



VALIDATION (STATE COASTAL POLICY) BILL 2024

Version 2, September 2024

*Key arguments for refusing the Validation
(State Coastal Policy) Bill 2024 plus supporting
and background information*



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Cover Photo: Rob Blakers.



Key reasons for opposing the *Validation (State Coastal Policy) Bill 2024*

This document provides key reasons why the *Validation (State Coastal Policy) Bill 2024* (the Validation Bill) should be opposed. This introduction assists in understanding the Tasmanian Government's agenda and the arguments against the Validation Bill.

The Validation Bill is proposed by the State Government to validate planning permits for all developments that have been built or are approved to be built on actively mobile landforms under the current Tasmanian State Coastal Policy, during a period from 2003 until the bill obtains royal assent. The government has confirmed that the bill will validate the approval for the pilitika/Robbins Island wind farm that is currently being challenged in the Supreme Court.

In December 2023, the Circular Head Community Awareness Network Inc commenced a Supreme Court challenge to the proposed pilitika/Robbins Island wind farm. In March 2024, the Environment Protection Authority (EPA) also lodged an appeal, following advice from the Solicitor General regarding the interpretation of the Tasmanian State Coastal Policy.

The Validation Bill will only apply retrospectively. The State Government has said it intends to release a discussion paper outlining how developments on actively mobile landforms, into the future, will be assessed under the Tasmanian State Coastal Policy. The State Government released an '*Amendment to the State Coastal Policy 1996 - Development on Actively Mobile Landforms*' position paper for public consultation from 9 September to 21 October 2024 proposing changes to the Tasmanian State Coastal Policy to establish a new assessment process for future projects proposed for actively mobile landforms.

The State Government claims to have received advice in March 2024 that has put in doubt the approval of the pilitika/Robbins Island wind farm, specifically the assessment by the EPA of the wharf proposed at Back Banks mobile frontal dunes on pilitika/Robbins Island. Based on this advice, the Government claims that all planning permits issued from 2003 onwards, that involved development on actively mobile landforms, are also in legal doubt.

The EPA has stated that it erred at law for having failed to assess the pilitika/Robbins Island wharf against the Tasmanian State Coastal Policy and was required to commence a Supreme Court case in response to this. The Environment Protection Authority also joined as a party to the Supreme Court case commenced by the Circular Head Community Awareness Network Inc.



The Draft Validation Bill was released for public consultation from 16 July to 1 August 2024. The Validation Bill was tabled in the Parliament on 7 August 2024.

REASON 1: The need for the Validation Bill has not been established

Government has not released its advice

The State Government has claimed it has received “*advice*” that supports the need for legislation to validate the permits for developments built or proposed on actively mobile landforms. However, the government has refused to release its advice or even to release a summary that explained the legal reasons. The government has not even stated who provided it with advice.

More information: The information provided with the Draft Validation Bill is very limited, just stating that the government had received advice. See *Appendix 1: State Government media releases and Bill consultation information*. On 31 July 2024, Vica Bayley questioned the Minister for Parks and Environment Nick Duigan in the [Tasmanian Parliament](#) regarding the advice received but the Government would not release it or a summary of the legal reasons to justify the validation of past permits.

Existence of coastal infrastructure not confirmed

The State Government has also made unsubstantiated claims that there are a range of structures built on actively mobile landforms, including boat ramps and jetties, that are at legal risk and require validation. It claims to be defending “*Tasmania's way of life*” by proposing the Validation Bill. This seems to be a smokescreen to disguise the real reason for the Validation Bill, which is to ensure the pilitika/Robbins Island wharf can be constructed.

The State Government has not identified one single example of a structure such as a boat ramp or jetty that may be at legal risk and requires validation of its permit.

More information: The information provided by the State Government just asserts that these structures exist but does not identify any – see *Appendix 1 State Government media releases and Bill consultation information*. On 19 June 2024, Craig Garland questioned the Minister for Housing and Planning Felix Ellis in the [Tasmanian Parliament](#) “*How many wharfs, jetties, boat ramps, training walls and breakwaters are situated on coastal dunes within Tasmania, and how is building a wharf and wharf access on a coastal dune protecting the Tasmanian way of life? More importantly, what is the Tasmanian way of life?*”



Government's claims about lack of definitions and maps not substantiated

The State Government has also claimed that the Validation legislation is required to address uncertainty regarding application of the Tasmanian State Coastal Policy, that the policy does not include a 'definitive description' of an actively mobile landform and that there are no accepted maps of those landforms. Submissions to the Draft Validation Bill, by legal experts, question whether the Tasmanian State Coastal Policy actually suffers from such uncertainty. It is claimed that the wording of the Tasmanian State Coastal Policy along with other technical documents is sufficient to define actively mobile landforms and that extensive mapping of hazardous coastal areas in Tasmania already exists.

More information: See *Validation (State Coastal Policy) Bill 2024* submission [here](#) from the staff members of the Faculty of Law, University of Tasmania: Ms Anja Hilkemeijer, Professor Jan McDonald, Dr Emille Boulot and Ms Cleo Hansen-Lohrey.

REASON 2: The Supreme Court should be allowed to do their job

The Supreme Court should be allowed to do their job of reviewing the Tasmanian Civil and Administrative Tribunal (TasCAT) decision.

As per the submission made by the University of Tasmania, Faculty of Law staff on the Bill: *"As part of the system of 'checks and balances' inherent in Tasmania's separation of powers, it is the role of the Supreme Court of Tasmania to determine whether the decision of TasCAT should stand and, if required, make appropriate orders to correct errors in the application of the law."*

It is critical that the parliament not amend legislation while the court case is ongoing. The Court case taken by the Circular Head Community Awareness Network Inc may be prejudiced by the proposed Validation Bill as it could remove a key ground they rely on. If the Validation Bill is passed the EPAs separate Supreme Court case will be redundant as it will have no case to answer about having not undertaken an assessment against the Tasmanian State Coastal Policy.

If allowed to continue, the outcome of the Supreme Court cases may clarify whether the government needs to propose validating legislation and, if so, provide guidance on how this ought to be done.

More information: See *Validation (State Coastal Policy) Bill 2024* submission [here](#) from the staff members of the Faculty of Law, University of Tasmania: Ms Anja Hilkemeijer, Professor Jan McDonald, Dr Emille Boulot and Ms Cleo Hansen-Lohrey.



REASON 3: Retrospective suspension of State Coastal Policy undermines the rule of law

The Validation Bill would retrospectively remove the application key parts of the Tasmanian State Coastal Policy. This would mean that the building of the proposed pilitika/Robbins Island wharf will be lawful even if that approval was unlawful at the time of the Circular Head Council and TasCAT's decisions.

The University of Tasmania legal experts state that *"Suspension of (or dispensing with) the law has always been a favoured power of arbitrary rulers"* and *"That is because suspending the operation of a law undermines public confidence in the rule of law"*.

More information: See *Validation (State Coastal Policy) Bill 2024* submission [here](#) from the staff members of the Faculty of Law, University of Tasmania: Ms Anja Hilkemeijer, Professor Jan McDonald, Dr Emille Boulot and Ms Cleo Hansen-Lohrey.

REASON 4: Impacts of the pilitika/Robbins Island wharf will not be assessed

If the Validation Bill passes the Parliament, the EPA's Supreme Court case will be redundant. If this happens it means the impact of the road and wharf infrastructure through the mobile frontal sand dunes on pilitika/Robbins Island will not be assessed by the EPA – Environmental Protections Authority. No conditions would be required on the development to minimise impacts or ensure it can be constructed safely.

The road and wharf infrastructure, as per the documents provided during the development assessment process revealed that the proposal would need to shift an estimated 150,000 tons of sand digging down 14 meters over half a kilometre distance – and the impact of this will not be assessed.

More information: see all relevant documents to support this assertion in *Appendix 2 Impacts of road/wharf infrastructure NOT ASSESSED*.

REASON 5: Public submissions raised serious concerns about the Validation Bill that were ignored

The State Government undertook the bare minimum of public consultation and has not fully considered the concerns of the community or key experts and professional organisations.

The Tasmanian Government released the Draft Validation Bill for a two-week period (16 July – 1 August 2024) of public comment. A total of 402 submissions were received.



A total of 387 submissions (96.8%), 368 from members of the public and 19 from community groups statewide indicated their clear and unambiguous opposition to the Validation Bill.

The State Government tabled the final legislation in the Parliament on 7 August 2024, just three business days after the public submission period ended. It is hard to imagine that all submissions were actually read, let alone that the arguments identified in the submissions were properly considered.

The only substantive change to the draft legislation that was released for public comment was an extension to the validation period from 2009 to 2003. Not a single change was made by the State Government in response to the 402 submissions it received.

More information: see *Appendix 3 Submissions summary* and *Appendix 4 Summary of organisational/institutional submissions*.

REASON 6: Unintended consequences of the Validation Bill

The Validation Bill will provide for a retrospective, blanket approval for all coastal developments on actively mobile landforms statewide since 2003. Such a broad-brush approval undermines previous assessments and permits issued, potentially leading to unintended legal consequences.

A number of submissions were received from professional organisations, local councils and legal experts that pointed out potential risks with the legislation, that may have been unintended, such as:

- Liability associated with structures that have been built on actively mobile landforms may be transferred from the proponents or local councils to the State Government with financial implications for Tasmanian tax-payers.
- Does the Validation Bill apply to works that have occurred illegally during the validation period or future works that do not obtain a planning permit.
- Uncertainty existed about permits issued before the validation period i.e. 1996 to 2003.

There is no evidence that the State Government have considered these potential problems let alone have a response to them.

More information: see *Appendix 3 Submissions summary* and *Appendix 4 Summary of organisational/institutional submissions*. Also see the EDO - Environment Defenders Office submission in response to the *Draft Validation (State Coastal Policy) Bill 2024 (Iutruwita/Tasmania)* [here](#).



REASON 7: No need to rush changes

The Pilitika/Robbins Island wind farm is yet to gain approval from the Australian Government. Thus, there is no immediate need to rush through the proposed changes to the State Coastal Policy through the Tasmanian Parliament.

REASON 8: Fast-tracking amending the Tasmanian State Coastal Policy to create a new assessment process for developments on actively mobile landforms

The State Government released an *'Amendment to the State Coastal Policy 1996 - Development on Actively Mobile Landforms'* position paper for public consultation from 9 September to 21 October 2024 proposing changes to the Tasmanian State Coastal Policy to establish a new assessment process for future projects proposed for actively mobile landforms.

The State Government has indicated it intends to use a fast-tracking process under section 12 of the *State Policies and Project Act 1993* which "*allows a draft amendment to a State Policy to become an Interim State Policy having immediate effect if approved by the Governor*". This is strongly opposed as it removes public input and independent oversight. The Government should use the more thorough amendment process that allows for an eight-week public consultation process (with opportunity for public hearings) conducted by the Tasmanian Planning Commission.

Note that Pilitika/Robbins Island developer ACEN has foreshadowed a similar wharf to that proposed for Pilitika/Robbins Island would be constructed across coastal land into Ringarooma Bay in its North East Wind project. Aerial imagery suggests that the same problem of building across a mobile dune system would face the developer at this site.

