

# Achieving Sustainable Development

## Recent Progress in Tasmanian Coastal Policy

### Introduction:

The primary purpose of this paper is to provide a brief outline of recent developments in *Tasmanian Coastal Policy*. It is set against the context of sustainable development, in the sense that many governments have embraced this concept, but the means of implementing it are very much a learning experience. In Tasmania the advent of new legislation in the early 1990's provided an opportunity for innovation in natural resource policy and by an accident of timing, one of the first beneficiaries was coastal policy.

### Tasmania's Sustainable Development Strategy and Planning Framework:

After two decades of highly conflictive natural resource controversies (Davis 1984, Chapman 1989, Tigue 1992, Crowley 1993), the Tasmanian government introduced a comprehensive reform package of land-use planning and resource management legislation in 1993. This was largely based upon *New Zealand's Resource Management Act* of 1991, which purported to provide a holistic and integrated basis for decision-making about major conservation and development projects, as well as binding all Crown agencies to more sustainable resource practices via formally agreed national policies (Rennie 1993, Rosier & Hastic 1996).

Without canvassing all details of the Tasmanian Resource Management and Planning System, the principal elements are as follows:

- \* a *State Policies and Project Act* 1993, setting out prescribed procedures for developing binding State Policies and dealing with Projects of State Significance;
- \* planning legislation which provides for establishment and operation of a Resource Management and Planning Appeal Tribunal, a Land Use Planning and Review Panel and a Public Land Use Commission;
- \* an *Environmental Management and Pollution Control Act* 1994, with an associated Environmental Management & Pollution Control Board; and
- \* a number of associated pieces of legislation amending existing statutes to conform with the above and reinforcing the intention to move towards sustainable development practices as soon as feasible.

The *State Policies and Projects Act* 1993 also provides for establishment of a Sustainable Development Advisory Council (SDAC) to maintain an overview of the above, deal with written references by the Minister and Cabinet, as well as prepare periodic State of the Environment reports. In carrying out such work 'sustainable development' is defined as:

"...managing the use, development and protection of natural and physical resources in such a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while:

- \* sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
  - \* safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
  - \* avoiding, remedying or mitigating any adverse effects on the environment."
- (*SPP Act* 1993, Schedule 1)

Any public sector agency may propose draft State Policies consistent with these aims and if adopted by government, the Crown is bound, (ie. State and local authorities must give effect to such policies). No State Policy may be inconsistent with the Act, indeed all draft policies must run this gauntlet through public hearings, Cabinet and parliamentary scrutiny. Where major development projects are intended to be fast-tracked by government, they may be designated Projects of State Significance (POSS) and referred to the Sustainable Development Advisory Council (SDAC) for investigation and report. The Executive can avoid such a route and move to project approval direct, but if so Cabinet must carry full responsibility for the outcome. Given the earlier Wesley Vale pulpmill debacle (Chapman 1992), Tasmanian politicians appear likely to use the SDAC process in future, to keep environmental evaluation at arms length and under independent assessment.

The Sustainable Development Advisory Council (SDAC) commenced operations in August 1994 (the author of this paper being a member) and was immediately given two difficult and time constrained assignments, namely the review of a draft State Coastal Policy prepared by the Department of Environment and Land Management (DELM) and the proposed redevelopment of the Mt Lyell coppermine on Tasmania's west coast. The latter was contentious,

given 100 years of environmental degradation by previous mining operations. These were interesting test cases, being the first attempts to implement the new legislation, but also involved scientific uncertainty, given the complexity of ecological factors involved and the limited availability of baseline data.

## The Draft State Coastal Policy:

Coastal management has proven a fairly intractable problem in most parts of the world, since it involves multiple-issue, multiple-jurisdiction type situations, with a variety of stakeholders and vested interests (Kenchington 1994). Integrated coastal zone management strategies (ICZM) can be devised, but generally there is a lack of political will to enforce regulation, local government often has a stake in coastal development and ad-hoc planning decisions lead to gradual attrition of amenity (DELM 1991). In general, therefore, there is an implementation problem, even if statutory planning is supposed to exist. Yet public concern about coastal areas has now reached the stage where political imperatives operate and attempts are being made to move beyond formal inquiries into positive action (Birrell 1994, SDAC 1995, Tarte 1995). In other words ICZM is an idea whose time has come and many individuals and groups are willing to facilitate reform, provided governments are serious about the matter. The central problem for government are that calls for new policy direction are occurring at a time of fiscal constraint and an enormous and increasing environmental agenda (Toyne 1995).

