



Review of the State Coastal Policy 1996

RESPONSE PAPER

following public comment

DEPARTMENT OF PRIMARY INDUSTRIES,
WATER AND ENVIRONMENT

Table of Contents

1. BACKGROUND	3
2. PURPOSE OF THE POLICY.....	5
2.1 Need for a State Coastal Policy	21
2.2 Role of State Policies	6
2.3 Function of the State Coastal Policy.....	8
3. STRUCTURE OF THE POLICY.....	11
3.1 Structure of a state Coastal Policy.....	11
4. FORMAT.....	13
4.1 State Coastal Policy supported by “guidelines”	13
4.2 References to Legislation	15
4.3 Specificity of use type	16
5. COVERAGE.....	18
5.1 Definition of the Coastal Zone	18
6. CONTENT.....	21
6.1 Substance and Outcomes.....	21
7. IMPLEMENTATION.....	28
7.1 Resources and information	28
7.2 Role of Planning Schemes.....	290
7.3 Future Management of the Policy	33
8. SUMMARY OF CONCLUSIONS.....	36

1. Background

The Tasmanian Government has acted to review the *State Coastal Policy 1996*. This Policy was prepared under the Tasmanian *State Policies and Projects Act 1993*.

The review process effectively started in July 2004 with the public release of a Discussion Paper by the Minister for Environment and Planning, the Hon. Judy Jackson in September 2004. This was followed by a public and stakeholder consultation process (between September and December 2004).

The Discussion Paper took each section of the current State Coastal Policy and made an evaluation against known issues, continued relevance and interstate comparisons.

The consultation process involved:

- A call for written submissions;
- Presentations to public and stakeholder forums;
- A series of 6 public workshops conducted around the State; and
- Interviews with stakeholder groups, particularly coastal Councils.

A total of 111 written submissions were received and 34 interviews conducted including 12 with Councils around the State.

Many issues were raised during the consultation stage, particularly in written submissions, workshop sessions and stakeholder interviews.

The submissions demonstrated strong community interest about the State's coast and a desire to see its values, including character, cultural and historic heritage, access, and quality of its ecosystems and coastal processes adequately recognised and conserved for future generations.

Principal issues raised by the submissions included:

Purpose of the Policy

- *Need for a coastal policy*
- *Role*
- *Function*
- *Tasmania Together goals*

Structure

- *Structure model*
- *Framework*

Format

- *Need for supporting information*
- *Reference to legislation*
- *Reference to use types*

Coverage

- *Definition of the coast*

Content

- *Proposed Objectives*
- *Proposed Outcomes*

Implementation

- *Resources and information*
- *Role of planning schemes in implementation*
- *Future management*

The purpose of this report is to identify and consider these key issues relating to the State Coastal Policy raised through the consultation process.

This report also identifies a number of conclusions for consideration in response to the comments that came forward during the consultation phase. These conclusions are brought together in the last section.

2. Purpose of the Policy

2.1 Need for a State Coastal Policy

The fundamental question of whether a State Coastal Policy is required at all has become apparent in the course of the Review and particularly in the context of possible future State Policies. Discussion in the *Better Planning Outcomes Review* Project on State Policies suggests the need for a suite of Policies including a range of natural resource management matters such as hazards and settlements. These are functional by nature and are likely to apply to all areas of the State, including the coast.

The State Coastal Policy is spatially based and deals with a range of natural resource management matters within that area.

It is possible, in the future, that a State Coastal Policy will be subsumed by other State Policies and will no longer be required.

2.1.1 Legislation

The *State Coastal Policy 1996* was created under the *State Policies & Projects Act 1993*. State Policies, also known as Tasmanian Sustainable Development Policies, are a policy mechanism created under the Tasmanian Resource Management and Planning System. They apply across the State.

The *State Policies and Projects Act 1993* states that 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.

A State Policy is a statutory document that currently sits between the provisions of an Act and the policies and provisions of planning schemes and other mechanisms identified in the relevant legislation under the Resource Management and Planning System (RMPS).

State Policies are statutory documents that are given effect primarily 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 primarily address land use and development issues.

2.1.2 Discussion Paper

The Discussion Paper did not raise the issue of whether there should be a State Coastal Policy or a range of State Policies as the focus was on reviewing the current Policy as required under the *State Policies and Projects Act 1993*.

2.1.3 Better Planning Outcomes Review

In the *Better Planning Outcomes Review*, it was indicated that there were three main State Policies in place and that the existing State Coastal Policy was one of them.

2.1.4 Consultation

The issue of whether there should be a Coastal Policy was discussed at most public workshops and with some stakeholders but was not raised specifically in any of the written submissions.

A common response from workshop participants was that a strength of the current Policy was that it exists. In the majority of instances, the main discussion was how to improve the Policy and decision making in relation to use and development decisions affecting Tasmania's coast.

The strength of opinion expressed in submissions about the content of the Policy and how its implementation should be strengthened, also suggest general support for the view that it should be retained and made more effective.

2.1.5 Comments

There is general support for the continuation of the State Coastal Policy, for the following reasons:

- the current review of the State Coastal Policy is a review with an implication there will continue to be a State Coastal Policy after the review is complete; and
- there appears to be strong public and stakeholder support for the continued existence of a more effective State Coastal Policy.

2.1.6 Conclusion

- 1. That there continue to be a State Coastal Policy under the *State Policies and Projects Act 1993*.**

2.2 Role of State Policies

The role of State Policies is defined in the *State Policies and Projects Act 1993* to "maintain a consistent and coordinated approach to management and decision making throughout the State, regarding the matters dealt with by the Policies." The primary vehicle for implementation of this is through Local Government planning schemes.

There are a number of Councils that have not satisfactorily incorporated the State Coastal Policy into their planning schemes. This situation suggests a need for further examination of the arrangements directed at existing compliance with a State Policy.

2.2.1 Legislation

The principal and most directly relevant legislation is the *State Policies and Projects Act 1993* which provides for State Policies being the 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.

2.2.2 Discussion Paper

The Discussion Paper discusses the role of State Policies in relationship with the RMPS and indicates that State Policies are prepared and approved under 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 Government, 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 achieve its objectives.

2.2.3 Better Planning Outcomes Review

The *Better Planning Outcomes Review* Paper makes similar comments about the performance of State Policies to those made in the State Coastal Policy Discussion Paper. It states that effective implementation of State Policies has been frustrated by:

- their broad focus and application, not only to planning schemes, but potentially other government and non-government spheres of activity;
- the inclusion of provisions that, in addition to planning scheme provisions, are applied to the assessment of development applications (ie ‘self-executing’);
- the lack of ‘teeth’ to ensure State Policies are implemented in planning schemes in a meaningful and timely way; and
- the absence of implementation tools, such as a requirement to issue guidelines.

