriginal sites and relics in the coastal zone over private and public land will be encouraged and shall be considered when preparing plans or approving development proposals.

2.6.4 Public facilities such as life saving facilities and essential emergency services, parking facilities, toilet blocks, picnic sites, rubbish disposal containers, boat ramps and jetties will be provided at appropriate locations consistent with the objectives, principles and outcomes of this Policy to facilitate access to and enjoyment of the recreational amenity of the coast and estuarine foreshores.

2.6.5 Councils will ensure that there will be a coastal safety assessment for any new coastal development likely to attract people to the coast to indicate the level and type of lifesaving facilities and personnel required.

2.6.6 Developer contributions will be encouraged in respect to the costs of providing public access and safety services for the community.

2.7 PUBLIC LAND

2.7.1 All future use and development of public land in the coastal zone will be consistent with this Policy, and subject to planning controls unless otherwise provided by statute.

2.7.2 Future development of camping areas on public land in the coastal zone will only be permitted where such development does not conflict with the protection of natural features and cultural values, but not within 30 metres above high water mark.

2.7.3 Expansion of shack sites on public land in the coastal zone will not be permitted.

2.7.4 Shacks currently located on public land in the coastal zone will continue to be subject to review under the Shack Site Categorisation Program of the Tasmanian Property Services Group.

2.8 RECREATION

2.8.1 Recreational use of the coastal zone will be encouraged where activities can be conducted in a safe and environmentally responsible manner.

2.8.2 Suitable recreation opportunities will be identified through strategic planning and may be provided in appropriate locations where they do not adversely affect sensitive coastal ecosystems and landforms or in designated areas where such effects can be remedied or mitigated.

2.8.3 Special recreational vehicle areas may be established as an environmental protection measure and as a means of limiting unauthorised motor vehicle activity in environmentally sensitive areas.

3 Shared Responsibility for Integrated Management of Coastal Areas and Resources

3.1 SHARED RESPONSIBILITY FOR MANAGEMENT

3.1.1 Provision will be made for consistency in policy interpretation and implementation by all spheres of government throughout Tasmania, including consistency in changes to planning schemes affected by this Policy.

3.1.2 Coastal management should be considered as an integral component of regional planning undertaken in the State.

3.1.3 Provision shall be made for effective coordination of the activities of governments, industry and local communities in interpreting and implementing the State Coastal Policy.

3.1.4 Provision for effective and greater involvement of Aboriginal people in areas of particular interest to Aboriginal people will be made as part of community participation processes.

3.1.5 Planning authorities, the Land Use Planning Review Panel and the Marine Farming Planning Review Panel will use their best endeavours to function in a coordinated and collaborative manner to effectively and efficiently implement the State Coastal Policy.

3.1.6 Councils will prepare strategic and operational plans for their municipal areas having regard to the principles, objectives and outcomes of this Policy and will be encouraged to function in a coordinated and collaborative manner with adjacent councils and other planning authorities.

3.1.7 State government agencies and planning authorities will participate with other State, Territory and Commonwealth agencies in relevant forums to foster a national approach to coastal zone management.

3.2 INSTITUTIONAL ARRANGEMENTS

3.2.1 A State Coastal Advisory Committee comprising representatives of State and local government and the community will be established to facilitate implementation, coordination, consistent interpretation, and evaluation of this Policy.

3.2.2 The State Coastal Advisory Committee will be supported by the Coastal and Marine Program in the Department of Environment and Land Management.

3.2.3 The Tasmanian Government will provide funding and other resources considered necessary for the effective implementation of this Policy.

3.2.4 A high level of coastal expertise will progressively be developed in agencies responsible for implementation of the State Coastal Policy.

3.2.5 The effectiveness of institutional arrangements will be reviewed three years from the date of implementation of the State Coastal Policy.

3.3 PUBLIC PARTICIPATION AND INFORMATION

3.3.1 Public awareness of coastal issues and community participation in managing the coastal zone will be encouraged and facilitated, including networking between community groups working in the coastal zone.

3.3.2 Advice and information will be provided to coastal community groups through councils and State Government agencies responsible for coastal planning and management on the implementation and interpretation of the State Coastal Policy, on government assistance programs or other matters relevant to the coastal zone.

3.3.3 Community projects and action which benefit the coastal zone and are consistent with this Policy will be encouraged and assisted through the Coastal and Marine Program of the Department of Environment and Land Management or other relevant government programs.

3.3.4 Communities will be given the opportunity to make submissions to all plans or policies affecting the coastal zone. Consultative meetings with relevant and interested community groups and individuals in local or regional areas will be held in conjunction with the release of policies and plans wherever possible.

