

Minister for Energy and Renewables  
Minister for Parks and Environment

Level 10 15 Murray Street HOBART TAS 7000 Australia  
GPO Box 123 HOBART TAS 7001 Australia  
Ph: +61 3 6165 7739  
Email: [minister.duigan@dpac.tas.gov.au](mailto:minister.duigan@dpac.tas.gov.au)



8 August 2024

Duncan Spender  
CEO  
Oysters Tasmania  
Email: [ceo@oysterstasmania.org](mailto:ceo@oysterstasmania.org)

Dear Mr Spender

Thank you for your letter dated 24 May 2024 regarding environmental responsibilities and the Tasmanian State Coastal Policy as they relate to the oyster industry. I note some of the matters you have raised do go across portfolio areas and as such I am responding on behalf of the Tasmanian Government.

I can assure you the Rockliff Liberal Government recognises the economic value the Tasmanian shellfish industry brings to the State. We continue to support the industry through the provision of funding to the Shellfish Market Access Program (ShellMAP) as well initiatives such as advocating for Australian Government funding to address the State's ageing water infrastructure.

In responding, I will address each of the matters you have raised in your letter, acknowledging in particular the concerns you have about pollution impact on your industry.

### **The role of the Environmental Protection Agency (EPA) and of local governments**

I am advised the EPA regulates 77 'level 2' wastewater treatment plants operated by TasWater and uses a risk-based approach to prioritisation of regulation and compliance in relation to these plants. Councils are required under the *Environmental Management and Pollution Control Act 1994* (EMPCA) to 'use their best endeavours to prevent or control acts or omissions which cause or are capable of causing pollution' for those activities other than 'prescribed activities' (prescribed activities being level 2 or level 3 activities).

I understand the EPA prioritises investigative resources on the basis of risk. This risk-based approach considers the wide-reaching public health advice about wet weather overflows, and the fact wet weather spills are significantly diluted with rainwater. Therefore, the position adopted is that the EPA will not routinely investigate wet weather sewage overflows. Dry weather spills of untreated sewage are investigated by the EPA.

I am further advised that many factors are considered when determining the appropriate compliance response with respect to dry weather spills, including the level of culpability, and whether adequate controls were in place to minimise preventable spills. Many dry weather spills are found to be the result of unforeseen events. Since 2019, the EPA has issued four Environmental Infringement Notices to TasWater for contravention of the *Environmental Management and Pollution Control (Waste Management) Regulations 2020* in relation to spills of untreated sewage.

The EPA continues to assist councils with complex compliance matters related to the enforcement of EMPCA. The EPA compliance and enforcement policy can be found at <https://epa.tas.gov.au/Documents/Compliance%20and%20Enforcement%20Policy%202022.pdf>

### **Preventing Pollution**

As you would appreciate, it is not always possible to prevent polluting events. The Tasmanian and Australian Governments recognise the impact sewage spills from rain events or asset failure may have on shellfish farms and have contributed significant funding to the *Shellfish Lease Water Quality Improvement Program*. The focus of this work is to upgrade TasWater infrastructure, automation, monitoring and control systems for 84 pump stations across the State. I am told TasWater is implementing a range of programs to upgrade system reliability, particularly in relation to management of the risk of wet weather overflows relating to high rainfall, including undertaking Sewage Pump Station upgrades to increase emergency storages and pump capacities.

TasWater have also advised they are undertaking ongoing investigations into stormwater infiltration into sewerage networks arising from incorrect household or industrial connections, and investigations into sources of inflow and infiltration.

The Tasmanian Government understands how critical improved water quality is, not only to oyster production but more widely and has directly raised this issue with TasWater. The Government has supported TasWater to obtain funding through the National Water Grid Authority for projects to resolve these issues in high priority areas.

