Our Ref: JS | BM | LR

25 August 2025

John Ramsay
Executive Commissioner
Tasmanian Planning Commission
Via email: tpc@planning.tas.gov.au

Dear John,

State Coastal Policy draft amendment 01-2025

Thank you for the opportunity to provide a representation on the proposed State Coastal Policy draft amendment 01-2025. This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government in collaboration with our members; all 29 councils.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for local government in Tasmania. Where a council has made a direct submission to this process, any omission of specific comments made by that council in this submission should not be viewed as lack of support by LGAT for that specific issue.

Please contact Jon Stanger, Senior Policy Advisor if you have any questions or would like further information, jon.stanger@lgat.tas.gov.au or 6146 3740.

Yours sincerely,

Dion Lester
Chief Executive Officer

LGAT Submission: State Coastal Policy draft amendment 01-2025

Introduction

Local government uniquely positioned in development

Local government has a special statutory and community representation role for development under the *Local Government Act 1993* and the *Land Use Planning and Approvals Act 1993*. Councils sit at the convergence point of planning legislation and statutory instruments, the development industry and communities. This makes them the primary managers and mediators of growth and change in the state and central to planning policy. This includes the State Policies under the *State Policies and Projects Act 1993*.

This role gives local government unique experience and expertise in planning and development policy implementation and regulation. Our input can help create more effective and efficient State policy. We advise putting local government at the forefront of consideration when creating and reviewing State planning and development policy. This will help deliver a better outcome in all reforms.

Broader review of the State Coastal Policy sought

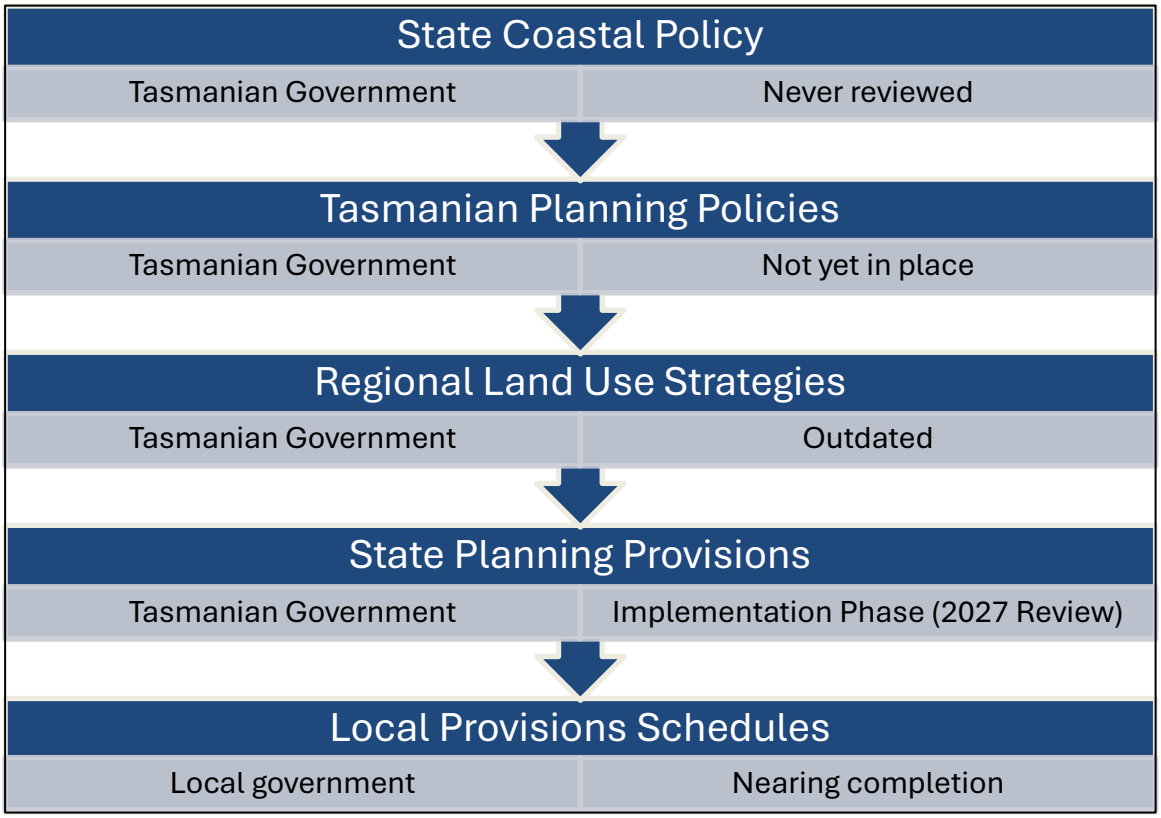
We reiterate the position from our October 2024 submission that a full review of the entire State Coastal Policy (SCP) is needed, rather than ad hoc changes. The State Coastal Policy is nearly 30 years old, with the last substantial amendments 15 years ago. In that time there has been significant change to Tasmania's social and economic make-up and with the introduction of the Tasmanian Planning Scheme and associated instruments. We strongly recommend a full review of the SCP to address gaps, definitional ambiguities, resource constraints for councils, and the absence of standardised assessment methodologies. This should be scheduled as soon as possible after the current suite of planning reforms. The subordinate planning instruments and associated instruments, such as State Planning Provisions would then need to be aligned with any revisions. In addition, the expected making of the Tasmanian Planning Policies will guide a review of the SCP.

