
Fact Sheet

Validation (State Coastal Policy) Bill 2024

The Validation (State Coastal Policy) Bill 2024 (the Bill) validates planning permits issued in accordance with the *Land Use and Planning Approvals Act 1993* (LUPA) that may conflict with a particular Outcome of the *State Coastal Policy 1996* (SCP), which prohibits development on 'actively mobile landforms'.

Introduced almost 30 years ago the SCP is a critically important part of the State's Resource Management and Planning System and has served the State well in protecting the coast and providing for sustainable development.

The recent approval of the Robbins Island windfarm (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 with respect to development on 'actively mobile landforms'.

The SCP does not provide a 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.

All planning instruments made under LUPA are required to be consistent with State Policies. Therefore, a development application that is assessed as complying with the planning scheme is assumed as being consistent with a State Policy. The issue with the SCP is that it contains a self-regulating prohibition on development (other than remediation works to protect human life, property and land) on 'actively mobile landforms'. This policy outcome has not always been translated directly to planning schemes which has resulted in it not being applied even though the *State Policies and Projects Act 1993* binds the Crown and a council to consider State Policies when exercising decision-making powers and taking actions.

The effect of this is that development on 'actively mobile landforms' that has been found to comply with the planning scheme and a subsequent planning permit issued, may actually be inconsistent with this particular Outcome of the SCP and is therefore illegal.

The Bill validates previous permits issued under LUPA from 16 April 2003 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.

The Government will be pursuing a separate amendment to the SCP to enable a more performance-based consideration that includes the impact of the development on coastal values, the community benefit provided by the development and the management of risks associated with the development. Consultation will commence with the release of a position paper that discusses the issues and outlines a potential amendment.