3.3.5 Research into coastal processes and matters related to coastal zone planning and management by government or research institutions will be encouraged and assisted where possible.

4 Implementation, Evaluation and Review

4.1 Implementation of the State Coastal Policy will be coordinated through the State Coastal Advisory Committee.

4.2 The main vehicles for implementation of this Policy will be land use planning controls, marine farming development plans, and local council strategic and operational plans

4.3 To ensure integration between planning schemes and other plans affecting the coastal zone, all planning authorities (including local councils, Marine Boards, the Secretary of the Department of Primary Industry and Fisheries and other agencies developing plans which cover all or any part of the coastal zone) are required, as appropriate, to consult with the Marine Resources Division (Department of Primary Industry and Fisheries) the Marine Board responsible for the area subject to the plan and the Department of Environment and Land Management.

4.4 The effectiveness of the State Coastal Policy will be monitored and assessed throughout its term. A report on the coastal zone will be included in all State of the Environment Reports which the Sustainable Development Advisory Council submits to the Minister pursuant to section 29 of the *State Policies and Projects Act 1993*.

4.5 To ensure that policies and plans for the coast are responsive to changing needs and circumstances the Minister responsible for the administration of the *State Policies and Projects Act 1993* shall review the State Coastal Policy at the end of three (3) years after this Policy has come into operation and thereafter no less than every five (5) years

Appendix 2: Objectives of the Resource Management and Planning System

1. The objectives of the resource management and planning system of Tasmania are:

   (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and

   (b) to promote the fair, orderly and sustainable use and development of air, land and water; and

   (c) to encourage public involvement in resource management and planning; and

   (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and

   (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

2. In clause 1(a) "sustainable development" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing 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 of activities on the environment.

Appendix 3: State Coastal Advisory Committee Recommendations

THE STATE COASTAL ADVISORY COMMITTEE RECOMMENDS THAT

Formation and support of the State Coastal Advisory Committee

1. For future State Policies an advisory body responsible to the Minister for ongoing monitoring and review be established at the time of gazettal, and adequate resources be allocated for both advisory bodies and lead agencies consistent with ongoing reviews and advice.

2. Any new State Policy be accompanied by an implementation strategy that includes a timeframe, an allocation of responsibilities and best practice implementation guidelines. (see also recommendation 46)

3. The State Government make better use of SCAC as the peak coastal advisory body. In this capacity SCAC's role includes reporting to both the Secretary of DPIWE and the Minister, and all legislation and policy issues affecting the coast should be referred to it.

4. The status of SCAC be reviewed as part of the State Coastal Policy review with a consideration that the Committee be given the role as the peak coastal and marine reference body in line with institutional arrangements elsewhere in Australia and overseas.

5. In the review of the *State Policies and Projects Act 1993*, SCAC be vested with appropriate powers to require implementation and enforcement of the Policy.

6. State Government representation within SCAC be at a higher level and, in particular, DPIWE representatives be drawn from senior management. Any restructure of the Committee should consider whether the chair be independent or a senior DPIWE appointee.

7. That membership of SCAC be broadened to include a representative of the Resource Planning and Development Commission (RPDC).

Provision for consistent interpretation and implementation

8. SCAC's Terms of Reference be broadened to allow the provision of advice and recommendations to RPDC and the Secretaries of agencies responsible for approval processes for statutory mechanisms. (links to recommendation 3)

9. DPIWE and SCAC 'champion' the Policy by promotion through all available channels.

10. SCAC review and implement the existing Communications Strategy. (links to recommendation 35)

11. As a priority SCAC, RPDC and DPIWE collaborate to issue best practice guidelines to provide interpretation of the intent of Policy Outcomes and options for their implementation. This will include clear definitions of the terminology of relevant Outcomes of the Policy.

Government resourcing for effective implementation

12. A specific budget line be established within DPIWE for the support of the State Coastal Advisory Committee meeting as part of its implementation activities. (links to recommendation 44)

13. SCAC be funded to fulfil its Terms of Reference. This includes resources to make up for the implementation shortfall over the first 20 months of the Policy's operation.

14. Sitting Fees be provided to voluntary SCAC members.

15. The Coastal & Marine Program (C&MP) of DPIWE be adequately resourced to facilitate the implementation of the Policy and meet the professional expectations placed on it.

16. The State Government make available resources to all appropriate agencies and authorities to enable implementation, (including necessary catch up implementation), in key areas. This includes the amendment of planning schemes, other statutory plans, and relevant guidelines and codes of practice.