Councils welcome the greater emphasis on a performance-based approach in the proposed amendment, as is used in other parts of the Tasmania's Planning System. However, this represents a significant policy evolution from the 1996 prohibition-based approach. This carries substantial implications for coastal communities, natural systems and planning authorities. This reinforces the need for a wholesale review of the SCP. Where any changes are made, this must be undertaken carefully to be effective and achieve the objectives of the *Land Use and Planning Approvals Act 1993*.

We also reiterate our call for the State Planning Office (SPO) to be allocated sufficient resources to complete the current reforms and fulfil the regular legislated reviews such

as the State Planning Provisions (due for review commencing 2027) – refer to Figure 1 below. This will help deliver the reform, review, and strategic planning projects against their timelines, and ultimately support appropriate, orderly development across Tasmania.

Figure 1: State planning instrument status



General Comments

Justification for the proposed amendment

Responding to a proposed policy amendment begins with analysing the justification – why is this amendment being proposed?

We understand that the primary reason for the amendment is that SCP Outcome 1.4.2 is seen as prohibiting development. The State Planning Office has stated in their Summary of Issues that "the effect of Outcome 1.4.2 is that it is a self-executing prohibition of development on 'actively mobile landforms' except for engineering or remediation works to protection of land, property or human life."

However, no specific examples of proposed developments that have been refused as a result of Outcomes 1.4.1 and 1.4.2 of the SCP have been provided. A review of the TasCAT decision to approve the Robbins Island windfarm is noted as identifying issues with the application of Outcome 1.4.2 of the SCP. However, none of these examples are

analysed in detail within the SPO background report, or tested at TasCAT or the Supreme Court.

Further, the SPO has not identified the inconsistencies or demonstrated how the SPPs and SCP are interacting to produce outcomes that are inconsistent with the objectives of the SCP or RMPS.

Clarity and general direction of amendments supported

Councils told us that despite a lack of detail and strong case to justify the proposed amendments, they broadly supported the general direction of the proposed amendments and additional clarity. Councils support the use of risk and performance-based assessments consistent with contemporary development planning practices, but note that ambiguities remain in the proposed amendments and SCP.

A broader review of the SCP is widely and strongly supported by councils and improved mapping is identified as essential to delivering better clarity and improved regulatory efficiency.

Specific concerns – definitions and responsibilities

In the absence of a broader review of the SCP and its application through the TPS, councils have raised the following concerns about the proposed amendments to the SCP and recommendations for improvement.