The suggested response outlined in the Discussion Paper was to:

- Clarify that State Policies are to be implemented primarily through planning schemes.
- Make the Minister for Planning responsible for State Policies.
- Clarify that State Policies should be short high level statements of policy and should not be self-executing.
- Require their implementation by amendment to planning schemes within a fixed timeframe, with powers to intervene if Councils do not progress amendments voluntarily.
- Require that State Policies be introduced with accompanying implementation tools.

2.2.4 Consultation

The fundamental purpose of State Policies under the *State Policies and Projects Act 1993* is to achieve desired changes throughout the State, through providing the “outcomes” for other lower order documents and processes to implement mechanisms to achieve these outcomes. This was not seriously questioned in any of the submissions or by participants at any of the workshops or in stakeholder interviews.

There was some concern expressed in a few submissions about Councils having the power and responsibility to manage and make development decisions in the coastal zone. However, the majority of submissions, workshop outcomes and stakeholder discussions are reasonably comfortable about local government having those powers

and responsibilities, albeit with provision for improvement in performance in some cases.

2.2.5 Discussion

There was general support for retaining the State Coastal Policy and maintaining a consistent and coordinated approach to decision making throughout the State in relation to development permits in coastal areas, through the “outcomes” being reflected in lower order documents.

There was some question of where regional planning and management fits with the current structure and there was strong support for developing regional level strategic plans for the coast and other areas. However this is not currently part of the Coastal Policy and is a matter being dealt with through the *Better Planning Outcomes Review* project.

2.2.6 Conclusion

- 2. That the broad purpose of the State Coastal Policy be to implement the specific objectives related to the RMPS in coastal areas.**

2.3 Function of the State Coastal Policy

The current function of the State Coastal Policy is difficult to ascertain but there is certainly an attempt to identify some principles and objectives in relation to the management of the coastal zone.

The intention of the *State Policies and Project Act 1993* is that State Policies be regarded as a set of general or State level “outcomes” which direct more detailed strategic planning and statutory decision making processes to be undertaken and implemented primarily by local Councils.

The State Coastal Policy and other existing State Policies are not intended to be strategy plans and therefore are not the instrument for implementing a program of management activity.

2.3.1 Discussion Paper

The Discussion Paper discussed the function of State Policies under Clause 3.3. It reported that 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 particular matters, and provide for local level responses to meet those policy requirements.

The Discussion Paper also said that it is preferable that State Policies not be self executing but rather they rely on other instruments (for example, local planning schemes, planning directives, Water Management Plans) to spell out finer detail as part of implementation.

2.3.2 Better Planning Outcomes Review

The *Better Planning Outcomes Review* Discussion Paper makes similar comments about the performance of State Policies, to those made in the State Coastal Policy

Discussion Paper. It states that effective implementation of State Policies has been frustrated by:

- their broad focus and application, not only to planning schemes, but potentially other government and non-government spheres of activity;
- the inclusion of provisions that, in addition to planning scheme provisions, are applied to the assessment of development applications that are ‘self-executing’;
- the lack of power to ensure State Policies are implemented in planning schemes in a meaningful and timely way; and
- the absence of implementation tools, such as a requirement to issue guidelines.

2.3.3 Consultation

The function of the Coastal Policy was not widely commented on in submissions, workshops or stakeholder interviews. There were many submissions which made suggestions regarding powers, responsibilities, content and implementation support. Some submissions called for the Policy to be comprehensive and legally binding.

2.3.4 Discussion

The proposal for the Coastal Policy to function in the form of general statements or outcomes which direct more detailed planning and statutory decision making processes, undertaken and implemented by Councils, was discussed in the Discussion Paper and was also specifically tested in each of the workshops.

There was general support for the proposed function.

The proposal is consistent with a rational management system involving State matters being dealt with at the State level and local matters dealt with at the local level but in the latter case informed by State direction.

2.3.5 Conclusion

3. **The function of the State Coastal Policy be to act as a guide or framework to lower order planning instruments, particularly planning schemes.**

2.4 Tasmania Together Goals

The *Tasmania Together* goals were set through a public process and are now used as a measure by Government Departments and Agencies, particularly in relation to budget setting, corporate planning and reporting. There are 24 goals covering Our Community, Our Culture, Our Democracy, Our Economy and Our Environment.

2.4.1 Legislation

The legislation governing the *Tasmania Together* structure is the *Tasmania Together Progress Board Act 2001*.

2.4.2 Discussion Paper

The Discussion Paper referred to the goals of *Tasmania Together* and indicated that four of the goals focussed 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.

It further discussed implementation of these goals through the Natural Resource Management Framework in relation to its structure for management of the State's natural resources in a sustainable manner, achieving a balance between economic and social development and the need to protect the environment.

2.4.3 Better Planning Outcomes Review

The *Better Planning Outcomes Review* Discussion Paper indicated that improving the State's planning system was an integral part of meeting expectations for the State's future, through *Tasmania Together*.

2.4.4 Consultation

There were no submissions or workshops that discussed the relevance of the *Tasmania Together* Goals to a Coastal Policy.

2.4.5 Comments

The current Coastal Policy reflects the intent of the *Tasmania Together* Environment Goals.

The Goals have been set through a community based process and have been agreed to by Government. There was no suggestion from the written submissions, workshop outcomes or stakeholder interviews that the current nature or level of response to the *Tasmania Together* process requires changing.

2.4.6 Conclusion

- 4. The general focus on coastal development issues in the current Coastal Policy to relevant *Tasmania Together* goals be maintained in a new State Coastal Policy.**

3. Structure of the Policy

3.1 Structure of a State Coastal Policy

At present State Policies employ different structures and levels of detail in their provisions. The State Policy on Water Quality Management is the most complex and detailed though the elements it contains are largely similar to the State Coastal Policy and the State Policy on the Protection of Agricultural Land (PAL). There is a view that State Policies should be similar in structure and format, and contain general or State level policy to be implemented by subordinate instruments such as planning schemes.

3.1.1 Legislation

The relevant legislation is the *State Policies and Projects Act 1993*. The Act provides general provisions relating to the purpose of the legislation and the matters which it may cover - sustainable development of natural and physical resources, land use planning, land management, environmental management, environment protection and any other matter that may be prescribed. It does not deal specifically with the structure to be employed in State Policy documents.

