

# The Canal Estates (Prohibition) Bill 2011

Joint Briefing Document from Save Ralphps Bay, EDO Tasmania, Environment Tasmania, and Birds Tasmania



ENVIRONMENT TASMANIA  
The Conservation Council



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# The Canal Estates (Prohibition) Bill 2011

JOINT BRIEFING DOCUMENT FROM SAVE RALPHS BAY, EDO TASMANIA, ENVIRONMENT TASMANIA, AND BIRDS TASMANIA

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## The Bill

The Canal Estates (Prohibition) Bill 2011 proposes a ban on all residential canal estates in Tasmania. The Bill effectively precludes any planning scheme or planning directive from authorising a canal estate use or development, and prevents such a use or development being declared a project of regional or State significance.

The Bill recognises that the development of artificial canal estates in other areas of Australia has led to serious adverse environmental and economic impacts. The Bill aims to avoid these consequences by providing clear guidance to developers that such developments are not considered sustainable and will not be contemplated in Tasmania.

## What is a Canal Estate?

A residential development on an artificial canal that is inundated by, or drains to, a natural waterway - typically constructed by excavation of existing waterways, or extending land into a river, estuary or coastal area.

## ENVIRONMENTAL IMPACTS

The recent comprehensive assessment of Walker Corporation's proposed Lauderdale Quay canal estate by the Tasmanian Planning Commission highlighted a number of site-specific concerns (such as impacts on resident and migratory bird species), but also concluded that the development was "inherently unsustainable", was inconsistent with the objectives of the Resource Management and Planning System and the State Coastal Policy.

Environmental impacts associated with canal estate developments include:

- Loss of wetland habitats and other sensitive aquatic systems, including reduction in the sustainable values of estuaries as highly productive nursery areas necessary for fisheries;
- Inadequate hydraulic functioning which may reduce water quality through poor flushing, cause sedimentation of waterways, or affect the structural integrity of the canal walls;
- Impacts caused by storm-water and urban runoff, including erosion and sedimentation away from a canal estate development site;
- Impacts associated with imported fill material;
- Problems caused by disturbing acid sulfate soils;
- Pollution by wastes from vessels;
- Ongoing impacts from maintenance dredging.

There are also serious concerns about the sustainability of this style of development in the face of climate change induced sea level rise and higher frequency inundation events.

Coastal management documents in most other states include provisions banning or regulating canal estates, on the basis of the environmental impacts.

In NSW, State Environmental Planning Policy 50 - Canal Estates prohibits canal estates and this prohibition is reinforced in the Coastal Policy:

"Canal estate developments will be prohibited in recognition of the fact that they can pose serious water quality problems, threaten the integrity of coastal wetlands and fisheries habitats, exacerbate flooding problems and disturb potential acid sulfate soils."

The Victorian Coastal Strategy 2008 provides:

"It is also policy to prohibit the development of new residential canal estates to ensure the protection of coastal and estuarine environments. Canal estates can have major adverse impacts on the host estuary, causing loss of habitat, polluting estuarine waters by urban runoff and boating activities and disturbing coastal acid sulfate soils."

## PROVIDING CERTAINTY TO DEVELOPERS

The assessment of the Lauderdale Quay project was a long and expensive process for the proponent, community and government agencies, which ultimately determined that such developments are "inherently unsustainable", and could not meet the rigorous standards imposed by the Tasmanian planning system.

In future, it would be preferable to ensure that developers, and the community, are spared the time, expense, anxiety and disruption involved in the pursuit of a development that is likely to be rejected.

Reliance on the existing planning framework, including municipal planning schemes and the State Coastal Policy, may prevent unsustainable canal estate developments. However, that approach provides **no certainty of outcomes**, given the inconsistencies and uncertainty in relation to the application of planning documents, the ongoing review of the State Coastal Policy and the limited resources of many planning authorities.