The new amended Tasmanian State Coastal Policy would be applied to the wharf proposed as part of the North East Wind project.

More information: See section 5.1 *State Policies Background Information* in *Appendix 5 Supporting and background information*. Also see the EDO - Environment Defenders Office submission in response to the *Draft Validation (State Coastal Policy) Bill 2024 (Lutruwita/Tasmania)* [here](#). See section *Northeast Wind ACEN proposed wind farm* in *Appendix 2 Impacts of road/wharf infrastructure NOT ASSESSED*.



Acknowledgements

PMAT acknowledges and pay respect to the Tasmanian Aboriginal people as the traditional and original owners of pilitika/Robbins Island.

As outlined in the Tasmanian Aboriginal Land Council's submission ([submission number 361](#)) to the *Validation (State Coastal Policy) Bill 2024*, Robbins Island is 'known by Palawa as Pilitika, Robbins Island is a highly significant Aboriginal cultural landscape. It has been a living and meeting place for tens of thousands of years and a staging point for Robinson's fateful so-called friendly mission'.

We acknowledge the Tasmanian Aboriginal community as the continuing custodians of lutruwita. lutruwita milaythina Pakana - Tasmania is Aboriginal land.

PMAT acknowledges the key contributions to this report made by Sophie Underwood PMAT State Director, Peter McGlone CEO of the Tasmanian Conservation Trust and Dr Eric Woehler OAM co-convenor of the Tasmanian Branch of the Australian Coastal Society.

PMAT acknowledges Environment Tasmania who organised the well-attended six public meetings regarding the *Validation (State Coastal Policy) Bill 2024* held at: Wynyard, Dunalley, Kingston, Sandford, Bicheno, and St Helens.

PMAT acknowledges the valued contribution made by Andrew Darby who has assisted with key research.



Appendix 1 State Government media releases and Bill consultation information

**Media Release: [Changes to Tasmanian State Coastal Policy proposed - Premier of Tasmania](#)
6 May 2024 Nick Duigan, Minister for Parks and Environment**

The Tasmanian Government supports a balanced and sensible approach to developments that benefit Tasmanians, while also protecting our coast lines and their environmental values.

Minister for Parks and Environment, Nick Duigan, said that the Government received advice in March regarding the application of the Tasmanian State Coastal Policy.

“This advice is different to the way that the Policy had been applied to developments in coastal areas since being introduced,” Minister Duigan said.

“This could potentially impact on the use of all coastal infrastructure, including community infrastructure such as jetties and boat ramps.”

This interpretation also led to the Environmental Protection Authority joining an appeal against Robbins Island windfarm in March 2024, which has been approved by the Council, with the decision upheld by the Tasmanian Civil and Administrative Tribunal (TasCAT).

“Our Government wants to ensure Tasmanian communities have the necessary infrastructure to safely enjoy marine recreation, while also providing developers and regulators with confidence in how our State Policies are to be interpreted and applied” Minister Duigan said.

“The Government will be looking to amend the Tasmanian State Coastal Policy to ensure that there we can both protect our coastal environment, and allow sensible and sustainable recreational and other infrastructure that is necessarily connected to our coasts.

“The Government will also ensure that decisions made under previous interpretations of the State Coastal Policy and Tasmania’s planning system are validated to address any unintended liability consequences that may now arise.”

“This Government will always support Tasmania’s way of life and provide confidence in our planning laws for coastal infrastructure.”

Media Release: [Draft Coastal Policy released](#), 16 July 2024, Nick Duigan, Minister for Parks and Environment

The Tasmanian Government has released draft legislation for consultation to remove uncertainties around coastal infrastructure.



Minister for Parks and Environment, Nick Duigan, said the changes follow advice in March regarding the application of the Tasmanian State Coastal Policy.

“The interpretation of the Policy could potentially impact on existing coastal infrastructure, including boardwalks through the dunes, fencing, lookouts, boat launching facilities, bridges, and jetties,” Minister Duigan said.

“It has also impacted on the approval given to the Robbins Island windfarm which needs clarification.”

The draft Bill seeks to validate previous permits issued for coastal infrastructure under the *Land Use Planning and Approvals Act 1993 (LUPAA)* from 25 February 2009 until the date of the commencement of the proposed legislation.

It also ensures that no action can be taken against individuals or organisations that have acted in line with permits issued under LUPAA.

The draft legislation is available at

https://www.dpac.tas.gov.au/divisions/policy/state_policies/validation-state-coastal-policy-act-2024

Submissions on the draft Bill can be forwarded to stateplanning@dpac.tas.gov.au by 5pm on Thursday 1, August 2024.

Bill consultation information

Information from the Department of Premier and Cabinet website: *Validation (State Coastal Policy) Act 2024* see [here](#) and below, published July 2024.

The *Validation (State Coastal Policy) Bill 2024* has been released for consultation and is [available here](#). Submissions on the draft Bill can be forwarded to stateplanning@dpac.tas.gov.au by 5pm on Thursday, 1 August 2024.

The State Coastal Policy 1996 (SCP) is a critically important part of the State’s Resource Management and Planning System (RMPS) and has served the State well in protecting the coast and providing for sustainable development. Introduced almost 30 years ago the SCP has been amended twice to improve its operation.

In recent months the way that the SCP has been applied with respect to development on actively mobile landforms has come under question. The recent approval of the Robbins Island windfarm (more specifically the wharf required for the construction of the windfarm) by the Tasmanian Civil and Administrative Tribunal (TasCAT) has raised questions around the manner in which the SCP has been previously applied in relation to Outcome 1.4.2 of the



SCP. That Outcome prohibits all development on actively mobile land unless it is for a purpose provided for under Outcome 1.4.1 (which relates to the protection of land, property and human life).

The location of the wharf and wharf infrastructure on Robbins Island was considered and approved by the Circular Head Council and the Tasmanian Civil and Administrative Tribunal.

The ongoing concerns with the operation of the current SCP is compounded by there being no definitive description of an actively mobile landform or any accepted map of their location. Tasmania has numerous developments that might be on actively mobile landforms which provide access, recreation, and help conserve areas of fragile environment. These range from boardwalks through the dunes, fencing, lookouts, boat launching facilities, bridges, jetties, and even golf courses.

The SCP Outcome 1.4.2 also required identification of areas where there is significant risk from coastal processes and hazards such as flooding, storms, erosion, landslip, sea level rise and other changes. With the introduction of the Tasmanian Planning Scheme across the State, there are now statewide mapping of these hazards and detailed planning scheme provisions for assessment of development in these areas. Furthermore, the new Tasmanian Planning Policies provide a second more detailed set of policies to guide future land use in the coastal zone.

The draft Bill seeks to validate previous permits issued under the *Land Use Planning and Approvals Act 1993* (LUPA) from 25 February 2009 until the date of the commencement of the proposed legislation. It also ensures that no action can be taken against individuals or organisations that have acted in line with permits issued under LUPA.

Now that management measures have been put in place through the Tasmanian Planning Scheme, the Government also considers that the SCP should be changed to include more contemporary planning controls for actively mobile land on our coasts. A separate position paper will be released in coming weeks outlining the proposed changes.



Appendix 2 Impacts of road/wharf infrastructure NOT ASSESSED

If this Bill passes the Parliament, the impact of the road/wharf infrastructure through the mobile frontal sand dunes on pilitika/Robbins Island will not be assessed.

The road/wharf infrastructure, as per the documents provided during the development assessment process below revealed that **the proposal would need shift an estimated 150,000t of sand digging down 14m over half a kilometre extent – and the impact of this will not be assessed.**



Back Banks mobile frontal dunes on Ransonnet Bay, eastern Robbins Island, northwest Tasmania. Photo: Rob Blakers.

The road

The Tasmanian Civil and Administrative Tribunal wrongly said a "*tiny portion*" of the Back Banks geosite would be materially impacted by the pilitika/Robbins Island Wind Farm's wharf construction. (TASCAT Decision M. Ryan and others v Circular Head Council and ACEN pilitika/Robbins Island Pty Ltd [2023] TASCAT 217 p.69/para 272):

https://www.tascat.tas.gov.au/_data/assets/pdf_file/0008/735452/J217-23-decision-P2023-21,-23,-27,-29,-30,-31.pdf

TASCAT is correct in assessing Back Banks as a barrier dune system of approximately 9-10 km length, and that at its sea-facing side, would have a 45-50m wide connection to a 510m wharf through a concrete ramp.



However, engineering designs prepared by GHD provide for an access road to the ramp and wharf that would cut through the Back Banks dune system over a 550m alignment. [The length is calculated in sketch on p.50 'Horizontal alignment'] (Robbins Island Renewable Energy Park - Supplement to the DPEMP [2022], pp. 48-50):

<https://epa.tas.gov.au/Documents/Robbins%20Island%20Renewable%20Energy%20Park%20-%20Supplement%20to%20the%20DPEMP.pdf>

This would require removing approximately 103,000m³ of sand, according to the document. At the accepted engineering measurement of 1 m³ equalling 1.5-1.6 tonnes of sand, (<https://www.quora.com/How-many-kilograms-are-in-1-cubic-meter-of-sand>) this would amount to over 150,000 tonnes of sand being removed from the Back Banks system. The road would be dug up to 14m. deep into the dunes, according to the plans drawn up by GHD. There is no indication in the design advice where the removed sand would go.

The State Coastal Policy says: "*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.*"
Definitions page one:

https://www.dpac.tas.gov.au/data/assets/pdf_file/0010/11521/State_Coastal_Policy_1996.pdf

The EPA erred at law in not taking into account available evidence from the DPEMP Supplement at the appeal hearing, which outlined the design plan to extend this large-scale road more than half a kilometre through the interior of the Back Banks sand dune system, and within the envelope of the State Coastal Policy.

The mobility of this dune system is stressed in the proponent's own DPEMP Supplement's design plan, which says: "*the area is highly susceptible to wind and water erosion*". It envisages a series of measures to minimise erosion, including giving consideration "*to ceasing excavation work on days excessive wind is forecast*". (p.48)

This is not a highway alignment that might benefit the public. It is a private industrial road through a "*notable coastal type*" adjoining State waters (Goodwin, I., "*Preliminary Geoconservation Assessment of proposed Robbins Island Renewable Energy Park, Tasmania. A Report prepared for GHD Australia by Macquarie University.*" [2019.], p.12):

<https://epa.tas.gov.au/Documents/Robbins%20Island%20Renewable%20Energy%20Park%20-%20Appendix%20S%20-%20Preliminary%20Geoconservation%20Assessment.PDF>



The proposed road is an obvious example of what the Tasmanian State Coastal Policy's clause 1.4.2 was designed to protect against: damaging incursion into a mobile dune system.