3.1.2 Discussion Paper

The Discussion Paper discusses structure, in part, in relation to whether the Policy should consist primarily of high level statements. It made two principal points in relation to this matter:

- In recent years the preferred approach for developing State Policies has been for them to be succinct high level statements of policy designed to establish and convey a State position on specific landuse planning matters.
- It is preferred that State Policies should not be self executing and they should rely on other instruments (for example, local Council planning schemes planning directives) for implementation and for a greater level of detail.

It did not propose a specific structure but did refer favourably to the approach taken in the PAL Policy.

3.1.3 Better Planning Outcomes Review

The matter of structure of State Policies was mentioned in the Discussion Paper to the extent of the suggestion that they:

- be implemented primarily through planning schemes; and
- they be short high level statements of policy and not self-executing.

3.1.4 Discussion

A simplified structure using the least amount of regulation to achieve its objectives is a required and preferred approach. The Protection of Agricultural Land Policy (PAL) is also a natural resource management policy and shows one way to structure a new Coastal Policy.

The PAL structure is as follows:

- Purpose
- Objectives
- Principles
- Guidelines
- Transitional Arrangements
- Authority
- Application
- Definitions

The *policy* components of the above structure are the purpose, objectives and principles, with the others being essentially administrative.

The PAL policy seeks to manage a specific matter i.e. good quality agricultural land. The State Coastal Policy is different in that it deals with many aspects of land and water management and is of necessity more comprehensive in its coverage.

Coastal management also involves desired outcomes which the PAL does not specifically provide for. These are essential to proper planning and management of the coast and are a feature of the current Policy.

Public response through submissions, workshop outcomes and stakeholder interviews did not indicate a preference for the structure of a new Coastal Policy. Most appeared more concerned about the content and implementation.

It is therefore proposed that the primary thrust in a new State Coastal Policy be on Outcomes.

3.1.5 Conclusion

- 5. The structure for the revised Coastal Policy be structured so as to give primary focus to desired Outcomes.**

4. Format

4.1 State Coastal Policy supported by “guidelines”

4.1.1 Legislation

The *State Policies and Projects Act 1993* provides that State Policies should have the minimum amount of regulation necessary to obtain its objectives.

4.1.2 Discussion Paper

The Discussion Paper noted that:

- 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.”
- If a 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 in relation to implementation.

It was suggested in the Discussion Paper that a set of guidelines providing detailed direction and interpretation of specific elements in the Policy could be produced to assist implementation. Such guidelines could outline acceptable responses and could be in a form that does not preclude other interpretations where they can be justified. Such an approach avoids the “one-size fits all” approach that has caused implementation difficulties in the past.

It was suggested that some of the 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.

4.1.3 Consultation

A majority of the written respondents endorsed the concept of a State Coastal Policy with a set of supporting documents providing detailed direction and interpretation of specific aspects of the Policy.

Respondents identified a range of tools that could be developed to underpin a State Coastal Policy:

- State level planning guidelines on how to prepare a planning scheme/amendment in accordance with the State Coastal Policy.
- Local planning guidelines with good practice planning provisions.
- A mandatory checklist for consideration by Councils in developing planning scheme amendments or development applications in the coastal zone to ensure compliance with the Policy.

- Priority action plans.
- A coastal manual on interpretation on the ground
- A planning directive or like to specify a set of standard planning provisions to apply in the coastal zone for different development types.
- A coastal manual to assist planning bodies in the maintenance and protection of biodiversity of native flora and fauna and their habitats also weed and fire management and protection of nature reserves.
- Identification manuals for natural values/checklist.
- Maps of hazard areas concerning climate change.
- Visual amenity tools.
- Guide to other legislation.

4.1.4 Better Planning Outcomes Review

The *Better Planning Outcomes Review* indicates that effective implementation of State Policies has been frustrated in the past by a range of issues including the absence of implementation tools and supporting documents.

4.1.5 Comment

The need for supporting implementation documents is supported.

The focus needs to be initially on providing guidance to Local Government, as planning schemes govern use and development on the majority of land in the State.

This is particularly important given the recommendation in the *Better Planning Outcomes Review* that the *State Policies and Projects Act* should be clarified to make it clearer that State Policies should be implemented primarily through planning schemes.

To facilitate an improved level of implementation of the Policy, it is considered desirable that a new Policy be supported with a ‘package’ of other information such as:

- a guide for implementing the Policy through planning schemes; and
- draft standards for potential insertion in planning schemes; and
- a “coastal manual” to assist and guide planners, designers and on-ground workers;

A risk mapping of coastal hazard areas has been undertaken by DPIWE. These maps bring together known information in a suitable manner for Council planners.

Some of the other tools suggested by respondents may well be useful and could be developed in future to support a Coastal Policy.

4.1.6 Conclusions

- 6. The revised State Coastal be supported by implementation related planning documents,**
- 7. Consideration be given to developing further supporting documents once a revised State Coastal Policy comes into effect.**

4.2 References to Legislation

The current Policy makes various references to State legislation and codes of practice that many practitioners find useful but it does not directly assist in interpretation of the Policy. The Discussion Paper questioned whether they should remain in the Policy or incorporated instead into supporting documents.

4.2.1 Legislation

The *State Policies and Projects Act 1993* specifies that a State Policy should have the minimum amount of regulation necessary to obtain its objectives.

4.2.2 Discussion Paper

The Discussion Paper noted that:

- 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.
- In many cases the Policy does not clarify the relationship with other legislation and simply states that some aspects of the *State Coastal Policy 1996* can be satisfied if other 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 other legislation.

4.2.3 Consultation

The written respondents held differing views concerning whether references to legislative provisions should be retained in a new State Coastal Policy.

The common theme in submissions which argued that references to legislation should be retained was that such references were required to either:

- to inform all parties of their legal obligations in one document, or
- that such information is required to ensure integrated planning,

The views of those who did not support inclusion of references to legislation believed that:

- legislation already applies to activities on the coast and that restating the obvious in a State Policy is superfluous and it does not require planners to do anything more than they are already legally required to do.
- inclusion of legislative obligations would mean that the new State Coastal Policy could quickly become out of date.

There was, however, a recognition by all respondents that detail on relevant legislation supporting the management of the coastal reserves is highly desirable to be located somewhere where it can be accessed by interested persons.