Industry bodies regularly criticise lack of certainty in the planning system as a deterrent to investment. A clear ban on canal estates would provide certainty to developers and the community regarding the types of projects that will be acceptable in Tasmania, and encourage investment in more appropriate, sustainable development projects.



photographer: Chris Wright

## ECONOMIC IMPACTS

In addition to the noted environmental impacts, canal estate developments frequently impose economic and social burdens on the municipal councils in whose area the canals are located. When considering its views on the proposed Lauderdale Quay development, Clarence City Council reviewed the experiences of planning authorities in Western Australia in regulating this style of development. In a supplementary submission made to the Tasmanian Planning Commission, the Council identified the following concerns:

- There are significant costs associated with maintaining revetment walls, dredging the canals, removing algal blooms and controlling pest species (including mosquito outbreaks). Responsibility for these costs tends to fall to councils - even where the legal responsibility rests with a community management scheme, such schemes are liable to financial failure and the capacity of a community scheme to undertake necessary works is questionable.
- The capacity of planning authorities to levy special charges or varied rates on residents of canal estates to meet the additional maintenance costs remains untested;
- Many planning authorities lack the expertise and resources to effectively assess and monitor the impacts of canal estate developments.

Concerns have also been raised regarding difficulties in securing adequate insurance for properties and infrastructure located within canal estates, particularly in respect of the risks posed by sea level rise, inundation and structural failure.

## SUPPORT FOR A BAN ON CANAL ESTATES

As discussed, there are precedents for such a ban in other states of Australia. In addition, there is already support for a ban in Tasmania.

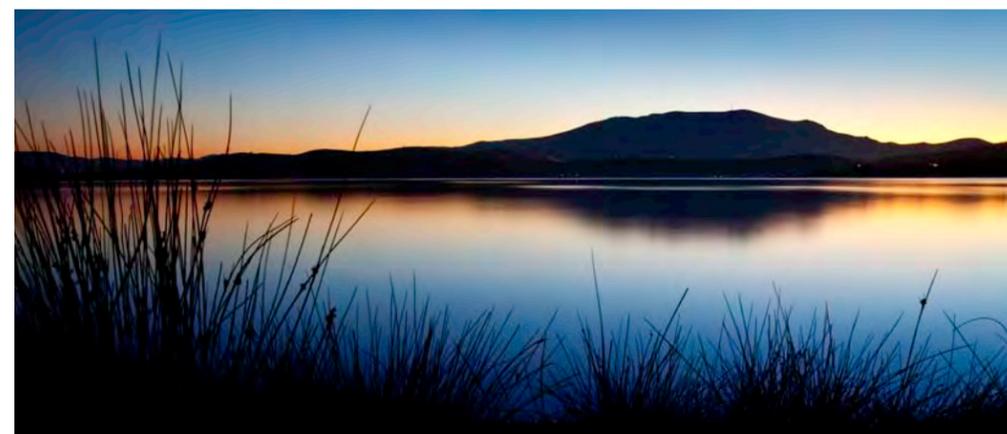
In an interview with ABC Stateline on 24 July 2009, the State Architect, Peter Poulet urged the government to ban canal housing estates:

"That level of intervention into the natural environment is actually pretty severe and it surprises me that humans would want to do that to their natural environment... I don't think, design-wise, it's a very good idea."

Referring to community opposition to the Lauderdale Quay development, Mr Poulet commented:

"I'd like to think that ultimately the planning instruments that are being put in place now will avoid the need for this type of confrontation in the future."

Canal estate developments have been prohibited in the Kingborough municipality since 2000. The draft Southern Tasmanian Regional Land Use Strategy, produced by the Southern Tasmanian Councils Authority in late 2010, also proposed a regional ban on canal estates. The draft strategy stated:



photographer: Thomas Moore

## "A vision for Tasmania heading forward"

"This is about principle, and about a vision for Tasmania heading forward; asking if this sort of development proposed for Ralphs Bay is either appropriate for a bay that is crown land or representative of what we want in the future for our precious coastline. By our nature, we are a pro-development party, but that does not mean development at any cost,"

**- Liberal MHA, Will Hodgman  
Aug 31, 2005**

"Considerable evidence through Australia exists recommending against the existence of Canal Estates. In other mainland jurisdictions canal estates are prohibited excepting Queensland and Western Australia. Considering the impacts on plants and animals, the known risks of sea level rise and impacts of storm surge as well as the social impacts on the community, a further regional policy should be to prohibit Canal estates within the region."

STCA received 113 submissions in relation to the draft Strategy from government agencies, planning authorities, development stakeholders and industry groups and the general

community. The preliminary consultation report noted that many submissions were actively supportive of the ban on canal estates and none of the submissions opposed the ban. The final Regional Land Use Strategy to be released shortly will include a regional ban on this form of development.