The wharf

A precast concrete and steel piled wharf structure, on the East Coast of pilitika/Robbins Island extending 510m off Back Banks Beach. A 100m concrete ramp will connect the wharf to the main arterial road. The wharf will enable delivery of oversize Wind Turbine Generator (WTG) equipment. The wharf is designed for a 50-year lifespan: p3 of EPA Environmental Assessment Report:

<https://epa.tas.gov.au/Documents/Robbins%20Island%20Renewable%20Energy%20Park%20-%20EAR.pdf>

Potential impacts of wharf and road according to the EPA

Swift Parrot: Potential impacts could occur during construction through loss of a small area of *Eucalyptus viminalis* – *Eucalyptus globulus* (1.4 ha or 3.2% of the community on pilitika/Robbins Island) foraging habitat, which will be cleared for construction of the wharf: p29 of EPA Environmental Assessment Report above.

Shorebirds: Light pollution from the wharf and bridge, particularly during construction, also has the potential to impact shorebirds. According to the DPEMP, artificial light can disorientate migratory shorebirds causing interference with navigation from usual migration pathways and may result in use of less preferable roosting sites to avoid lights. For resident shorebirds, the construction phase of the project has the potential to impact habitat through the construction of the wharf and associated road infrastructure on Back Banks Beach. Wharf operations have the potential to impact shorebirds through noise, light pollution, and vehicle movements: p.36 of EPA report

EPA comment on wharf access road

The construction of the wharf access involves a significant volume of sand to be excavated from the dune complex behind Back Banks Beach, with the design (as detailed section 4.1 of the Supplement) showing an excavation 14m deep, with 1:3 batter slopes. This area will be highly susceptible to wind and water erosion: p.116.

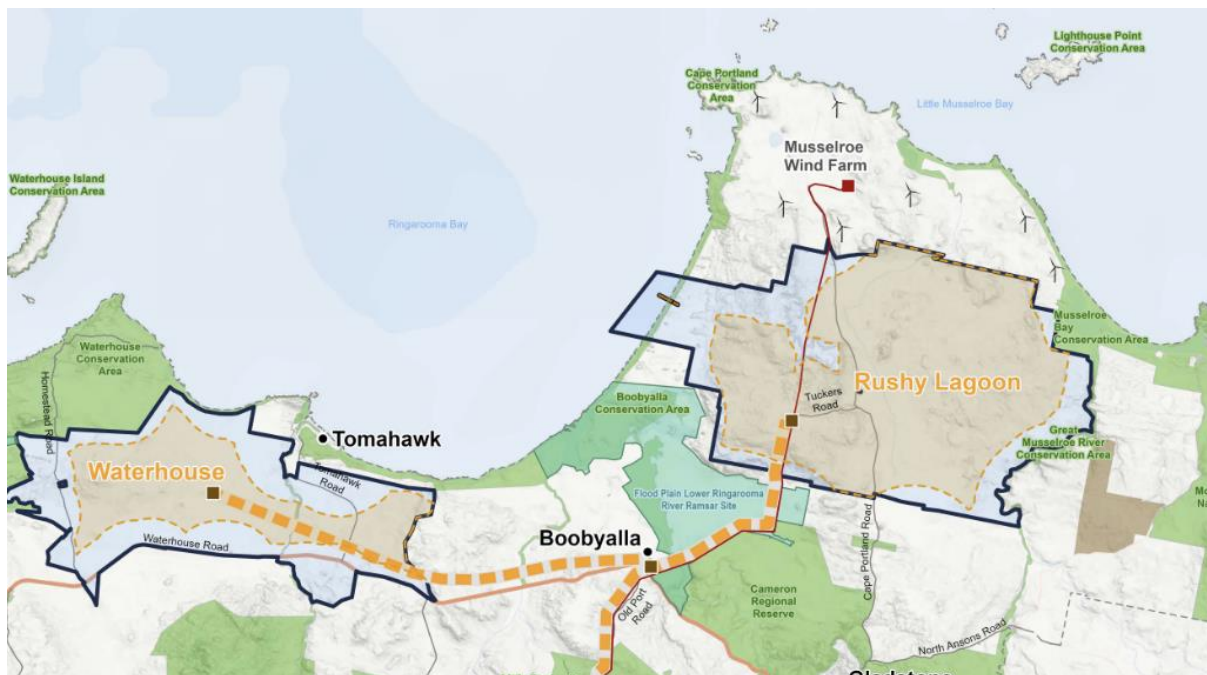
Northeast Wind ACEN proposed wind farm

Similar wharf to be constructed at Ringarooma Bay, northeast Tasmania



pilitika/Robbins Island developer ACEN has foreshadowed a similar wharf would be constructed across coastal land into Ringarooma Bay in its North East Wind project. Aerial imagery suggests that the same problem of building across a mobile dune system would face the developer at this site.

More information: North East Wind ACEN proposed wind farm see [here](#). This project has been declared a Major Project and is currently being assessed by the Tasmanian Planning Commission [here](#). Major Projects are assessed by the Tasmanian Planning Commission and are not subject to merits-based review (that is the community cannot appeal the Commission's decision on planning grounds).



Note planned position of wharf in Rushy Lagoon wind farm envelope entering Ringarooma Bay. *Source: ACEN Australia.*



Note Ringarooma Bay shoreline. Source: The LIST.



Appendix 3 Submissions summary

- The *Validation (State Coastal Policy) Bill 2024* was released for a very limited public consultation period from the 16 July – 1 August 2024.
- The draft bill is available [here](#) and background information [here](#).
- Total number of submissions received: 402.
- A total of 387 (96.8%) submissions, 368 from members of the public and 19 from community groups statewide indicated their clear and unambiguous opposition to the *Validation (State Coastal Policy) Bill 2024*.
- Only two local Councils made submissions.

Submission statistics: 1 – 402

The below summary has been compiled with input from PMAT, the Tasmanian Conservation Trust and the Tasmanian Branch of the Australian Coastal Society.

Submissions were classified as Supporting, Opposing or 'Other' (qualified, neutral or unclear) from individuals and various organisations (eg NGOs, Councils, businesses, peak bodies etc). Summary prepared by the Australian Coastal Society (Tasmania), Planning Matters Alliance Tasmania and the Tasmanian Conservation Trust, August 2024.

List of submissions:

https://www.dpac.tas.gov.au/_data/assets/pdf_file/0018/373212/Validation-State-Coastal-Policy-Act-List-of-submissions-received.pdf

Uploaded submissions:

https://www.dpac.tas.gov.au/divisions/policy/state_policies/validation-state-coastal-policy-act-2024

Submissions by individuals (total of 372)

Support: **Nil.**

Oppose: **368.**

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104,



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Other: 4.

27, 28, 106, 122.

Submissions by organisations (total of 28)

Support: 3.

392 [Tasmanian Hospitality Association], 400 [Tasmanian Chamber of Commerce and Industry], 402 [Clean Energy Tasmania (member of TCCI)].

Oppose: 19.

73 [Seymour Community Action Group], 208 [Circular Head Aboriginal Corporation], 254 [Tasmanian Ratepayers Association], 267 [Australian Coastal Society Ltd], 275 [Bob Brown Foundation], 285 [Jacqui Lambie Network], 307 [NW Tas for Clean Oceans], 317 [North East Bioregional Network], 325 [Tasmanian National Parks Association], 327 [Taroona Community Association], 329 [Circular Head Coastal Action Network], 343 [Planning Matters Alliance Tasmania], 351 [BirdLife Australia], 353 [Environmental Defenders Office Tasmania], 356 [Rainforest Reserves Australia], 361 [Aboriginal Land Council of Tasmania], 370 [Australia Institute], 372 [Tasmanian Conservation Trust], 377 [Environment Tasmania].

Other: 6.



258 [Planning Institute of Australia – Tasmania], 278 [Natural Resources and Environment, Tasmania], 322 [TasWater], 363 [Clarence City Council – qualified support], 375 [Aust Institute Architects], 376 [Kingborough Council].

Note that there were two submissions not included in release: Submissions 380 and 383.

Summary Table

Submissions source/response	Support	Oppose	Other
Individuals (372)	0 (0.0%)	368 (92%)	4 (1.0%)
Organisations [NGOs, Councils, businesses, peak bodies etc] (28)	3 (0.8%)	19 (4.8%)	6 (1.5%)
Total (400 of 402 submissions reviewed)	3 (0.8%)	387 (96.8%)	10 (2.5%)



Appendix 4 Summary of organisational/institutional submissions

Draft Validation (Tasmanian Coastal Policy) Bill 2024, Summary of selected submissions and comments, Peter McGlone, Tasmanian Conservation Trust, 3 September 2024.

Opposes the <i>Draft Validation (Tas Coastal Policy) Bill 2024</i>		
	Specific points raised (all direct quotes except for bold text)	TCT's comments
University of Tasmania Law Faculty staff	<p><u>State Coastal Policy an essential planning instrument</u></p> <p>The implementation of strong coastal protection planning controls is more important now than ever. Climate change will have profound impacts Tasmania's coastal zone: sea level rise will inundate coastal areas and accelerate coastal erosion. Many parts of Tasmania already have significant exposure to coastal climate hazards due to legacy development in vulnerable coastal areas. These areas will require costly interventions in future, either to retreat from or adapt to erosion and inundation. In light of these unavoidable hazards, it is essential that we minimise the creation of new risks is an essential adaptation strategy. This means avoiding new development in exposed areas. Far from exempting development from the application of the State Coastal Policy, the Government should be strengthening both the detail and application of the Policy, especially section 1.4.</p>	<p>Because of the risks posed by climate change, 'Far from exempting development from the application of the State Coastal Policy, the Government should be strengthening both the detail and application of the Policy, especially section 1.4.'</p>
	<p><u>No justification for the retrospective suspension of State Coastal Policy.</u></p> <p>Regardless of how the Policy might be applied and strengthened in future, it is inappropriate to pre-empt the Supreme Court's determination of the legality of the approval by retrospectively suspending part of the Coastal Policy. The fact that the EPA may have made a mistake in failing to fully consider the application of the State Coastal Policy to the proposal to build a wharf in Back Banks dunes is not a reason to retrospectively suspend parts of the Policy.</p> <p>As part of the system of 'checks and balances' inherent in Tasmania's separation of powers, it is the role of the Supreme Court of Tasmania to determine whether the</p>	<p>The supreme court should be allowed to do their job of reviewing the TasCat decision: '...it is the role of the Supreme Court of Tasmania to determine whether the decision of TasCAT should stand and, if required, make appropriate orders to correct errors in</p>