4.2.4 Better Planning Outcomes Review

The *Better Planning Outcomes Review* did not deal with this specific issue, but does argue that State Policies should be short high level statements of policy accompanied by implementation tools.

4.2.5 Comments

There does not appear to be an essential reason for inclusion of references to legislation in the Policy. It does not give guidance to planning authorities on how the Policy should be applied, particularly in the context of implementation through local government planning schemes.

It appears to be desirable to provide details of relevant legislation regarding coastal management. A reference matrix which identifies activity such as fish farming by relevant legislation, such as the *Marine Farm Planning Act* and *Living Marine Resources Act* would be a useful and appropriate inclusion in supporting documents.

This is a matter that is perhaps best considered in relation to all State Policies and planning legislation by the *Better Planning Outcomes Review*.

4.2.6 Conclusion

- 8. The revised State Coastal Policy should not include references to obligations contained in other Acts.**
- 9. Supporting documents to a revised State Coastal Policy include some detail on other relevant legislation that has a significant impact on the management of the coastal zone.**

4.3 Specificity of Use Type

Section 2.1 entitled “Coastal Uses and Development, of the current State Coastal Policy” includes different use types (marine farming, tourism and transport) and values (public access and safety and public land).

The need for outcomes for particular industry types of use is questionable. A principal reason for the Policy is to ensure that use and development decisions take into account the coastal assets and values. Provisions which relate primarily to assets and values would seem more appropriate than provisions relating to particular types of industries.

4.3.1 Legislation

The relevant legislation is the *State Policies and Projects Act 1993*. The Act lists the matters for which a State Policy may be prepared but does not contain any reference to the need to list particular use types of industries.

4.3.2 Discussion Paper

The Discussion Paper (clause 4.12 – Marine Farming and Other Marine and also clause 4.13 Coastal Development – urban and residential, tourism developments, ports, timber harvesting and reforestation, and clause 4.15 – Recreation) identified as an option the removal of particular use type clauses in favour of planning schemes.

4.3.3 Better Planning Outcomes Review

This matter was not discussed in the *Better Planning Outcomes Review Discussion Paper*.

4.3.4 Consultation

Various submissions commented on urban and residential use in the coastal zone ranging from no development through to no control on development on private land in the coastal area. Only a few submissions suggested the need to cover management issues addressing public access, cultural heritage, weed management, erosion control, fire management, stormwater and waste management and habitat protection and maintenance.

4.3.5 Comments

The approach of dealing only with either assets or values in the Policy is favoured. Particular industry issues would better be handled in lower order documents such as guidelines or codes of practice.

The Policy would be more likely to achieve positive change if it was focussed on achieving desired outcomes in coastal areas. Therefore provisions in the Policy should be focused on these matters. Under this approach, planning schemes should be able to progress all the desired outcomes stated in the State Coastal Policy.

As well, some of the Outcomes listed under use categories in the current Policy, relate to the need to comply with other legislation which is not of direct assistance when applying or implementing the Coastal Policy. Also, by listing particular types of use, an impression could be created that the Policy does not apply to unlisted uses.

4.3.6 Conclusion

- 10. The revised Coastal Policy focuses on outcome provisions which relate to coastal assets and values generally rather than particular use types.**

5. Coverage

5.1 Definition of the Coastal Zone

There is considerable dissatisfaction among practitioners with the current definition of the coastal zone, particularly the one kilometre distance inland from high water mark. This definition is generally regarded as inappropriate and unworkable.

5.1.1 Legislation

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*.

5.1.2 Discussion Paper

It was noted in the Discussion Paper that:

- The original definition of the coastal zone in the Policy was intentionally not definite to take into account the fact that coastal processes are complex and can be impacted on by activities taking place many kilometres inland.
- The *State Coastal Policy Validation Act 2003* was introduced to clarify the definition of the coastal zone and validate the Policy, after the original definition of the coastal zone was the subject of a Supreme Court appeal that found the *State Coastal Policy 1996* was *ultra vires* for want of clarity in terminology.
- In adopting an arbitrary line on a map, legal certainty was provided, but it is an inflexible approach.
- Any definition of the coastal zone must provide certainty while allowing for integrated management of impacts on the coastal zone.

It was suggested that the current legal definition could be retained or coastal councils could define the extent of the coastal zone within their planning schemes or by insertion of appropriate performance based provisions. It was also suggested that the extent of the coastal zone needs to be based on minimum requirements, and must include Ramsar wetlands, estuaries, and the like.

5.1.3 Better Planning Outcomes Review

This matter was not discussed in the *Better Planning Outcomes Review* Discussion Paper.

5.1.4 Consultation

The majority of respondents and feedback from workshops and stakeholder interviews did not support the current definition of the coastal zone. They believed the distance was arbitrary and included some areas (towns and cities) which were not appropriate to classify as part of the coastal zone, and, in other instances, the distance was insufficient to include coastal processes, vegetation and/or scenery.

There were a number of parameters upon which practitioners and commentators believed a definition of the coastal zone should be based, depending on the location and the environmental, social and economic characteristics of the area.

5.1.5 Comments

The definition of the coastal zone should be changed such that it is capable of including “coastal” matters concerning areas, sites, features and processes. Such matters will vary from place to place and will dictate that the coastal zone will vary in width and the matters it seeks to cover in different parts of the State.

The principal matters on which practitioners believed the coastal zone should be based are:

- Geology and geomorphic processes
- landform
- vegetation
- animal habitat
- areas subject to hazard (climate change impacts)
- views and scenery
- cultural heritage
- use type and impact.

Application of all of the above categories would need to be capable of being adequately justified. Particular care would need to be taken in ensuring that matters which should be included within the coastal zone are not inappropriately excluded because the basis of identifying the coastal zone were not adequate.

The finding by the Tasmanian Supreme Court that the original definition of the coastal zone was “uncertain” means that an important consideration in defining the coastal zone is that any definition must be legally certain. If not, the definition could be subject to further legal challenge.