At the national level there have been a plethora of coastal inquiries during the past decade, hence cynicism was apparent when the Hawke Labor government announced in mid-1989 that a further investigation would be conducted by the Resource Assessment Commission (RAC), which did not commence its inquiry until late 1991 (Haward 1994). It must be said that the Final Report released in November 1993 was a disappointing document, calling for a predictable top-down approach, including a *Coastal Resources Management Act* and a National Coastal Action Program with federal finance as fiscal lever to force the States into line. The latter were already initiating their own reforms and willing to cooperate with the Commonwealth, but on a negotiated basis. The Federal response was a long time coming, the ministerial document titled *Living on the Coast*, only being released in May 1995, but amounting to a \$53million package based upon Commonwealth-State cooperation. Few details were available at the time SDAC was reviewing the draft State Coastal Policy for Tasmania, but most of the principles enunciated in the Tasmanian document were already in conformity with Commonwealth intentions (Haward 1995).

Biogeographically Tasmania possesses many stretches of near pristine and relatively uninhabited coastline, but some 'hotspots' of untidy coastal development, vehicle impacted sand dunes and water quality problems arising from river and estuarine pollution are evident (DELM 1991). The fact that nearly 70% percent of the coast is Crown Land is no salvation either; given that 'turf wars' rather than cooperation have often determined policy outcomes (Kriwoken 1992). Neither local government nor State agencies possess adequate coastal management expertise and information about coastal and offshore ecosystems is sparse. Two further complications at the time of SDAC review of the draft coastal policy were proposed statutes dealing with marine fisheries and aquaculture being promoted by a highly aggressive Minister for Primary Industries and Fisheries, which threatened to cut across the coastal policy.

When the draft State Coastal Policy, prepared by the Department of Environment and Land Management (DELM), was referred to SDAC in August 1994, a timebound and statutorily prescribed procedure was set in train, involving the following steps:

- \* a written direction from the Minister for Environment to SDAC to prepare a report and any proposed modifications to the draft policy;
- \* SDAC to advise all State agencies and local government within 14 days that they had 28 days to respond to the draft policy;
- \* ensure public exhibition for a period of 2 months and seek public submissions within that period;
- \* SDAC to consider all representations, decide whether further hearings were required, frame any modifications proposed and transmit its report and recommendations to the Minister;
- \* publish notice of the submitted report and make it publicly available;
- \* the Minister to then recommend to the Governor (via Cabinet) the making of a Tasmanian Sustainable Development Policy;
- \* the Policy to be tabled in both Houses of Parliament within 10 sitting days and unless disallowed within a further 15 sitting days, then taking effect.

The *State Policies and Projects Act* also has supplementary provisions about Ministerial power to recommend interim State Policies, subsequent amendment of planning schemes and interim orders, penalties for contravention and the regular periodic updating and review of State Policies.

There is little point in detailing here the entire sequence of events involved in review of the draft State Coastal Policy, but a number of learning experiences can be related. Overall the review procedure operated smoothly, albeit with more meetings and attention to detail than perhaps the Sustainable Development Advisory Council had anticipated,

especially as considerable care was expended to ensure the evaluation process and outcomes were not open to subsequent legal challenge. The participatory process was warmly embraced by the general public and most Crown agencies and it was interesting to observe the depth of local knowledge and community concern for coastal management in all areas of the State.

Most submissions recognised the need for integrated action, but were resistant to a formal State Coastal Council while favouring more regionalised and community based action. Many doubted the ability of local authorities to deal with coastal issues, but nonetheless argued local government must remain involved. Few individuals exhibited any substantial appreciation of the concept of sustainable development and widely divergent views existed as to how the coastal zone should be defined.

As far as SDAC itself was concerned, two quandaries became apparent. The Department of Environment and Land Management (DELM) was lead agent and proponent of the draft Coastal Policy, yet the Department was also being called upon for data and expertise in carrying out aspects of the assessment; in future SDAC would have to seek budgetary resources to bolster its own internal expertise with some consultancy reports. Second, it was apparent that although the State legislation provided a mechanism for the review and legitimisation of draft policies, it singularly failed to address many aspects of implementation. SDAC therefore prepared an 'implementation package', identifying prospective roles and responsibilities in outline, identifying existing policy and statutory instruments which could be used to administer and enforce policies, and suggesting the need for some new programs and codes of practice. SDAC members were aware this was on the edge of their brief, but considered State Cabinet would probably welcome such advice, given that the State Coastal Policy was likely to set precedents about guiding principles and types of action for the future.

## **The Modified State Coastal Policy:**

The modified State Coastal Policy is structured around three guiding principles of equal status:

- \* Natural and cultural values of the coast shall be protected.
- \* The coast shall be used and developed in a sustainable manner.
- \* Integrated management and protection of the coastal zone is a shared responsibility.

In this context the term 'coastal zone' is given variable meaning, extending seaward to the outer limits of the territorial sea, but extending inland to the extent necessary to embrace proposed activities, uses and development which in the opinion of the local authority, if allowed to proceed, would impact on the coast; and which are necessary to achieve the principles, objectives and outcomes of the Coastal Policy.