	<p>decision of TasCAT should stand and, if required, make appropriate orders to correct errors in the application of the law. The oversight provided by the Supreme Court, after considering the submissions of all parties, means that the system of checks and balances is working as it is designed to, to ensure that there is independent expert oversight of administrative decision-making.</p>	<p>the application of the law.'</p>
	<p>Uncertainty as to the scope of Coastal Policy application The Tasmanian Government's explanation of this Bill is that Parliament should pre-empt the Supreme Court's decision and retrospectively remove the operation of Outcome 1.4 of the State Coastal Policy because of uncertainty as to the scope of its application. The Government points to two things as evidence of that 'uncertainty': first, that that Outcome 1.4 in the State Coastal Policy does not include a 'definitive description' of 'actively mobile land forms;' and second, that there is no accepted map of those land forms.</p> <p>Does not include a 'definitive description' of 'actively mobile land forms' Turning to the first of these, it is important to note that uncertainty always exists within the law and that it is the role of the courts to construe terms in legislation. Furthermore, it is questionable whether Outcome 1.4 actually suffers from such uncertainty. The wording of Outcome 1.4 alone and/or together with relevant extrinsic material provides a sufficiently clear description of 'actively mobile land forms.' Indeed, for the purposes of the proposed wharf at Back Banks dune Outcome 1.4.2 expressly refers to 'frontal dunes' as an example of an actively mobile land form. In addition, both expert witnesses who TasCAT questioned about this issue confirmed that the site of the proposed wharf at Back Banks is without any doubt a frontal dune and actively mobile landform.</p> <p>No accepted map of 'actively mobile landforms' The claim that uncertainty in Outcome 1.4.2 arises because there is no accepted map of 'actively mobile landforms' is also not persuasive. That is because extensive mapping of hazardous coastal areas in Tasmania</p>	<p>Contradicts the government's assertion that there is uncertainty as to the scope of Coastal Policy application i.e. does not include a 'definitive description' of 'actively mobile land forms;' and that there is no accepted map of those land forms.</p> <p><i>'Furthermore, it is questionable whether Outcome 1.4 actually suffers from such uncertainty. The wording of Outcome 1.4 alone and/or together with relevant extrinsic material provides a sufficiently clear description of 'actively mobile land forms.'</i></p> <p><i>The claim that uncertainty in</i></p>



	<p>already exists. According to the Government’s Coastal Hazards Fact Sheet, the Coastal Erosion Hazard Code and the Coastal Inundation Hazard Code exist to ensure compliance with Outcome 1.4 of the State Coastal Policy. 3 Both Codes ‘contain provisions and mapping (‘overlays’) that control use and development within ‘hazard bands.’ 4 According to the Fact Sheet ‘[t]he coastal hazard areas were mapped as part of the Mitigating Natural Hazards through Land Use Planning Project undertaken by the Department of Premier and Cabinet’s Office of Security and Emergency management.’5 The Land Information System Tasmania (LIST) database also provides access to coastal inundation and coastal erosion hazards bands.</p>	<p><i>Outcome 1.4.2 arises because there is no accepted map of ‘actively mobile landforms’ is also not persuasive.</i></p> <p><i>That is because extensive mapping of hazardous coastal areas in Tasmania already exists.</i></p>
	<p><u>Retrospective suspension of the State Coastal Policy undermines the rule of law</u></p> <p>The Validation (State Coastal Policy) Bill 2024 would retrospectively remove the application of State Coastal Policy Outcome 1.4.2. This would mean that the building of the proposed wharf in the Back Banks dune system will be lawful even if that approval was unlawful at the time of the Council and TasCAT’s decisions.</p> <p>Suspension of (or dispensing with) the law has always been a favoured power of arbitrary rulers. As long ago as 1688 when the English Bill of Rights was enacted, the ‘crown’ has been prohibited from suspending the law. That is because suspending the operation of a law undermines public confidence in the rule of law, namely that the law applies equally to everyone, regardless of wealth, status or special relationships. There is a strong perception amongst the community that the Bill is brought forward at this time to assure an individual developer that - regardless of the outcome of the judicial review proceedings currently before the Court - the building of the proposed wharf at Back Banks dunes can proceed unimpeded by legal requirements.</p> <p>Such perceptions about the Bill arise not only because no other relevant past developments have been identified as matters of concern, but also because the Bill is not</p>	<p><i>In terms of the Robbins island windfarm project, the validation bill would undermine the rule of law by retrospectively removing the application of State Coastal Policy Outcome 1.4.2.</i></p> <p><i>Suspension of (or dispensing with) the law has always been a favoured power of arbitrary rulers.</i></p> <p><i>Such perceptions about the Bill arise not only because no other relevant past developments have been identified as matters of concern, but also because the Bill is not</i></p>



	<p>intended to have any prospective application. The Bill provides that any proposals for building on sand dunes or other actively mobile land forms made at any time after the Bill commences will once again be subject to the State Coastal Policy’s Outcome 1.4. In other words, it appears that the Government does believe that the rules in Outcome 1.4 are important and sufficiently clear and certain to regulate future proposals for building development in Tasmania’s hazardous coastal areas. Intuitively, that makes sense: the rules in Outcome 1.4 of the State Coastal Policy and the two related Codes serve an important public purpose: without them, there is a risk that building will take place on shifting foundations, potentially creating risks to both life and property.</p>	<p><i>intended to have any prospective application.</i></p>
	<p><u>Due Process for Law Reform</u> In a system of representative and responsible Government, Parliament makes and amends laws in the public interest. Where review of a law is necessary, the Government must clearly identify shortcomings or problems with the operation of the law and engage in public consultation, including with legal and other experts, on the nature of those problems and the best manner in which to address them, including by appropriately balancing all relevant interests. Conducted in that manner, law reform processes enhance public confidence that Parliament acts in the interests of the community as a whole and that new laws are based on well considered justifications. In contrast, this Bill is merely accompanied by a short announcement on the Department of Premier and Cabinet’s website and a two-week period for public submissions. There is also no indication that public submissions will be made available on the Government website in a timely manner to inform public and parliamentary debate. This process is therefore an inadequate basis for sound and well considered law reform in the public interest. The fact that the statement of the Department’s website indicates that a position paper on a comprehensive review of the State Coastal Policy will soon be released, further increases the perception that this Bill is rushed through to pre-empt the Supreme Court’s judicial review of the Robbins Island</p>	<p>The government has not followed accepted process for law reform.</p> <p><i>This Bill is merely accompanied by a short announcement on the Department of Premier and Cabinet’s website and a two-week period for public submissions. There is also no indication that public submissions will be made available on the Government website in a timely manner to inform public and parliamentary debate.</i></p>



	wind farm proposal and to provide special dispensation from the law to an individual developer.	
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Neither supports nor opposes the <i>Draft Validation (Tas Coastal Policy) Bill 2024</i>		
	Specific points raised (all direct quotes except bold text)	TCT's comments
Institute of Architects Tasmania	<p>The first risk issue appears to sit in the interpretation of Outcome 1.4.1 of the State Coastal Policy 1996 which is:</p> <p>Tasmanian State Coastal Policy Outcome 1.4.1 The Institute questions what “<i>managed</i>” means in this context. The Institute also questions whether it is a carte blanche to not only undertake protection works but add other non-essential development to it.</p> <p>Tasmanian State Coastal Policy Outcome 1.4.2 The Institute suggests that the Bill should possibly have additional clauses that leave no doubt that the intent of Outcome 1.4.1 are only the minimal essential works required to protect land, property and human life (e.g. geo-textile sand containers, walls, revetments etc) and no additional works (e.g. restaurant, accommodation on top). The institute questions whether this would include the means to access a windfarm – i.e. the wharf and wharf infrastructure on Robbins Island.</p>	<p>Raises potential problems resulting from not defining the term manage i.e. can it allow protection works and to add other development to it.</p> <p>Recommends the bill be amended to leave no doubt that the intent of 1.4.1 are only minimal essential works required to protect land, property and human life and no additional works.</p> <p>Questions whether this would include the means to access a windfarm i.e. the wharf.</p>
	<p>The second risk issue is the use of the term “purportedly issued” in the amending legislation. The Institute questions whether there is a risk that some development proponents will claim that permits were issued (“purportedly issued”) when there has been no permit issued, and therefore use the “validation period” to justify erecting, maintaining or majorly</p>	<p>Asks a question about the term “<i>purportedly issued</i>”.</p> <p>The Institute questions whether</p>



	<p>refurbishing structures consistent with a permit purportedly issued during that period. If the permit was issued but had lapsed – before any works had commenced – should a permit be given effect simply because it was originally issued during the validation period? The Institute questions whether the Bill should provide clarity about lapsed permits.</p>	<p>there is a risk that some development proponents will claim that permits were issued (“purportedly issued”) when there has been no permit issued, and therefore use the “validation period” to justify erecting, maintaining or majorly refurbishing structures consistent with a permit purportedly issued during that period.</p>
	<p>A third risk issue is the question of permits issued before the validation period. The Institute questions whether this means that asset owners or controllers of assets on areas described in Outcome 1.4.1 or 1.4.2 will be required to remove these structures where permits were issued before the validation period.</p>	<p>Asks a question about permits issued before the validation period (i.e. from 1996 to 2009) and whether these developments will have to be removed.</p>
	<p>A fourth risk issue is the interpretation around actively mobile landscapes. This is raised in a paper by Chris Sharples. The Institute questions whether the separate position paper to be released in the coming weeks, outlining the proposed changes to include more contemporary planning controls for actively mobile land on Tasmanian coasts, might address the definitions and interpretation issues that Chris Sharples identifies.</p>	<p>Asks whether the proposed position paper on amendments to the Tasmanian State Coastal Policy will address issues raised by Chris Sharples about definitions and interpretation.</p>



	<p>We understand that there may be multiple approvals affected by this issue, hence the retrospective nature of the legislation (dating back to 25 February 2009). We also understand that a separate position paper will be released that outlines the future review and changes to the Policy. Given the importance of the Policy, it would have been helpful to have considered both the validation and the proposed changes simultaneously. It is difficult to assess the nature and extent of the problem that this bill seeks to address with limited information on the issue.</p>	<p>Does not make any specific recommendations about the draft bill.</p> <p>States a preference for considering the validation bill and proposed changes to the Tasmanian State Coastal Policy at the same time.</p> <p>States a concern regarding the limited information provided.</p>
<p>Planning Institute of Australia Tasmania</p>	<p>PIA applauds the desire to refresh a dated policy in the context of intensifying coastal hazards and the pending implementation of the Tasmanian Planning Policies. Many hazards will be unpredictable in severity and extent, while presenting significant impacts to coastal infrastructure and coastal living. More work is required in terms of coastal process and timely responses to natural hazards that are, by definition, dynamic and are particularly affected by climate change.</p>	<p>Supports the intention of the government to 'refresh' the policy in the context of the intensifying of coastal hazards and Tasmanian Planning Policies.</p>
	<p>While the policy framework requires review, timely implementation processes also require consideration. The process for planning scheme amendments to reflect up-to-date natural hazard data at the State level needs to be considered, along with education for the community and stakeholders to improve awareness and avoid suboptimal outcomes.</p>	<p>Points to apparent problems with updating natural hazard data in a timely way.</p>
	<p>PIA has a broad, long-held position that the State needs a comprehensive policy framework with clarity on how the policies relate to the various approval pathways, including planning schemes and other processes. We look forward to receiving more information about the review and the ongoing changes to improve the policy framework for the State.</p>	<p>States its support for a comprehensive policy framework.</p>
<p>Kingborough Council</p>	<p>As a coastal council, the State Coastal Policy is an important statutory document used by Kingborough to</p>	<p>States its disappointment</p>



