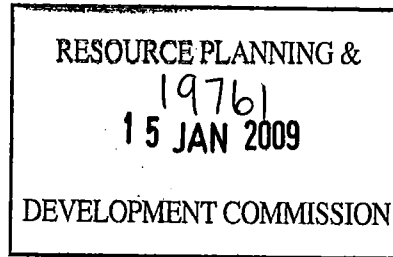


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Mr G Alomes  
Executive Commissioner  
Resource Planning and Development Commission  
GPO Box 1691  
HOBART TAS 7001

12 JAN 2009

Dear Mr Alomes

I am writing to advise that the Government wishes to amend the State Coastal Policy 1996 to correct an anomaly between Outcome 1.4.1 and Outcome 1.4.2

Outcome 1.4.1 currently reads:

*Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.*

Outcome 1.4.2 currently reads:

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

As such Outcome 1.4.2 is inconsistent with Outcome 1.4.1, as it prevents works which would be required under the management component of Outcome 1.4.1. It is therefore proposed to change Outcome 1.4.2 to read:

*Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.*

Some background information in relation to the anomaly and the rationale for the amendment is attached.

In accordance with section 15A (2) of the *State Policies and Projects Act 1993*, I hereby direct the Commission to advise whether the proposed amendments constitute a significant change to the current State Policy.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lara Giddings".

Lara Giddings MP  
Acting Premier

## Amendment to the State Coastal Policy 1996

### Additional Information for the Resource Planning and Development Commission

#### Apparent anomaly

As currently worded, Outcome 1.4.2 it is at odds with Outcome 1.4.1 which promotes the identification and management (which may necessitate works) of areas subject to significant risk from natural coastal processes and hazards to minimise the need for engineering or remediation works to protect land, property and human life.

The anomaly is reinforced by the use of the term "development", which is defined in the Policy as including "the construction or carrying out of works" and "the subdivision and consolidation of land". The term "works" is separately defined as including "any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil, but does not include forest practices, as defined in the *Forest Practices Act 1985*, carried out in State Forests."

As a consequence, any form of remediation works, fencing, rehabilitation planting, earth moving, or even amalgamation of titles involving actively mobile landforms is technically in breach of the State Policy.

Some of these activities, however, may actually be required to properly comply with Outcome 1.4.1. which requires management of areas including those subject to littoral drift and dune mobility. Indeed, it is probable that a significant volume of legitimate coastal works and biodiversity protection activities carried out by councils, the Parks and Wildlife Service and community over the past 12 years has been technically inconsistent with 1.4.2., but entirely consistent with the overall intent of the Policy, in particular Outcome 1.4.1.

#### Previous consideration of amendment to Outcome 1.4.2

Problems relating to Outcome 1.4.2 are well known and an attempt to amend the Policy to clarify the meaning of the clause was proposed in 2002. In the background information to that amendment, it was stated that in the original draft Policy released in 1994 Outcome 1.4.2 referred to "construction" on actively mobile landforms but was amended to "development" by the Sustainable Development Advisory Council (SDAC). It went on to say that as SDAC did not indicate that it intended to prohibit beneficial works through this wording change, it must be concluded that this was an unforeseen side effect.

The background paper concluded that Outcome 1.4.2 of the Policy, as modified, could inadvertently prevent coastal engineering works that could be necessary to protect assets of considerable public benefit.

It was proposed to replace Outcome 1.4.2 with an alternative and substantially different Outcome that allowed some development on frontal dunes and other actively mobile land forms in certain circumstances — including residential infill in areas subdivided

prior to the date of the Policy coming into force and commercial or industrial facilities which are dependent on the specific coastal location.

The amendment was considered a significant change to the Policy, but was not pursued by the Government when the Supreme Court ruled that the Coastal Policy was invalid.

#### **Limitation of amendment to Outcome 1.4.2**

The solution to the anomaly is to link Outcome 1.4.2 more closely to Outcome 1.4.1 such that development allowed on actively mobile landforms is limited to that required to deliver the intent of Outcome 1.4.1.

As the range of works required under Outcome 1.4.1 is uncertain, the most effective approach is to leave the allowable works unfettered by definition, but subject to the restriction that they are only required for management purposes.

The proposed amendment adds an exception to Outcome 1.4.2 referencing Outcome 1.4.1. It refers to 'works' only, not all forms of 'development' and limits those works to actions consistent with Outcome 1.4.1., as follows (additional words in italics):

- 1.4.2 Development on actively mobile landforms such as frontal dunes will not be permitted *except for works consistent with Outcome 1.4.1.*