Another issue is raised by this matter is who should define the coastal zone? At present it is the State Government that has defined it through the existing Policy and special legislation. There is no provision for planning authorities to determine it otherwise. There seems to be no over-riding reason why this situation should remain and that Councils should not be able to define the coastal zone in their areas or in time, possibly by regional planning processes. The options for who should define the coastal zone are evaluated as follows:

<i>Option</i>	<i>Advantages</i>	<i>Disadvantages</i>
State Government defines coastal zone by mapping each area of the State and identifying a line.	<ol style="list-style-type: none"> 1 Supports a consistent approach throughout the State 2 Definitions are completed at one time 3 Cross boundary issues are avoided 	<ol style="list-style-type: none"> 1 Lack of resources available to undertake the work 2 Not very cost effective
Regional Planning defines coastal zone	<ol style="list-style-type: none"> 1 Little potential for cross boundary issues 2 Time delays in defining coastal zones in the State 	<ol style="list-style-type: none"> 1 Regional bodies are not in place across the State 2 Regional bodies do not have the power to implement

	likely to be moderate	planning controls
Councils define coastal zone	1 Can be incorporated into planning scheme review projects 2 More localised definition may be based on more detailed knowledge	1 Some additional cost to Councils to undertake analysis

On the basis of the above, the definition of the coastal zone according to a range of “coastal” criteria may be the best course. It is therefore proposed that provision be made in the revised Policy for the coastal zone definition to be able to be set by local Councils as part of a change to a planning scheme but there be a default definition set by the State Government in the Policy.

As the current definition of coasts in the *Coastal Validation Act* has now applied for some time, it is proposed that the present one kilometre distance from high water mark should continue to apply as a safety net or default position but that Councils be able to redefine it having assessed appropriate scientific, social or economic dimensions.

This flexible option provides the best outcome in terms of legal certainty, whilst allowing for some discretion for a better definition of the coastal zone to be developed through a statutory process.

In the situation where a Council defines the coastal zone for its area, care would need to be exercised so that the zone “lines up” with the coastal zone of a neighbouring Council(s). Preparation of guidelines may assist practitioners to adequately and appropriately define the coastal zone. It is considered that such guidelines should be prepared by DPIWE.

There is likely to be sufficient safeguards to ensure that Councils appropriately define the coastal zone in their planning schemes and that boundary differences are dealt with adequately. This is primarily because amendments to planning schemes must comply with a statutory process which allows for public input. In some cases there will be a need for planning authorities to extend the boundary of their planning schemes into marine areas. Any new planning scheme or scheme amendment must also be approved by the Resource Planning and Development Commission which would consider municipal boundary issues.

5.1.6 Conclusions

11. **The coastal zone be defined in the new Policy along the lines of “the extent necessary to achieve the outcomes in the Policy” but that there be a default of the existing definition in the *Coastal Validation Act*.**
12. **Guidelines should be developed by DPIWE to assist practitioners to define the coastal zone.**

6. Content

6.1 Substance and Outcomes

The role (or purpose) of the State Coastal Policy is essentially to provide guidance to planning authorities on outcomes to be achieved as a result of dealing with permit applications for change of use and development in coastal areas. The Policy currently defines the matters it covers through three objectives:

- 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.

The objectives and outcomes are listed under the following headings:

<i>Objective</i>	<i>Outcomes</i>
1 Natural and cultural values of the coast shall be protected	1.1 Natural Resources and Ecosystems 1.2 Cultural and Historic Resources 1.3 Cultural Heritage 1.4 Coastal Hazards
2 The coast shall be used and developed in a sustainable manner	2.1 Coastal Uses and Development 2.2 Marine Farming 2.3 Tourism 2.4 Urban and Residential Development 2.5 Transport 2.6 Public Access and Safety 2.7 Public Land 2.8 Recreation
3 Integrated management and protection of the coastal zone is a shared responsibility	3.1 Shared Responsibility for Management 3.2 Institutional Arrangements 3.3 Public Participation and Information

The main issue is whether the current objectives, principles and outcomes are appropriate.

6.1.1 Legislation

The relevant legislation is the *State Policies and Projects Act 1993* which lists the nature of matters which may be covered by a State Policy, as follows:

- sustainable development of natural and physical resources
- land use planning
- land management
- environmental management
- environment protection
- any other matter that may be prescribed

All matters covered in the current Policy are covered by this list to some degree.

6.1.2 Discussion Paper

The Discussion Paper did not identify or discuss an overall aim of the Policy, however it did identify and discuss the Policy's three current principles and compared them with those contained in coastal policies in other States.

The Discussion Paper also suggested that a new Coastal Policy that focuses on the following matters may help provide better coastal outcomes:

- 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.

The Discussion Paper identified and discussed at length each of the current Policy's outcomes drawing comparisons with other jurisdictions and listing options for the treatment of each.

6.1.3 Better Planning Outcomes Review

The *Better Planning Outcomes Review* Discussion Paper proposed that State Policies should:

- be implemented primarily through planning schemes, and
- be short high level statements of Policy.

It did not discuss the content of State Policies in detail.

6.1.4 Consultation

There was a range of views regarding the principles and outcomes in the current Policy and on the suggestions contained in the Discussion Paper.

A number of the submissions supported a similar approach to that of the current Policy but sought to define the matters as objectives or outcomes in a greater level of detail. For example some submissions proposed that a new Policy should protect:

- beaches and estuarine environments;
- coastal reserves;
- commercial resources;
- appropriate public access;
- Aboriginal culture; and
- aesthetic and visual values.

Various submissions commented on urban and residential use in the coastal zone ranging from proposing no new development through to no control on development on private land in the coastal area.

6.1.5 Discussion

PRINCIPLES

The three Principles in the current State Coastal Policy are largely repeated as Outcomes and in this regard do not add greatly to the meaning of the Policy. There are a number of general principles which could be included to apply to planning and decision making, particularly in coastal areas, which are not contained in the current Policy. Some were contained in submissions and others are from the National Ecologically Sustainable Development strategy, as follows:

- a) There should be equity between generations, species and groups within society;
- b) The global dimension of environmental impacts of actions and policies should be understood and respected;
- c) 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;
- d) Priority should be given to uses and development which are dependent on a coastal location;
- e) Development should result in a net public benefit, or at least not result in a net cost or disadvantage; and
- f) Decision making processes should effectively integrate both long and short-term social, environmental and economic implications.

General principles such as those above could be included in the revised Coastal Policy, in place of the current “principles” However, it would seem preferable to amalgamate the principles and objectives into one set of “objectives” and avoid duplication, confusion and repetition.

OBJECTIVES

The current “objectives” of the Coastal Policy are basically a restatement of the RMPS Objectives. They are not particularly specific in relation to matters to be considered by planning authorities in making decisions about planning schemes when dealing with coastal areas and therefore they do not add significantly to the meaning of the Policy.

The question that follows, is what matters should the Objectives cover? The current Policy is a mixture of provisions based on assets and values and specific use types.