	<p>regulate and manage coastal works and development. As a result, we would value meaningful engagement on its operation, review and planned amendments. Council is disappointed with the limited timeframe for consideration and engagement on the current Validation (State Coastal Policy) Bill 2024.</p>	<p>with the limited timeframe for making comments on the draft bill.</p>
	<p>Council would welcome a broad review of the State Coastal Policy in light of the transition to a Tasmanian Planning Scheme and State Planning Provisions and the changing pressures facing coastal development and ecosystems from the impacts of Climate Change. We are interested in improved clarification of the meaning of a range of terms including, actively mobile landforms and a gap analysis against TPS codes relating to coastal areas.</p>	<p>Would welcome a broad review of the State Coastal Policy in light of the transition to a Tasmanian Planning Scheme the impacts of Climate Change.</p>
	<p>It would have been beneficial if additional supporting information was made available to assist in the engagement process.</p>	<p>Having more information would have assisted in the engagement process.</p>
	<p>The current proposal to retrospectively validate permit approvals under LUPA from 25 February 2009 through to the passing of the draft Validation Bill is understood but the extent of the issue not been articulated which would have been useful context in terms of the intent of the proposed amendment.</p>	<p>The extent of the issue (permits needing validating) has not been articulated.</p>
	<p>We would like to clarify that the Validation Bill will only apply retrospectively to works and use that has a valid LUPA permit and not to works that have occurred illegally during this period or future works which have not obtained a LUPA permit in the Validation Period, with these works still subject to LUPA and the Policy.</p>	<p>Wants clarification that the validation bill doesn't apply to works that have occurred illegally during this period or future works which have not obtained a LUPA permit in the Validation Period.</p>
	<p>To prevent this issue reoccurring in the future, it will be important to determine why it occurred and whether it is a result of the policy being too onerous, unclear or for other reasons and to provide recommendations to address the cause.</p>	<p>Recommends an investigation to find out why the problem with the Tasmanian State</p>



	<p>Council looks forward to the release of a position paper on further proposed changes to the Policy, however it is important that the scope of this review is broad, does not assume changes to the Policy on the basis of the temporary Validation Bill, and the engagement process is robust with both local government and our community.</p>	<p>Coastal Policy has occurred, to prevent it occurring again.</p> <p>Looks forward to the position paper about the review of the Tasmanian State Coastal Policy.</p>
<p>Clarence City Council</p>	<p>Nevertheless, City Planning of Clarence City Council is in support of the draft bill on the basis that it endeavours to validate permits issued in good faith for development on actively mobile landforms since 25 February 2009.</p> <p>Clarence City Council is not supportive, however, if the outcome of this draft bill provides an opportunity to validate an activity that has been done illegally without a permit, or not in accordance with exemptions either within an applicable planning scheme or alternative legislation (see below).</p> <p>Historically, the Clarence Planning Scheme 2007 (CPS), which was in force in 2009, required assessment and determination of applications within the coastal zone to consider the provisions of the State Coastal Policy. Subsequent to this, the adoption of the Clarence Interim Planning Scheme 2015 (CIPS) and the current Tasmanian Planning Scheme-Clarence (TPS-C) were assessed against the outcomes of the State Coastal Policy and deemed consistent by the Tasmanian Planning Commission. It is taken that, a permit issued under, or an exemption categorised as compliant with, the current planning scheme is taken as being consistent with the outcomes of the State Coastal Policy. All these planning schemes contain/ed exemptions which rely on the interpretation of the State Coastal Policy. As an example, see the qualification clause 4.0.3 under the State Planning Provisions, which reads:</p>	<p>Supports the proposed validation bill if it is in good faith for development on actively mobile landforms since 25 February 2009.</p> <p>Not supportive of the draft bill if it provides an opportunity to validate an activity that has been done illegally without a permit, or not in accordance with exemptions.</p>



	<p><i>4.0.3 Excluding the exemption for emergency works at 4.3.1, in the coastal zone, no development listed in Tables 4.2 - 4.6 is exempt from this planning scheme if it is to be undertaken on actively mobile landforms as referred to in clause 1.4 of the Tasmanian State Coastal Policy 1996. Any development on actively mobile landforms in the coastal zone must comply with the requirements of the Coastal Erosion Hazard Code.</i></p> <p><i>However, the similar clause 5.1.3 of the CIPS read:</i></p> <p><i>5.1.3 Excluding the exemption for emergency works at 5.3.1, in the coastal zone, no development listed in Table 5.1 – 5.6 is exempt from this planning scheme if it is to be undertaken on actively mobile landforms as referred to in clause 1.4 of the Tasmanian State Coastal Policy 1996. Development must not be located on actively mobile landforms in the coastal zone, unless for engineering or remediation works to protect land, property and human life in accordance with clause 1.4.1 and 1.4.2 in the State Coastal Policy 1996.</i></p>	
	<p>It is noted that the paper by Dr Chris Sharples calls into question the ability to confine terminology to dunal system, given the erosion and deposition processes that apply to all landforms. This paper can be access via Bill Cromer’s website - The problem of the use of ambiguous terms in Tasmanian coastal planning policy documents for defining appropriate coastal development zones.</p> <p>With no definitive description of what constitutes an actively mobile landform or any accepted map of their location, the draft Bill raises the question of how would such development be treated that was erroneously exempted from requiring a planning permit because of the lack of clarity about terminology. While development listed within the TPS-C exemptions are generally minor in nature, the exemptions do pertain to the upgrade of roads and related infrastructure, the provision of stormwater infrastructure, and the clearing</p>	<p>References a paper by Chris Sharples about coastal landform terminology.</p> <p>Claims that the draft Bill raises the question of how would a development be treated that was erroneously exempted from requiring a planning permit because of the lack of clarity about terminology.</p>



	<p>or modification of vegetation. Dependant on scale, these activities may have substantial adverse and irreversible impacts on actively mobile landforms. In addition, works exempted from the operation of the planning scheme, through legislative provisions, such as dam works, electricity and service infrastructure and works associated with water or hydro districts, may be similarly impacted.</p> <p>In conclusion, it is our opinion that the draft Bill should be expended to encompass other permitting frameworks under the planning scheme or other legislation, in the same vein as a permit issued under LUPAA.</p>	
Department of Natural Resources and Environment (NRE)	<p>NRE Tas notes that additional amendments are being considered to the State Coastal Policy to include a more contemporary policy setting for managing development on actively mobile landforms.</p> <p>I understand that NRE Tas officers are working closely with their State Planning Office colleagues to provide specialist advice in this regard. NRE Tas looks forward to engaging fully with the proposed changes when they are released and I have no further comments to make at this time.</p>	<p>Doesn't make any comments about the draft bill.</p> <p>States that NRE will be involved in the process to amend the Tasmanian State Coastal Policy.</p>
TasWater	<p>TasWater has no comments or feedback on the Draft Validation.</p> <p>If you have any queries, please contact me,</p>	Doesn't make a submission.

Supports the *Draft Validation (Tas Coastal Policy) Bill 2024*

	Specific points raised (all direct quotes except for bold text)	TCT's comments
Tasmanian Hospitality Association	<p>The THA understands the purpose of the draft legislation is to remove any doubts regarding the validity of permits previously issued for developments on mobile landforms.</p> <p>The THA is unaware of any specific examples that may be at risk without the proposed legislation. However,</p>	<p>Submission was late: dated 2 August.</p> <p>States that it is unaware of any developments</p>



	<p>tourism and hospitality developments such as golf courses in dunal systems, jetties to service tourism ventures and beachfront eateries, that have been granted recent permits for development, need certainty about the investments they have made.</p> <p>For these reasons the THA is supportive of the proposed Validation legislation.</p>	<p>that are at risk without the proposed legislation.</p> <p>Sites examples of three types of development that are linked to coastal environments that need certainty.</p> <p>Notable that the THA doesn't refer to the Robbins Island wind farm as do the TCCI and CET submissions.</p>
<p>Tasmania Chamber of Commerce and Industry</p>	<p>Further to this, the TCCI expresses its strong support for legislative clarification to advance the Robbins Island windfarm project. This is exactly the kind of investment in a next-step economy that Tasmania should enable.</p> <p>Accordingly, the TCCI supports the amendments proposed in the draft Bill.</p>	<p>Submission was late. The cover email is dated 6 August and the submission is dated 12 August.</p> <p>Explicitly states its support for legislative clarification to advance the Robbins Island windfarm project'. It doesn't provide any reasons for supporting the bill beyond this.</p>



		<p>The paragraphs relating to the validation bill are almost exactly the same as the earlier CET submission except TCCI is substituted for CET.</p>
	<p>While the legislative changes proposed in the draft Bill to correct earlier oversights obviously are beneficial, the TCCI strongly urges the Tasmanian Government to consider a whole-of-government approach to streamlining environmental components of current legislation inhibiting responsible investment in Tasmania.</p> <p>This streamlining – and clarification – would both attract responsible investment, and defuse unnecessary conflicts that often result from confusion around the regulatory system contemplated by investors.</p> <p>In this context, the TCCI welcomes the Tasmanian Government’s statement that ‘[a]mendments are also being considered to the State Coastal Policy to include a more contemporary policy setting for managing development on actively mobile landforms. A separate position paper will be released for comment in the coming weeks on the proposed changes.’</p> <p>The TCCI will be happy to provide comment when this separate position paper is released.</p>	<p>Recommends that the government to consider further streamlining of environmental approvals.</p> <p>Welcomes the proposed amendments to the Tasmanian State Coastal Policy and says it would provide comment when the separate position paper is released.</p>
<p>Clean Energy Tasmania</p>	<p>Further to this, CET expresses its strong support for legislative clarification to advance the Robbins Island windfarm project. This is exactly the kind of investment in a nextstep economy that Tasmania should enable.</p> <p>Accordingly, CET supports the amendments proposed in the draft Bill.</p>	<p>Submission was late. The cover email is dated 6 August.</p> <p>Explicitly states its support for ‘legislative clarification to</p>



		<p>advance the Robbins Island windfarm project'. It doesn't provide any reasons for supporting the bill beyond this.</p>
	<p>While the legislative changes proposed in the draft Bill obviously to correct earlier oversights are beneficial, CET strongly urges the Tasmanian Government to consider a whole-of-government approach to streamlining environmental components of current legislation inhibiting responsible investment in Tasmania.</p> <p>This streamlining – and clarification – would both attract responsible investment, and defuse unnecessary conflicts that often result from confusion around the regulatory system contemplated by investors. CET is uniquely positioned to advise on these matters, including to assist the State Government around the design and delivery of appropriate legislative reform, stakeholder engagement and best-practice communications strategies to maximise community understanding of the value of this kind of change.</p> <p>In this context, CET welcomes the Tasmanian Government's statement that '[a]mendments are also being considered to the State Coastal Policy to include a more contemporary policy setting for managing development on actively mobile landforms. A separate position paper will be released for comment in the coming weeks on the proposed changes.' CET will be happy to provide comment when this separate position paper is released.</p>	<p>Recommends that the government to consider further streamlining of environmental approvals.</p> <p>Welcomes the proposed amendments to the Tasmanian State Coastal Policy and says it would provide comment when the separate position paper is released.</p>



Appendix 5 Supporting and background information

5.1 State Policies background Information

- State Policies are made under the [State Policies and Projects Act 1993](#) to articulate the Tasmanian Government's strategic policy direction on matters of State significance related to sustainable development of natural and physical resources, land use planning, land management, environmental management and environment protection.
- A State Policy, amongst other matters, must seek to further the objectives of the Resource Management and Planning System (RMPS) which are set out in [Schedule 1](#) of the [State Policies and Projects Act 1993](#).