Issue	Comment
Expert assessments	Demonstrating that a proposed development or use meets thresholds or performance criteria as proposed in the amendments is likely to involve the use of 'expert assessments', or reports from a 'suitably qualified person' – where does liability lie in relying upon or rejecting these assessments, and what degree of peer review would be required for proponent assessment reports.
Tolerable risk	The use of 'tolerable risk' as a performance criterion has been demonstrated to deliver contested outcomes where councils have contended that proposals cannot meet the 'tolerable risk' criteria. TasCAT has taken an alternative view to councils and upheld appeals by proponents (*Hookway v Northern Midlands Council [2025] TASCAT 106* and *Au v Glenorchy City Council (No 2) [2024] TASCAT 50*). There is uncertainty regarding the assessment of a subdivision and whether 'tolerable risk' can be assessed without associated works or development, including whether future use must be considered. The question is asked for whom must the risk be considered tolerable? For the occupier, for the general public, or for local government? A significant gap is an explicit link to climate change, with the current SCP Outcome 1.4.3 only requiring plans – in general – for the effects of climate change. Climate change must be considered when assessing tolerable risk within the "intended life of each use or development", as well as the trajectory of climate change to accelerate and produce compounding impacts.
Protection of natural and coastal values	Councils note that it is already difficult to protect natural values and coastal values under the current TPS and are concerned that without broader review of the SCP and SPPs there will be no improved protections resulting from the proposed SCP amendments.

Issue	Comment
	Rather, the proposed outcome 1.4.2 is structured in a way that suggests any use or development deemed "necessary to protect land, property, coastal values and human life" should be permitted without criteria. This carries risk of overriding other implied objectives in the Outcomes such as public benefit, coastal values, natural processes, or indirect risks to other land and property. In addition, significant new classes of development would be permitted where they can demonstrate the criteria can be met.
Routine regulatory measures	Councils raise questions around what the "routine regulatory measures" referred to in the 'tolerable risk' definition are, and what "specific hazard management measures" can be enforced across the life and use of a development to ensure 'tolerable risk' is maintained. Who is responsible for this enforcement and what resources will to be made available to the authority to monitor and ensure compliance?
Definitions	Definition and spatial mapping of the 'coastal zone' is required, reinforcing the need for a broader review. Definition is also required for terms such as "significant risk", "coastal values", and "public". The "benefits the public" criteria proposed for Outcome 1.4.2 (b) requires definition, including the proposed scale required of this benefit (region, local government area, town) and guidance on how cumulative impacts should be considered.
Consideration of impacts	The proposed wording for Outcome 1.4.2 (c) "considers the impacts" is too limited to achieve policy objectives. Alternative wording is suggested: "maintains coastal values and natural processes, accounting for impacts in assessing the ability to manage risks in accordance with the objectives, principles and outcomes of this Policy."

Issue	Comment
Applicability of Landslide Risk Management definition for tolerable risk	The AGS Practice Note Guidelines for Landslide Risk Management referenced in the SPO background report is not appropriate to support public communication and understanding of 'tolerable risk'. Additional guidance materials and public communication is required.
Clarity of Outcome 1.4.1 - identification and management of land	The proposed outcome 1.4.1 involves two significant tasks: identification and management of land, that could be provided for with separate clauses. Alternatively, separate clear guidance would support achieving this outcome, particularly to allocate responsibility for these tasks.

Implementation and compliance essential

Should this amendment to the State Coastal Policy proceed, councils urge the Commission to recommend a review of the SPPs to ensure they align with an amended SCP. This review should be completed as soon as possible following the commencement of any amendment to the SCP.

Consistent delays to planning reforms, policies, and reviews, coupled with significant under-resourcing of the State Planning Office, have left the planning and development framework in a state of limbo. To achieve the objectives of the planning process established by the *Land Use Planning and Approvals Act 1993*, actions must be coordinated, and subordinate instruments must be quickly made consistent with changes to higher order instruments such as the SCP.

Conclusion

The issues raised by councils and identified in this submission demonstrate that piecemeal amendments will not resolve the deeper challenges in the existing State Coastal Policy and SPPs. A broader, comprehensive review is needed to address ambiguities, align the Policy with contemporary planning practice and climate science, and ensure consistency. Only a wholesale review, significantly overdue, will provide the clarity, certainty, policy coordination, and efficacy required to deliver sound coastal planning outcomes for Tasmanian communities.

Councils support the intent of the proposed amendments and welcome greater clarity in the policy framework. If amendments to the SCP are supported by the Commission, the SPPs must be reviewed for consistency and compliance with an amended SCP as part of this process. To support this work, the State Planning Office and planning authorities must be appropriately resourced for any work required by recommendations and changes to the SCP and SPPs.