Dealing with coastal assets and values is a logical step for a coastal policy in that it identifies those matters to which careful attention in coastal areas is required.

Dealing with particular types of use may cause confusion in relation to what the Policy covers and could cause the impression that it does not apply in the case of an unlisted use. Specific uses could better be handled in lower order documents such as planning schemes, guidelines or codes of practice.

Therefore a simplified approach involving only coastal assets and values, upon which objectives and outcomes are based, is preferred. Under this approach, there would be no doubt that any and all proposed uses and development would need to achieve all relevant elements in a planning scheme designed to achieve the outcomes identified in the State Coastal Policy i.e. not just those relating to a listed use type.

As well, some of the Outcomes listed under use categories in the current Policy, relate to the need to comply with other legislation which is not of direct assistance to application or implementation of the Coastal Policy. There is strong justification for these to be removed from the Policy and included in another document.

The matters which relate to the RMPS Objectives are quite limited and do not directly cover a number of key elements covered in the current Coastal Policy or which concern the coast and people's enjoyment of it. Matters include:

- ecology conservation
- economic resources
- public health and safety
- visual quality
- cultural heritage
- public access.

All are matters covered by the current Policy and are reflected in other coastal policies in Australia and New Zealand.

It is proposed that the following objectives, which have been derived from an analysis of the existing the objectives and principles and those in other similar documents and the public comment be considered for inclusion in the new State Coastal Policy;

1. To conserve, enhance and restore natural systems, values and processes, and the coastal environment;
2. To use and develop natural and economic resources, and infrastructure;
3. To provide for the health, safety and security of the public and public infrastructure;
4. To conserve and enhance public amenity and scenic values;
5. To provide, maintain and enhance public access to the coast; and
6. To conserve Aboriginal and historic heritage.

OUTCOMES

As identified in earlier sections of this report, the Outcomes are the most important part of a new policy because it is the outcomes that need to be advanced in a planning scheme and it is the provisions of a planning scheme that must determine whether a permit application for a change of use or development should be approved or refused by a Council.

In developing outcomes, there should also be regard to certain other matters such as follows:

- Removal of references to other legislation (e.g. *Environmental Management and Pollution Control Act 1994* and *the Mineral Resources Development Act*),
- Removal of sub headings that can be misleading and can lead to legal interpretation problems,

- Removal of redundant clauses (e.g. reference to the review of shacks under the Shack Site Categorisation Program), and
- Removal of statements of what the Government intends to do (e.g. “an effective system of marine reserves will continue to be established to protect marine ecosystems and fish nursery areas”)

These matters do not assist a planning authority in deciding whether or not to approve a permit application. Therefore they should be removed. Numerous submissions said that referring to other relevant legislation was handy and should be retained. There is no argument with the view that the information is useful - only with its location.

Having given consideration to these matters as well as the provisions in the existing Policy, the comments made during the consultation and the objectives identified in the earlier section, the following Outcomes are identified for consideration:

- (a) Natural geomorphological processes are retained, including hydrological, wave, wind and tidal processes.
- (b) The diversity, extent and condition of native terrestrial and aquatic flora and fauna and their habitats, particularly those identified as significant or representative, are conserved and, where appropriate, rehabilitated.
- (c) Adverse impacts of use and development, direct and indirect, on areas of high biodiversity or conservation value, including sites of geoconservation significance are avoided or mitigated.
- (d) Water quality maintains coastal and aquatic ecosystems, and supports other values and uses, such as contact recreation, fishing and aquaculture;
- (e) Use and development of aquatic and terrestrial environments is undertaken in appropriate and intended locations and where there is a demonstrated capacity for it to be adequately and appropriately serviced;
- (f) Economic and natural resources, and their use or development, are protected from incompatible uses and activities;
- (g) Appropriate provision is made for uses and developments which are dependent upon shore-line locations;
- (h) Off-shore and on-shore development planning is integrated and compatible, together with their associated uses and infrastructure;
- (i) Residential, commercial and industrial development is limited to existing and planned settlements and ribbon development is limited to infill;
- (j) Development in areas subject to hazard from the effects of inundation, erosion, storm activity, landslip, bush fire and contamination, occur only where the risks are satisfactorily managed;

- (k) Development in areas at risk from climate changes on coastal and urban communities, natural systems and water resources are avoided, but where development does occur, these risks are satisfactorily managed;
- (l) The scenic values of the natural coastal landscape are protected and enhanced;
- (m) The public has adequate and appropriate access to the coast, from both land and water;
- (n) The amenities of the coast are conserved and are complemented by appropriate public facilities, which the public are able to access and enjoy;
- (o) Public safety and security is managed appropriately according to the level of risk;
- (p) Aboriginal heritage is respected and conserved; and
- (q) Historic and cultural heritage is respected and conserved.

6.1.6 Conclusions

- 13. There be a set of Objectives included in the new Policy along the lines identified.**
- 14. A list of desired Outcomes similar to those outlined be the primary focus of a new Coastal Policy.**

7. Implementation

7.1 Resources and information

The issue of adequate resources and information to implement the State Coastal Policy was raised in some submissions, workshops and stakeholder interviews. Limitations affecting each were considered to have contributed to the existing Policy not being effectively implemented to date – along with enforcement deficiencies.

7.1.1 Legislation

All government bodies at State and local level are required to give effect to a State Policy under the requirements of the *State Policies and Projects Act 1993*.

7.1.2 Discussion Paper

It is noted in the Discussion Paper that implementation guidance is currently 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.

7.1.3 Consultation

One the major issues raised was the apparent lack of follow through by Local Councils in implementation of the existing State Coastal Policy.

Issues raised included the need for appropriate data to support a new State Policy, resources for local Government and other planners (eg – Parks and Wildlife Service), and access to relevant technical and professional advice.

7.1.4 Better Planning Outcomes Review

The *Better Planning Outcomes Review* Discussion Paper outlined perceived problems associated with the current assessment of development applications, particularly the potential for planning matters to be politicised and Councils to blur their statutory planning responsibilities with their broader role as advocates of the people. The *Review* suggested that improvements could be achieved with the following initiatives:

1. Require Councils to access qualified planning advice (whether by sharing planners, use of consultants, appointing staff or other means) creating a greater capacity to delegate determinations.
2. Develop a model for delegations to promote a more consistent approach to the matters that can be dealt with under delegation across the State (this may include a formal role for Councils' internal development assessment or advisory groups in determining applications).
3. Develop administrative or legislative arrangements that clarify the role and responsibility of a Council when acting as a planning authority, including the circumstance where the Council may also be the applicant.
4. Develop information materials or a short course to assist Council's elected members to understand the planning system and their obligations.
5. Require that where Councils approve or refuse permit applications contrary to planning advice, they advise that the decision was made contrary to planning advice and specify the reasons for the decision when giving notice of their decision.