Tasmania's State Policies

Tasmania currently only has three State Policies: 1) *State Policy on the Protection of Agricultural land 2009*, 2) *State Coastal Policy 1996* and 3) *State Policy on Water Quality Management 1997*. Further information about each policy can be seen [here](#).

Tasmanian State Costal Policy 1996

- The [purpose](#) of the *Tasmanian State Costal Policy 1996* is to *'To protect the natural and cultural values of the coast, provide for sustainable use and development of the coast, and promote shared responsibility for its integrated management and protection.'*
- The [developments that are affected](#) are *'Proposed use and development in a coastal area that is 'discretionary 'or 'prohibited' under land use zones applying to coastal areas in planning schemes.'*
- The *Tasmanian State Costal Policy 1996* has been amended twice since it was created:
 - Revised 16 April 2003 in accordance with the *State Coastal Policy Validation Act 2003 (this followed a Supreme Court decision)*
 - Revised to take account of a minor amendment (*with input from the Resource Planning and Development Commission, which has been replaced with the Tasmanian Planning Commission*) that was Gazetted on 25 February 2009.
- The Tasmanian Liberal Party's 2014 State Election planning policy promised to develop a suite of State Policies to inform the development of the [Tasmanian Planning Scheme](#) – but failed to do so. Instead, the Liberal Government created a new subordinate level of policy called the [Tasmanian Planning Policies](#) (which as of June 2024 are still in draft).



Amending State Policies

The standard process of amending a State Policy is outlined in the [State Policies and Projects Act 1993](#).

A person may submit a proposed amendment to the Minister. The Minister may then direct the Tasmanian Planning Commission to give advice as to whether the proposed amendment is a significant change to the State Policy.

Minor Amendment to a State Policy

Where, after considering the Tasmanian Planning Commission's advice, the Minister is satisfied that the amendment is not a significant change, then the Minister must publish a notice of the proposed amendment in the Gazette and lay the notice of the amendment and the Tasmanian Planning Commission's advice before both Houses of Parliament.

If not disallowed by Parliament, the amendment comes into effect when published in the Gazette.

A Significant Amendment to a State Policy

If the Minister determines the amendment is a significant change, **then the same process for the creation of State Policies must be followed before the amendment is made.**

An amendment is taken to be a significant change to the State Policy to which it relates if it is a change which substantially alters the content or effect of the State Policy.

Standard State Policy amendment process

The standard State Policy amendment process is outlined in the steps below.

1. Minister to prepare draft amendment and provide a notice to the Tasmanian Planning Commission to prepare a report.
2. Tasmanian Planning Commission to place draft amendment on public exhibition for a period of 8 weeks.
3. Representations can be made to the Tasmanian Planning Commission during the public exhibition period.
4. The Tasmanian Planning Commission must consider the representations and may hold a hearing in relation to any representations.
5. Tasmanian Planning Commission may make modifications to a draft amendment (at which point, the modifications may need to be publicly exhibited again).
6. The Tasmanian Planning Commission must then submit a report to the Minister, and the Minister may recommend that the Governor make the draft amendment.



7. The Governor may make the draft amendment and fix the day it shall come into effect.
8. However, before it comes into effect the draft amendment must be notified in the Gazette and laid in both Houses of Parliament within the first 10 sitting days of the Gazette notice.
9. The draft amendment is of no effect until approved by both Houses of Parliament.

State Policies versus Tasmanian Planning Policies

PMAT's position is that we should create a suite of State Policies to guide the planning system rather than adopting the subordinate Tasmanian Planning Policies.

We should be strengthening our existing State Policies, not weakening them.

State Policies are a far more superior mechanism to set the intent of our planning system. Critically, they:

- ✓ Bind all state government agencies and provide a whole-of-government approach to land use planning and development (binding the Crown and councils).
- ✓ Ensure 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 – **which means that it is a criminal offence to fail to comply with a State Policy.**
- ✓ Are self-executing. That is, it can be an offence to not comply with a State Policy, regardless of what a planning scheme says.
- ✓ They provide a whole-of-government strategic approach on various issues and apply across the State.
- ✓ Are created in a more robust and democratic way as they must be approved by both houses of the Tasmanian Parliament.
- ✓ Ensure amendments to State Policies are subject to a robust process and must be approved by both houses of Parliament.
- ✓ Have longevity, as they have survived successive Governments.

Tasmanian Planning Policies are subordinate as they:

- ✗ Only affect Tasmania's land use planning system.
- ✗ Are not self-executing and do not apply to development applications.
- ✗ Are signed off only by the Minister, rather than both Houses of Parliament.



5.2 Timeline - Proposed changes to State Coastal Policy

The proposed changes will profoundly change the State Coastal Policy and the way lutruwita/Tasmania's coasts are managed and protected in Tasmania.

- **6 May 2024** - The Tasmanian Government issued its first [media release](#) stating its intention, based on 'advice' regarding the application of the Tasmanian State Coastal Policy, to amend the [Tasmanian State Coastal Policy 1996](#).

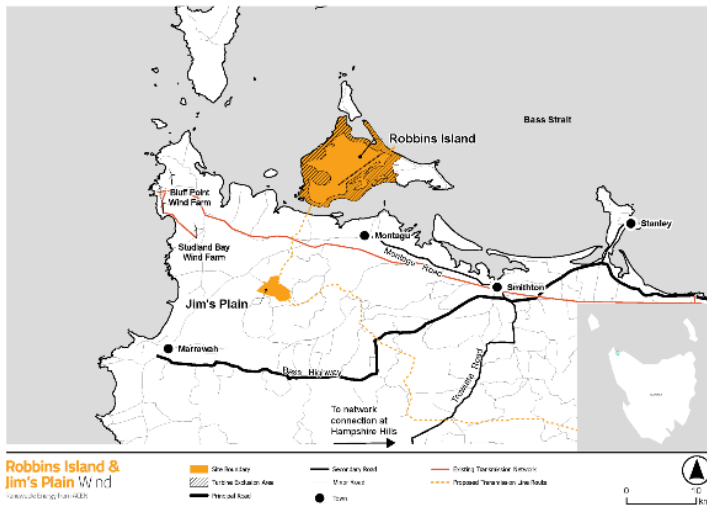
The Tasmanian Government justified the proposed changes to the [Tasmanian State Coastal Policy 1996](#) saying it threatens "Tasmania's way of life" and because it "led to the Environmental Protection Authority joining an appeal against Robbins Island windfarm in March 2024 in Tasmania's Supreme Court."

- **16 July 2024** - Media Release: [Draft Coastal Policy released](#), 16 July 2024, Nick Duigan, Minister for Parks and Environment. The Tasmanian Government released its draft legislation for consultation: The *Validation (State Coastal Policy) Bill 2024* – see [here](#).
- **1 August 2024** – Comments closed on the draft legislation: The *Validation (State Coastal Policy) Bill 2024*.
- **7 August 2024** – Three business days after the public consultation period ended and before the submissions were made public, the *Validation (State Coastal Policy) Bill 2024* was brought in by the Premier, the Honourable Jeremy Rockliff and tabled in the House of Assembly. See Tabled Bill [here](#).
- **XX – date to be confirmed August 2024** – the 402 submissions were released to the public [here](#).
- **9 September 2024** - The State Government released an '[Amendment to the State Coastal Policy 1996 - Development on Actively Mobile Landforms](#)' position paper for public consultation from 9 September to 21 October 2024 proposing changes to the Tasmanian State Coastal Policy to establish a new assessment process for future projects proposed for actively mobile landforms.

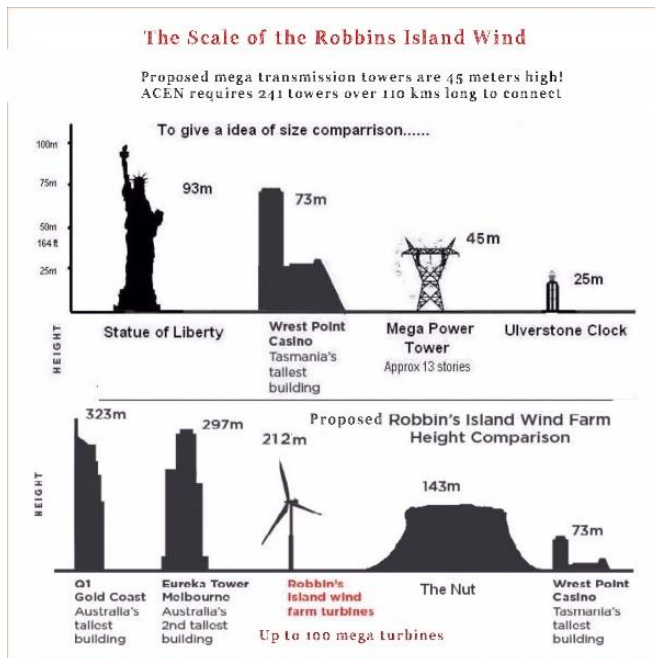


5.3 Proposed pilitika/Robbins Island Wind Farm

The pilitika/Robbins Island proposed 100-turbine wind farm project is located in the Circular Head Municipality in northwest Tasmania, in the electorates of Braddon and Murchison.