### **Detecting Pollution**

Tasmanian waters are continually monitored by ShellMAP for background and point source pollution discharges that may affect the food safety risk profile of oysters produced in Tasmania. I am aware closures of oyster growing areas can be attributed to a range of factors such as rainfall, river flow and salinity triggers, in addition to sewer spills from TasWater infrastructure. I understand the ShellMAP program in recent years has adopted a sewer spill modelling tool to inform decision making based on evidence-based data relating to sewer spills. The use of this tool combined with rapid response laboratory tests for *E. coli* provides an effective mechanism to manage these pollution events which can result in a reduction in sewer spill related closures and quicker re-opening of growing areas.

The Tasmanian Government provides considerable support to the ShellMAP program of around \$415,000 per annum for the Marine Program staff, supporting various programs and financial support direct to Oysters Tasmania for industry development. A component of the biotoxin program is for *E. coli* testing, which directly underpins market access for oyster growers. Furthermore, the Analytical Services Laboratory is a government service that provides value for money, responsive, comprehensive and high quality biotoxin testing.

I am advised the *Tasmanian Biotoxin Management Plan* is prepared and implemented by ShellMAP through a sampling program based on a biotoxin risk assessment of individual oyster growing areas. Areas are then categorised as low, medium or high risk with sampling frequencies determined based on the risk level. The current Tasmanian biotoxin monitoring program provides a robust and statistically sound data set to enable responsive and timely management of potentially affected oyster growing areas by ShellMAP. Review of the current biotoxin management plan will commence shortly and will include assessing the suitability of the current monitoring frequency and risk assessment of oyster growing areas.

It is important to note that the responsibility for conducting environmental testing lies with all agricultural, marine and other industries themselves, rather than specifically with government. This standard practice ensures that industries maintain compliance with environmental regulations by performing their own monitoring and testing. For example, compliance with the food safety regulatory framework in Tasmania, which requires all oyster producers to operate in accordance with a Seafood Food Safety Scheme established under the *Primary Produce Safety (Seafood) Regulations 2023*. Government resources are prioritised towards supporting industry through environmental monitoring via ShellMAP, enforcement and regulation.

### **Amendments to the State Coastal Policy**

The State Planning Office within the Department of Premier and Cabinet is responsible for progressing amendments of the State Coastal Policy.

The State Coastal Policy (Policy) was introduced almost 30 years ago. In recent months, the way the Policy has been interpreted and applied with respect to development on actively mobile landforms has come under question. Unfortunately, there is currently no definitive description of an actively mobile landform or accepted map of their location, making planning decisions on when this Policy applies highly subjective.

Tasmania has a lot of development that could be considered built on actively mobile landforms, including boardwalks through the dunes, fencing, lookouts, boat launching facilities, bridges, jetties, and even golf courses.

Over the years, planning approval bodies have made determinations on whether to apply the Policy to developments or not, which has now been brought into question. To address this legal risk for already approved developments, the Government has tabled the *Validation (State Coastal Policy) Bill 2024* for consideration by the Tasmanian Parliament.

The draft legislation does not change the State Coastal Policy itself. Proposed changes to the Policy will separately be subject to public consultation on specific proposed amendments in coming weeks.

I can assure you there is no planned dilution of the following outcomes of the State Coastal Policy that relate to Marine Farming and, in particular, to section 2.2.1

“Marine farming will be planned, developed and conducted in the coastal zone having regard to sustainable development considerations and in accordance with the *Marine Farming Planning Act 1995* and other relevant terrestrial and marine resource management and planning legislation and consistent with this Policy.”

I acknowledge your comments on potential amendments to the Tasmanian State Coastal Policy. While I have shared your comments with the relevant department, when the consultation opens on proposed amendments to the Policy, I encourage Oysters Tasmania to provide its comments at that time.

Thank you again for your letter. I understand my office has contacted you to arrange a future meeting at a mutually suitable time. I look forward to further discussions at that time and a continued a continued collaborative relationship with Oysters Tasmania.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nick Duigan', with a long horizontal flourish extending to the right.

Hon Nick Duigan MLC  
**Minister for Parks and Environment**

Cc: Premier Rockliff, Minister Howlett, Minister Street, Minister Ellis and Minister Abetz