In terms of enforcement aspects of the planning system, it is noted that the *Better Planning Outcomes Review* indicates that there has been relatively little focus on enforcement in the past. It suggested that the following occurs:

1. Introduction of provisions for Councils to issue infringement notices to give a more efficient, less expensive means of initiating enforcement proceedings.
2. Provide for the recovery of the costs associated with the investigation to support enforcement proceedings.
3. Review the penalty provisions to ensure that they act as a deterrent to breaches of the planning scheme.
4. Require that Councils conduct a periodic audit on planning scheme compliance by sampling permits issued to determine compliance, pursue enforcement where required and report actions.
5. Investigate an annual State Government contribution to an organisation, such as the Environmental Defenders Officer or Legal Aid Commission, to act as an advocate for review and enforcement matters pursued in the public interest.

The *Better Planning Outcomes Review* also outlines a range of possible other reforms to improve planning decisions, including –

- Introduce reforms to increase the use of mediation to assist in resolving disputes.
- DPIWE to establish a planning information function to centralise the collection and regular reporting of statistical planning information to evaluate performance of the planning system and optimise any synergies with the

reporting required under the State of the Environment Report and *Tasmania Together*.

- Legislation or regulation be introduced to facilitate the reporting of planning activity by Local Government.
- DPIWE to facilitate improved access to relevant planning information held by State agencies, to assist the preparation of planning schemes.
- That the State Government investigates the wider availability and application of up-to date spatial data to assist Councils preparing planning schemes and assessing development applications.
- Develop and promote opportunities for the professional development of planners.

7.1.5 Comments

The issues raised through the review of the existing State Coastal Policy about enforcement were also raised about land use planning in general.

The *Better Planning Outcome Review* acknowledges that there are perceived and actual problems associated with implementation of State Policies via planning schemes. Many of the suggested reforms would assist in supporting and better implementation of State Policies. Those reforms are broadly supported.

7.1.6 Conclusion

16 The issue of better enforcement, public involvement, resources, etc for planners be considered as part of the broader *Better Planning Outcome Review*.

7.2 Role of Planning Schemes

7.2.1 Legislation

A State 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.

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 Resource Planning and Development Commission is required under section 13 *Land Use Planning and*

Approvals Act 1993 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. 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.

7.2.2 Discussion Paper

It is noted in the Discussion Paper that –

- The State Policy and Projects Act provides an implementation regime.
- 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.”

- Implementation of the Coastal Policy has largely been through planning scheme amendments and new planning schemes and consequently via decisions of planning authorities. However, only around ten new planning schemes have been developed for coastal municipalities since October 1996. 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.”
- In the non-statutory area, there has been significant activity across Tasmania including advice, education and specific coastal and marine management projects, programs, and some regional strategic planning.

7.2.3 Consultation

Written respondents commented on problems with implementation of the State Coastal Policy.

Some respondents supported retention of the current State Coastal Policy in its current form but with better implementation. Others suggested changes to the Policy to assist in improving implementation.

Respondents also identified a range of possible implementation arrangements not reliant upon a change in governance arrangements (see section 2.2 of this Paper), including-

- (a) Implementation largely through planning schemes, with Councils provided with some implementation support (eg – in defining the coastal zone, development of formal manuals, and access to planning and technical advice),
- (b) Requirement for new planning schemes to be prepared on a regular basis to be brought into compliance with the Policy,
- (c) Development of a planning directive to fully implement the Policy within planning schemes, with Councils reporting to the Commission on implementation,
- (d) Development of a planning directive to require specific types of applications on the coast (eg – with a significant environmental impact) to be referred to appropriate Government Departments for comment.

7.2.4 Better Planning Outcomes Review

The *Better Planning Outcomes Review* notes that the ‘take-up’ of State Policies by the State Government has been affected by:

- uncertainty about what a State Policy should ‘look like’;
- lack of familiarity about the process for preparing and introducing State Policies; and

- the need for planning expertise and resources to develop them.

It also noted that effective implementation of State Policies has been frustrated by a range of factors, including the lack ‘teeth’ to ensure State Policies are implemented in planning schemes in a meaningful and timely way and the absence of implementation tools, such as a requirement to issue guidelines.

The suggested response to these issues outlined in the *Review* is to clarify that State Policies are to be implemented primarily through planning schemes and require their implementation by amendment to planning schemes within a fixed timeframe, with powers to intervene if Councils do not progress amendments voluntarily. Furthermore to require that State Policies be introduced with accompanying implementation tools.

The *Review* further indicated that the preparation of planning schemes could be improved by requiring the early involvement of stakeholders on the scope of issues to be the focus of the planning scheme review and the development of practical and effective administrative procedures to ensure the State Government is involved in the preparation of planning schemes and amendments.

7.2.5 Comments

The *Better Planning Outcome Review* identifies that there has been a lack of translation of strategic planning into planning schemes. Furthermore that current State Policies have not been implemented in a timely and effective manner through planning schemes.

That *Review* recommends a range of reforms to the *State Policies and Projects Act 1993* to improve this situation, including:

- to clarify that State Policies are to be implemented primarily through planning schemes;
- require their implementation by amendment to planning schemes within a fixed timeframe, with powers to intervene if Councils do not progress amendments voluntarily; and
- to require that State Policies be introduced with accompanying implementation tools.

If these recommendations are supported, there would be an even stronger enforcement regime for a new State Coastal Policy. It is considered that the new State Coastal Policy should also be implemented through other statutory based management plans, such as Parks and Reserves Management Plans, Water Development Plans and the like.

The proposal that planning schemes should be updated in a timely manner is supported. Section 12 of the Act provides that if there is an inconsistency between a provision of a State Policy and a planning scheme or special planning order, the State Policy overrides the planning scheme or special planning order. The Resource Planning and Development Commission can act to amend planning schemes to ensure

conformity with State Policies. The Act does not, however, provide a timeframe for a Council or the Commission to update Planning Schemes. The proposed amendments to the Act would ensure that planning schemes are updated in a timely manner.