Source: www.acenrenewables.com.au

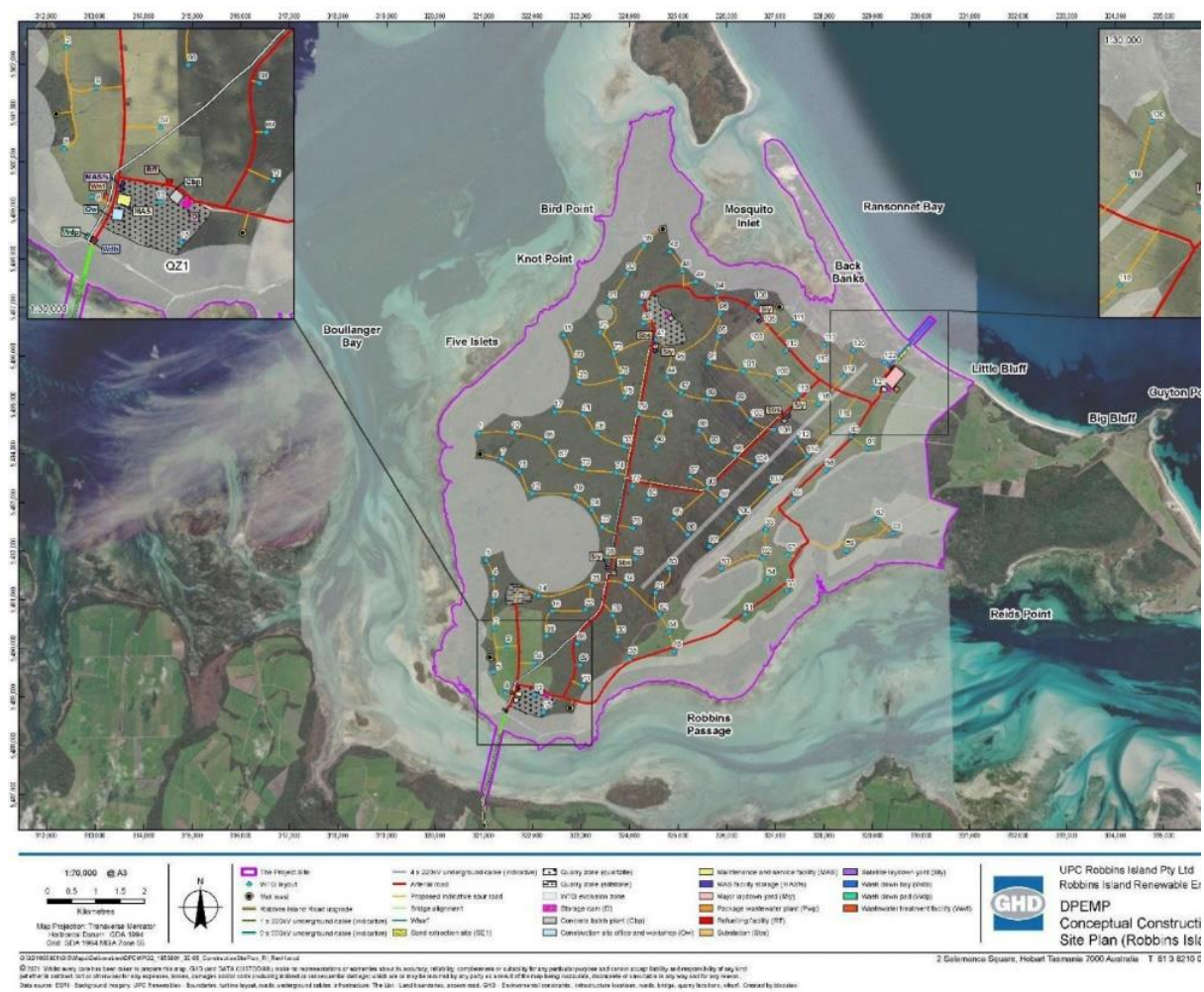


The proposed Robbins Island wind farm includes:

- The construction of 100 turbines with maximum tip height of 276m.



- A 500m long wharf to be constructed across the Back Banks mobile frontal dunes on Ransonnet Bay, on the east coast of Robbins Island (the wharf will face into Bass Strait to allow the 85m long turbine blades to be transported onto the island).
- A 1.8 km bridge across Robbins Passage to permanently connect the island to the adjacent mainland.
- The surrounding wetlands support between 20,000 and 30,000 shorebirds and waterbirds, and the wetlands meet 7 of the 9 criteria for nominating the wetlands for protection as a Ramsar Wetland of International Significance. This places the wetlands in the top 10 wetlands in Australia.
- See Rob Blakers photography of pilitika/Robbins Island mobile frontal dunes (2023).



This indicative map shows the proposed location of 500 m wharf to be constructed on Back Banks on Ransonnet Bay, eastern Robbins Island, northwest Tasmania.



5.4 Appeal timelines - pilitika/Robbins Island wind farm

The Tasmanian Civil and Administrative Tribunal Planning Appeal

- **17 February 2023:** The Circular Head Council approved the Robbins Island wind farm.
- **March - September 2023:** The decision was appealed to [Tasmanian Civil and Administrative Tribunal](#) by numerous parties, including ACEN, the Bob Brown Foundation, BirdLife Tasmania, the Circular Head Coastal Awareness Network Inc. (CHCAN), and various individuals.

The Environment Protection Authority was not an appellant but did join as a party to the appeals. ACEN was an appellant against the EPA FF6 condition (which imposed shutdown periods totalling five months when the turbines cannot operate).

- **27 November 2023:** The Tasmanian Civil and Administrative Tribunal refused the appeal and ordered that a permit be issued for the Robbins Island wind farm – see decision [here](#).
- **December 2023:** The Tasmanian Civil and Administrative Tribunal was then appealed to the Supreme Court.

Supreme Court Appeal

There are currently two appeals being run in Tasmania's Supreme Court regarding the proposed Robbins Island wind farm.

- **December 2023:** CHCAN- Circular Head Coastal Awareness Network Inc. initiated a Supreme Court challenge to the Tasmanian Civil and Administrative Tribunal decision. The Environment Protection Authority joined as a party to the appeal.
- **March 2024:** The Environment Protection Authority and State government received legal advice (presumably from the Solicitor General) that the Environment Protection Authority had erred at law in not requiring the Robbins Island wind farm proponent ACEN to assess the proposal against the [Tasmanian State Coastal Policy 1996](#).
- **March 2024:** The Environment Protection Authority commenced a proceeding in the Supreme Court in an effort to appeal the Tasmanian Civil and Administrative Tribunal's decision to approve a wind farm at Robbins Island and correct its error in law in not applying clause 1.4.2 of the [Tasmanian State Coastal Policy 1996](#). CHCAN- Circular Head Coastal Awareness Network Inc. joined as a party to the appeal.
- **4 May 2024:** the Department of Justice on behalf of the Environment Protection Authority advised that the State Government was seeking retrospectivity of



amendments to the [Tasmanian State Coastal Policy 1996](#) which might render nugatory the Environment Protection Authority's Supreme Court case. This means the Environment Protection Authority would cease involvement in the Supreme Court case.

- **6 May 2024:** The Environment Protection Authority's Supreme Court case was listed for a Directions Hearing. The Environment Protection Authority requested an adjournment, causing it to be adjourned to 28 June 2024.
- **6 May 2024:** Nick Duigan, Minister for Parks and Environment, issued his first media release: '[Changes to Tasmanian State Coastal Policy proposed](#)' (copy below).
- **17 May 2023:** The Environment Protection Authority released its only official statement (via an email to the Tasmanian Conservation Trust): "*The EPA required ACEN Australia to provide information about the application of the State Coastal Policy on the proposed development of the [Robbins Island] wind farm, including the construction of the [500 metre long] wharf [on a mobile frontal dune – see Rob Blakers photography of pilitika/Robbins Island mobile frontal dunes (2023)]. ACEN Australia did not provide any information addressing clause 1.4.2 of the Policy. The Board was not aware of its legal obligations in relation to the application of clause 1.4.2 at the time it undertook its assessment and made its decision. The Board received advice in March 2024 that it was required to have regard to clause 1.4.2 and in not doing so it had erred at law, and hence had no option other than to lodge the appeal. As the matter is now before the Supreme Court the EPA will not be commenting further.*"
- **27 May 2024:** As of the 27 May 2024, it is our understanding that the Tasmanian Planning Commission has no knowledge of what is proposed in relation to any changes to the [Tasmanian State Coastal Policy 1996](#). The Commission will only become involved if the Minister gives it a written direction under section 15A of the *State Policies and Projects Act 1993*. The Tasmanian Planning Commission will consider any proposed amendment in accordance with the requirements of section 15A.
- **28 June 2024** – the Supreme Court held a Directions Hearing in the Environment Protection Authority appeal – i.e. Environment Protection Authority's concerns regarding the [Tasmanian State Coastal Policy 1996](#). The CHCAN- Circular Head Coastal Awareness Network Inc. appeal was not as part of this Directions Hearing as the next stage of their appeal is set down for the 4 November 2024. **At this hearing, as to the Environment Protection Authority appeal it was decided that an interlocutory hearing would be listed for the 23 September 2024**, at which the Supreme Court will hear argument as to



whether the Environment Protection Authority’s application for leave to appeal out of time should be heard together with or separately from it’s appeal.

- **23 September 2024** – The Supreme Court will hear argument as to whether the Environment Protection Authority’s application for leave to appeal out of time should be heard together with or separately from it’s appeal.
- **4 November 2024:** A final Supreme Court hearing has been set down for the related case (brought by CHCAN - Circular Head Coastal Awareness Network Inc.) on 4 November 2024. But if the [Tasmanian State Coastal Policy 1996](#) is amended, then the Environment Protection Authority proceeding may come to an end and not be part of the 4 November hearing.



5.5 PMAT joint media releases/opinion pieces and related media

Joint PMAT Media Releases

[Tasmanian community overwhelmingly rejects proposed retrospective changes to State Coastal Policy, 23 August 2024](#)

[Proposed changes to Tasmania's Coastal Policy touches community nerve, 1 August 2024](#)

[State Government must scrap its proposed legislation to weaken the Tasmanian Coastal Policy, 18 July 2024](#)

[State Government must not legislate to kill ongoing court case over Robbins Island wind farm, 11 June 2024](#)

Opinion Pieces

[Policies should be protecting, not threatening, our island coastline](#), write Dr Larelle Bossi and Dr Eric Woehler, 15 August 2024.

It's wild, diverse and special: our coast defines us

Policies should be protecting, not threatening, our island coastline, write Dr Larelle Bossi and Dr Eric Woehler

"Policies should be protecting, not threatening, our island coastline."

The integrity of Tasmania's coast - our coast - has remained relatively intact and untouched over the past 30 years thanks to the State Coastal Policy. In contrast to recent Tasmanian Government claims, there is no doubt that this policy is precisely what has ensured, and continues to ensure, our Tasmanian way of life. Any proposed changes to the policy as intimated by the state government fundamentally threatens our coast, our way of life and our identity as a coastal and island people - the real brand "Tasmania".

Mandy free from developments and industry, our coasts are - for many of us - our connection to what's left that is wild and natural in this world, the bit of wild in us - the Tasmanian bit



Cease bids to interfere with coastal policies, July 11, 2024.

Cease bids to interfere with coastal policies

State must wait for Supreme Court decision, write **Peter McGlone, Sophie Underwood and Eric Woehler**

The Tasmanian Conservation Trust, Planning Matters Alliance Tasmania and the Australian Coastal Society call on the state government to halt its plans to retrospectively amend the Tasmanian State Coastal Policy, commit to not interfering with the current Robbinston Island Supreme Court case and to release its legal arguments regarding the status of existing coastal structures.

In December 2023, the Circular Head Community Awareness Network Inc commenced a Supreme Court challenge to the Tasmanian Civil and Administrative Tribunal's November 2023 decision to uphold the approval of the proposed Robbinston Island wind farm. In March 2024, the Environmental Protection Authority (EPA) joined the Robbinston Island wind farm Supreme Court case, following advice from the Solicitor General regarding the interpretation of the Tasmanian State Coastal Policy.