17. Resources be allocated by Local Government supplemented by the State Government, for example through partnership agreements, to assist implementation of the State Coastal Policy. (link to recommendation 22)

18. Resource the review of existing planning documents to identify significant inconsistencies with the Policy and provide recommendations to bring them into conformity. (link to recommendation 24)

19. DPIWE and RPDC be resourced to assess all draft statutory plans to ensure consistency with the Policy and other relevant legislation.

20. Greater assistance be provided to those preparing planning documents regarding the practical implementation of the State Coastal Policy.

Implementation through statutory plans

21. The preparation of coastal and marine statutory plans be prioritised so that the Policy Outcomes can be implemented more quickly. (links to recommendations 16 to 20)

22. Partnership Agreements include a requirement to implement State Coastal Policy (and other State Policies). (link to recommendation 17)

23. Guidance be provided to Local Government to advise on Policy implementation within the municipal strategic plan.

24. As a matter of priority, existing planning schemes be amended to implement the Policy in accordance with section 13 of the *State Policies and Projects Act 1993* and *Statutory*

Rule 1993 No. 287, including advertising the effect of the Policy on a planning scheme and identifying the nature of the changes required. (link to recommendation 18)

25. As a matter of priority, DPIWE ensure that the Model Planning scheme sets Statewide requirements for the implementation of the Policy.

26. Regional coastal and marine strategic plans be fully supported by State and Local Government, and their implementation be reviewed regularly by SCAC.

27. As a priority the State Government and Local Government enforce their powers under all appropriate legislation relating to coastal planning and management to ensure consistency with the Policy and Resource Management and Planning System (RMPS) objectives.

Expertise and skill sharing

28. Local Government develop training and skill sharing programs for councils in the implementation of the Policy.

29. The Coastal and Marine Program be provided with the capacity to maintain and improve its existing professional skills training in coastal planning and management through the Short Course Program and other courses.

30. The Coastal and Marine Program identify and facilitate opportunities in improving professional skills for those involved in coastal planning and management.

31. Regular regional coastal and marine forums and a biennial State wide coastal and marine 'conference' be supported by State and Local Government.

32. The Australian Coastal Atlas continue to be developed and maintained as a State resource for Policy implementation.

Encouragement and facilitation of community awareness and participation

33. The State Government should prepare a strategy to ensure continued funding of key coastal community grants programs, after the conclusion of the Natural Heritage Trust.

34. The State continue to provide matching cash funding for Projects where agreed under the Coasts and Clean Seas Memorandum of Understanding.

35. The Communications Strategy for the Policy be implemented and reviewed as part of the Implementation Strategy. (see recommendation 10)

36. SCAC develop a mechanism to monitor advice provided to the community to assist with Policy implementation and compliance.

Encouragement and assistance in research and information for coastal planning and management

37. The State Government encourage research that identifies the economic costs of the impacts on the coast of current environmental practices and development.

38. The State Government, develop and maintain a ‘database’ of coastal and marine information which is to be made publicly available at no cost.

39. State and Local Governments enter into agreements to ensure that effective coastal and marine research and information is made available to all participants in planning and management at minimal or no cost.

40. The Government ensure that the research it funds is presented in a manner that will assist coastal planning and management.

Integration between plans

41. Statutory planning advice be developed to clarify planning responsibilities below the low water mark.

42. Government introduce a system to facilitate the horizontal integration in the preparation and drafting of Statutory Plans so that SCAC can fulfil its Terms of Reference.

43. SCAC be consulted when Government is drafting legislation which may impact on coastal or marine matters to ensure that the intent and outcomes of the Policy are satisfied.

Monitoring and assessment of the effectiveness of the Policy and its institutional arrangements

44. The State Coastal Policy should now be allocated a specific budget and other resources adequate for its implementation and monitoring. (links to recommendation 12)

45. In future, when a State Policy commences adequate resources be allocated for the implementation of the Policy.

46. In future, when a State Policy commences any advisory body be ready to operate and have monitoring measures in place. (link to recommendations 1 and 2)

47. SCAC continue to review the implementation of the Policy.

48. In reviewing Policy implementation, SCAC adopt a rolling agenda focussing on different aspects, and provide a formal report to the Minister and other agencies every three years.

49. As a matter of priority a mechanism be put in place by DPIWE for SCAC to have a direct advisory role in the first review of the Policy.

50. This report be used as part of the DPIWE review of the Policy.

51. SCAC prepare a paper and recommendations to the body reviewing the role and structure of State Policies.

52. As a high priority, minor administrative amendments be made to the Policy immediately so that it includes current agency names, contact details and other current statutory and administrative arrangements.

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