A suggestion that arose during the consultation process was that certain types of developments should be referred to Government Agencies for advice. When the LUPPA planning system was introduced, it included the capacity for Councils to seek advice from State Government Departments on prescribed matters. This was always intended to be a temporary measure. This mechanism has been repealed, although some Councils still refer matters to the State Government Agencies for comment where they consider the Agency concerned may have an interest or can assist with informing the decision making process. There is nothing to stop Councils referring particular development applications to State Government Agencies for advice and it is clearly desirable in a number of circumstances.

To assist in implementation of a new State Coastal Policy, some supporting information is suggested (see section 2.1). It is also noted that other documents could be prepared to assist Councils, but that these should be developed after a new State Policy is in force.

7.2.6 Conclusions

- 17. The *Better Planning Outcome Review* proposed legislative reforms relating to implementation of State Policies through planning schemes are desirable.**
- 18. A new State Coastal Policy should be implemented through other statutory planning documents to assist in ensuring a local relevance but integrated approach to coastal management.**
- 19. If the legislative reforms are not passed by Parliament, existing mechanisms be utilised to achieve effective implementation of a new State Coastal Policy.**

7.3 Future Management of the Policy

7.3.1 Legislation

The *State Policies and Projects Act 1993* provides that the Minister responsible for that Act is responsible for State Policies. The Premier is the current Minister responsible for the Act and therefore State Policies.

7.3.2 Discussion Paper

The review of the State Coastal Policy did not focus on all issues relating to practical implementation of a State Coastal Policy. However, it did indicate that greater advocacy for coastal areas is desirable.

It is noted in the Discussion Paper that –

- 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.

7.3.3 Consultation

A number of the written respondents raised the issue of who should “champion” the new State Coastal Policy.

Some respondents suggest that effective implementation and monitoring of the revised policy requires an identifiable and accountable body with defined responsibilities, appropriate powers and adequate resources.

Other concepts advanced were to create a Minister for Coasts, establish an independent environmental law enforcement agency and the introduction of a referral mechanism to Government for some coastal management decisions.

There was not a consistent theme in terms of the nature of the body and the roles and responsibilities of that body. However, there was agreement that the Policy requires a “champion” to ensure that it is appropriately implemented because there was a perceived deficiencies in implementing the current Policy.

7.3.4 Better Planning Outcomes Review

The *Better Planning Outcomes Review* notes that a broader issue is the lack of a ‘champion’ in State Government to progress the development of State Policies as an integral part of the Resource Management and Planning System. It proposed that the Minister for Environment and Planning should be made responsible for State Policies.

7.3.5 Comment

The proposal for the creation of an independent body to make decisions about development proposals on the coast instead of Councils is not supported.

Tasmania’s planning system is considered to be an example of best practice in Australia. It allows for public participation, third party and respondent appeals, and independent arbitration of Council development decisions to a Tribunal rather than a court. The development of planning schemes allows for extensive public consultation and an independent body, the Resource Planning and Development Commission, to oversight the process.

That is not to say the system could not be improved. The *Better Planning Outcomes Review* acknowledges that there have been some problems with implementation of State Policies, and suggests a number of changes to improve the system

The proposal for the formation of a statutory or non-statutory body with an advisory and monitoring role to champion of the revised State Coastal Policy cannot be considered in isolation from how all State Policies should be supported.

State Policies on other issues, such as the protection of agricultural land, may well be considered as of equal importance as the State Coastal Policy. These Policies should also be appropriately monitored and enforced.

If a suite of Policies is to be developed as is proposed in the *Better Planning Outcome Review*, then it will be critical that all Policies are effectively implemented and monitored.

The proposal to make the Minister for Environment and Planning responsible for State Policies is therefore supported and is seen as a more effective way to improve compliance with a new Coastal Policy.

The *State Coastal Policy 1996* also outlines that comment on issues relating to the coastal zone will be included in State of the Environment Reports submitted to the Minister. The State of Environment Report may provide an opportunity for more regular reporting on State Policies.

7.3.6 Conclusions

- 20. The revised State Coastal Policy should be “championed” by the Minister for Environment and Planning.**
- 21. Consideration be given through the *Better Planning Outcomes Review* to more regular reporting on the implementation of State Policies through the State of the Environment Report process.**

8. *Summary of Conclusions*

The conclusions drawn in this Report are:

- 1 That there continues to be a State Coastal Policy under the *State Policies and Projects Act*.
2. That the broad purpose of the State Coastal Policy be to implement the specific objectives related to the RMPS in coastal areas.
- 3 The function of the State Coastal Policy be to act as a guide or framework to lower order planning instruments, particularly planning schemes.
4. That the general focus on coastal development issues in the current Coastal Policy to relevant Tasmania *Together* goals be maintained in a new State Coastal Policy.
5. The structure for the revised Coastal Policy be structured so as to give primary focus to desired Outcomes.
6. The revised State Coastal Policy be supported by implementation related planning documents,
7. Consideration be given to developing further supporting documents once a revised State Coastal Policy comes into effect.
8. The revised State Coastal Policy does not include references to obligations contained in other Acts.
9. Supporting documents to a revised State Coastal Policy include some detail on other relevant legislation which has a significant impact on the management of the coastal zone.
10. The revised Coastal Policy focuses on outcomes provisions which relate to coastal assets and values generally rather than particular use types.
11. The coastal zone be defined in the new Policy along the lines of “the extent necessary to achieve the outcomes in the Policy” but that there be a default of the existing definition in the *Coastal Validation Act*.
12. Guidelines should be developed by DPIWE to assist practitioners to define the coastal zone.
13. There be a set of Objectives included in the new Policy along the lines identified.
14. A list of desired Outcomes similar to those outlined be the primary focus of a new Coastal Policy.
15. The issue of public involvement, resources, etc for planners be considered as part of the broader *Better Planning Outcome Review*.
- 16 The issue of better enforcement, public involvement, resources, etc for planners be considered as part of the broader *Better Planning Outcome Review*.
- 17 The *Better Planning Outcome Review* proposed legislative reforms relating to implementation of State Policies through planning schemes are desirable.

- 18 A new State Coastal Policy should be implemented through other statutory planning documents to assist in ensuring a local relevance but integrated approach to coastal management.
- 19 If the legislative reforms are not passed by Parliament, existing mechanisms be utilised to achieve effective implementation of a new State Coastal Policy.
- 20 The revised State Coastal Policy should be “championed” by the Minister for Environment and Planning.
- 21 Consideration be given through the *Better Planning Outcomes Review* to more regular reporting on the implementation of State Policies through the State of the Environment Report process.