The modified State Coastal Policy includes a number of sustainable development objectives in accordance with Schedule 1 of the *State Policies and Projects Act* 1993, then sets out a series of guiding principles and intended outcomes. A wide range of issues are canvassed, varying from conservation of natural values and ecosystems, to development approvals, public access and safety, marine farming, tourism, and management of public land. It is recognised that the initial State Coastal Policy is 'first cut' and that monitoring, evaluation and review should occur within three years of implementation.

The final report, Under Consideration: The SDAC Report on the *Draft State Coastal Policy* (Oct 1995) canvasses some aspects of implementation of the policy, drawing attention to a range of statutory, non-statutory and institutional arrangements which can be utilised to ensure action and compliance. It also considers prospective implications for Crown agencies, local planning schemes and various existing statutes, consequent upon adoption of the Policy. State Cabinet has already given its assent to the Policy but due to the February 1996 State Election in Tasmania, the Policy has not yet been tabled in Parliament for approval or disallowance. Notwithstanding this, the modified Policy has already provided some guidance in negotiations between the State and Commonwealth about Coastcare grants.

## **Local Initiatives:**

In addition to initiatives at State level in Tasmania, a bold experiment in local coastal management has been conducted by three East Coast municipalities, operating under auspices of the Commonwealth regional development umbrella in part, but heavily dependent upon community participation and a catalyst coordinator. It is perhaps too early to say how this will pan out, but in a field where insularity often rules, it is a significant achievement to have generated local enthusiasm and cooperation. Perhaps this arises in part from the growing professionalism evident in local government units in Tasmania, following several amalgamations, but it also reflects local pride in a beautiful coastline which provides quality of life and tourism potential. It is quite clear that citizens know and love their coastal environment and can be brought together to work towards common goals. Indeed this regional voluntary approach is likely to prove a crucial element, if the State Coastal Policy is to gain acceptance and effective implementation on the ground.

## The Contribution To Sustainable Development:

What contribution can an integrated approach to coastal management contribute towards sustainable development? SDAC believes the State Coastal Policy should be welcomed on the following grounds:

- \* it will safeguard coastal ecosystems and ensure that natural and cultural values of the coast will be protected;
- \* it will ensure orderly development is permitted to occur, recognising the economic and social values of coastal areas and the legitimate aspirations of communities to engage in a diversity of coastal activities;
- \* it will ensure that management responsibility is shared by all spheres of government and the broader community;
- \* it will ensure that planning schemes take due account of the needs of both current and future generations in conservation and development decision-making;
- \* it will ensure, insofar as is feasible, that coastal scenic amenity is conserved and that public access is maintained subject to safeguards to environmental quality;
- \* it will enable action to be taken to avoid, minimise or mitigate any adverse effects on the environment;
- \* it will be a policy open to review and amendment in the light of future environmental requirements and community need;
- \* it will enable integration with future State Policies that may apply to specific issues in the coastal zone.

## Implications For Public Policy:

Preparation of a State Coastal Policy in Tasmania is merely the first step on a very long road, but are there any initial lessons, perhaps of wider application, we should note from the brief learning period to date? The short answer is yes, a few points are already obvious:

- \* The concept of sustainable development is little known to decision-makers or the general public as yet. A considerable education program is required to explain why the concept is needed, as much as how it might be operationalised.
- \* It is clearly difficult to move the mindset of many people away from the notion of functionally specialised bureaucratic fiefdoms or free market corporate aspirations towards a more holistic and integrated perspective of natural resources policy. Stakeholder values should be legitimised, but processes are needed which give more accurate perspectives of options and implications, as well as resource valuations.
- \* It may appear time-consuming to go through the detailed referral process of State Policies and Projects of State Significance (POSS), but on past evidence this is a lot faster and more acceptable to the community than attempts at ministerial authority or 'fast-tracking' that lead to major development controversies.
- \* In public inquiries of this kind, part-time advisory bodies such as SDAC, even though they possess considerable internal expertise, must rely upon a variety of other sources of information, arising from consultancy briefs, the input of various public sector agencies and a variety of submissions from diverse community interests. While utilising such assistance, the determining body must ensure transparency of process, independence of thought and action and a commitment to the principles of sustainable development, even in a cynical and pragmatic world.
- \* There will never be enough information and much of it is usually inappropriate for planning purposes. Decisions must be based on informed judgement, with considerable care no hidden dangers lurk and with some recognition adaptation will be essential. The process of debate is almost more important than the outcome, in reaching a mutually acceptable position within the community.
- \* If we are serious about sustainable development it will necessitate adjustment of the status quo and this is bound to generate resistance. Bureaucracies exist to serve governments, but there are times when the public interest requires that civil servants stiffen political commitment, in the face of attempts to water down provisions.
- \* The transition period towards sustainable development is unknown but probably extensive. We should not expect too much too soon, but the aim is laudable and ought to be defended and promoted.

In summary, it is far too early to say whether or not Tasmania's recent attempts to improve coastal and offshore management will prove successful, but an appropriate framework now exists and there appears to be community pressure to take innovative and positive action as soon as feasible.

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