On May 6, 2024, the Minister for Energy and Renewables, Nick Dalgarno issued a media release announcing that, "The government will be looking to amend the Tasmanian State Coastal Policy to ensure that we can both protect our coastal environment, and allow sensible and sustainable recreational and other infrastructure that is necessarily connected to our coasts." The EPA issued a media statement on May 17, 2024 (in an email to the Tasmanian Conservation Trust)

saying that they had received advice that the EPA had erred in law by not ensuring compliance with the Tasmanian State Coastal Policy, and thus they were required to join the Robbinston Island Supreme Court case. The TCT, PMAT and the ACS are concerned that the minister's reference to allowing "sensible infrastructure" actually means the government wants to ensure the "50km wharf" required to construct the Robbinston Island wind farm - is not threatened by the ongoing Supreme Court case.

The minister's reference to supporting "Tasmania's way of life" and the claims of violating previous approvals of justice and wharves around Tasmania have been made without justification, and we believe could be a political smokescreen for forcing changes to the Tasmanian State Coastal Policy to undermine the Supreme Court case and thus ensure the approval of the highly

controversial wind farm. Rather than allowing the project to be assessed under the existing Tasmanian State Coastal Policy, the government wants to interfere while the Supreme Court case is ongoing to change the policy to ensure the Robbinston Island wharf can be constructed.

The state government must let the Supreme Court decide the validity of the wind farm approval and must not attempt to amend the coastal policy while the court case is underway. Changing the State Coastal Policy before the Supreme Court case has completed would clearly prejudice those involved.

Tasmanians have the coast today thanks entirely to the State Coastal Policy, which has prevented inappropriate construction around Tasmania's coast for almost 30 years. The Tasmanian government's proposed retrospective legislation undermines the protection afforded

to our precious coast. Retrospective enabling legislation, as proposed by the Tasmanian government to allow one of the key planning policies in Tasmania is an abuse of Parliamentary process. If there are genuine concerns about the Tasmanian State Coastal Policy, then let's follow an informed consultative process, not rush through retrospective legislation with minimal opportunities for community consultation. In response to a question from the Greens in parliament, Minister Dalgarno would not provide the legal advice that the government has relied upon to propose changes to the coastal policy.

It is normal practice to not make public the advice of lawyers. But what we want is the minister's justification for changing the State Coastal Policy. What is wrong with the policy? The minister has an obligation to the parliament and Tasmanian public to explain his reasons for wanting to change this fundamental policy. At the moment, all the minister says is there is a problem that requires legislation. The minister has promised to provide the draft legislation for public comment, but that by itself may only tell us what is changing and not why the government believes it needs to change. The TCT, PMAT and the ACS



The Tasmanian Conservation Trust, Planning Matters Alliance Tasmania and the Australian Coastal Society are concerned proposed retrospective legislation to the Tasmanian State Coastal Policy will undermine the protection of our precious coast. Crescent Bay, on the Tasman Peninsula, above, and Manton Bay, in South-East Tasmania, most right, are a few examples of the areas which remain pristine due to protection afforded by the current State Coastal Policy. Pictures: Eric J Woehler



(Tasmania) requests that:
• The state government immediately stops its attempt to amend the Tasmanian State Coastal Policy, ensuring there is no impact to the Robbinston Island Supreme Court case.
• Any proposed changes to the Tasmanian State Coastal Policy must follow the existing, legislated public consultation process, and
• If, as the state government asserts, the legality of existing structures – such as jetties and wharves – is in doubt, they have a responsibility to the Tasmanian community to release the legal arguments (if not the legal advice) supporting these assertions to ensure transparency in the proposal. **Peter McGlone is the Tasmanian Conservation Trust chief executive, Sophie Underwood is Planning Matters Alliance Tasmania state director and Dr Eric J Woehler is co-convenor of the Australian Coastal Society (Tasmania).**

“ If there are genuine concerns about the state's coastal policy, then let's follow an informed consultative process, not rush through retrospective legislation with minimal opportunities for community consultation ”

Related Media



'Inappropriate': Coastal policy changes 'intervene' with court matter

Saturday 24 August, 2024 - 1:32PM



Legal experts say the government's bill should be withdrawn.

[Read Full Story](#)

Coastal policy changes 'override' court processes

Matt Maloney

NORTH-WEST Jacqui Lambie Network parliamentarian Miriam Beswick has accused the government of attempting to override the state's judicial system to ensure the future of the Robbins Island wind farm project.

This claim has been dismissed by the state's Energy Minister, however, who has said the development will still need to "stand on its own merit."

The project was appealed before the Tasmanian Civil and Administrative Tribunal last year which, in part, ruled that the Environment Protection Authority (EPA) had not

adequately considered the State Coastal Policy during the approval process for the 100-turbine wind farm.

This related to the proposal to build a wharf in Back Banks dunes.

The EPA has since lodged an appeal against that finding in the Supreme Court.

Two months later, Energy Minister Nick Duigan announced that the tribunal's interpretation of the policy would potentially impact all existing coastal infrastructure, adding it had already impacted council approval in February 2023 for the Robbins Island wind farm.

The government wrote up a "validation" bill, released

in July, and put it out for two weeks of public consultation.

The bill was tabled in parliament on August 8, while the Supreme Court matter is yet to be resolved. The bill during consultation received more than 400 submissions from groups and individuals.

Ms Beswick in a submission said the ILN did not endorse the bill in its current form.

"This bill gives the impression that the government is keen to override these checks and balances and the Tasmanian judicial system and overstep its authority in order to ensure the Robbins Island wind farm project goes through," she said.

Ms Beswick said if there were completed developments where the coast policy had not been applied appropriately in the approvals stage, there might be a need for the validation bill to cover them.

She said any changes to the State Coastal Policy should follow the existing legislated eight-week public consultation process by the Tasmanian Planning Commission with the opportunity for public hearings.

Energy Minister Nick Duigan said the government was not overriding state policy for a big development.

"The Robbins Island proposal will need to stand on

its own merit," he said.

"The legislation does not validate the permit for the Robbins Island wind farm.

"This bill relates specifically to validating approvals already given to developments and to remove uncertainty and legal risk to a wide range of coastal developments that could be considered to be on actively mobile land such as jetties, walkways and golf courses."

WHAT OTHERS SAY

Anja Hilkeijer, Jan McDonald, Emille Boulot and Cleo Hansen-Lohrey, from the University of Tasmania's Law School, said the bill should be withdrawn.

"It is inappropriate to preempt the Supreme Court's determination of the legality of the approval by retrospectively suspending part of the coastal policy," they said.

"There is a strong perception amongst the community that the bill is brought forward at this time to assure an individual developer that ... the building of the proposed wharf at Back Banks dunes can proceed unimpeded by legal requirements."

Tasmanian Chamber of Commerce chief executive Michael Bailey and Clean Energy Tasmania chairman Ian Jones said they both supported the bill.



Greens MP Vica Bayley.

Coastal policy changes to help wind farm, say critics

Elise Kaine

The government has written legislation to patch a loophole in the state coastal policy for the sole purpose of facilitating a controversial wind farm, critics say.

The Greens said they were "alarmed" at draft legislation that will retroactively implement changes to the State Coastal Policy 1996 and allow the wharf needed to build the

Robbins Island wind farm.

The Greens say it is clear this change is solely to benefit the Philippines based company behind the wind farm, ACEN.

"The government is bulldozing long-established environmental settings (so a multinational can) build an industrial development where otherwise it would be prohibited," Greens environment spokesman Vica Bayley said. "Make no mistake, this is

government acting for a multinational corporation wanting to build a development that should never have been proposed in the first place.

"They're giving no justification that actually substantiates their argument and they are just ramming through this legislation that will retrospectively approve a development that otherwise would not be approved," he said.

Mr Bayley said the govern-

ment was meddling with the ongoing Supreme Court case against Robbins Island, which the Environment Protection Agency was compelled to join after it "erred at law" by not applying the coastal policy to the wind farm proposal.

A government spokesman said the draft legislation wasn't "just about supporting Robbins Island - which we are definitely doing".

"The draft bill ... removes un-

certainty around coastal infrastructure that has already been built including boardwalks, fences, jetties and boat ramps," he said.

Planning Matters Alliance Tasmania, Australian Coastal Society (Tasmania) and the Tasmanian Conservation Trust released a statement that said the government was providing a "smokescreen" instead of its legal argument.

elise.kaine@news.com.au

HERO2024MA - V1

Mercury 18 July 2024

NEWS

Fears changes could lock locals out to favour developers



Public meeting calls for parliament to leave coastal rules alone

Helen Kempton

CONCERN is growing over what the government's proposed changes to the Tasmanian State Coastal Policy might mean for the protection of our coasts and islands and the public's right to access them.

On Friday night more than 70 people attending a meeting at the Wynyard Yacht Club to call for members of Tasmania's upper and lower houses of parliament to vote to uphold the status quo.

In May, Environment Minister Nick Duigan announced the proposed changes to the policy he said could impact the use of coastal infrastructure and allowed the Environmental Protection Authority joining an appeal against the planned Robbins Island wind farm.

"Our government wants to ensure Tasmanian communities have the necessary



Independent MP Craig Garland talks to the crowd at an Environment Tasmania meeting. Picture supplied.

infrastructure to safely enjoy marine recreation, while also providing developers and regulators with confidence in how our state policies are to be interpreted and applied" Mr Duigan said at the time.

"The government will be looking to amend the policy to ensure that there we can both protect our coastal environment, and allow sensible

and sustainable recreational and other infrastructure that is necessarily connected to our coasts."

Independent MP Craig Garland and JLN MP Miriam Beswick attended the meeting.

Environment Tasmania is running a series of public meetings to discuss the proposed changes it says could

potentially open up the Tasmanian coastline to private development by removing a clause that prohibits development on mobile coastlines.

"It is also apparent the government intends to fast-track these proposed changes via parliament, circumventing the standard legislated public consultation process," the

group said.

The group is also concerned the proposed retrospective amendments could facilitate the construction of infrastructure for Robbins Island Wind Farm, despite the current Supreme Court Appeal.

"The community and the environment should be the first priority, not a corporate

agenda," Mr Garland said.

Wildlife carer Alice Carson said seeing so many people come out on a wild, rainy night showed there was some hope for the future.

"Due process absolutely needs to be applied," she said.

Organiser and marine campaigner for Environment Tasmania Rebecca Howarth believes areas of the coast could become locked up for private development, making them inaccessible for Tasmanians.

Environment Tasmania is calling on the government to drop its attempt to amend the policy ensuring there is no impact to the Supreme Court case involving the Robbins Island wind farm proposal.

It also says any proposed changes must follow the existing, legislated public consultation process.

"If, as the state government asserts, the legality of existing structures such as jetties and wharves if in doubt, they have a responsibility to release the legal arguments, or advice, supporting those assertions," Environment Tasmania said.



5.6 Rob Blakers photography of pilitika/Robbins Island mobile frontal dunes (2023)

The 500m wharf is proposed to be constructed on the eastern coast of Robbins Island, northwest Tasmania.



Back Banks mobile frontal dunes on Ransonnet Bay, northeast Robbins Island, northwest Tasmania. Photo: Rob Blakers.





Back Banks mobile frontal dunes on Ransonnet Bay, eastern Robbins Island, northwest Tasmania. Photo: Rob Blakers.



Back Banks mobile frontal dunes on Ransonnet Bay, Robbins Island, northwest Tasmania. Photo: Rob Blakers.