Thank you for the opportunity to respond to the "Reforming Tasmania's Planning System" Position Paper.

The Local Government Association of Tasmania is the peak body for Local Government in Tasmania and has developed this submission in consultation with all Tasmanian councils.

Much of the detail has been collected through a workshop with Council Planners. We have also had opportunity to incorporate a number position papers formally endorsed by the Elected Representatives. However, the timeframes have not allowed us to go back to Elected Members in relation to issues arising, especially in the context of an imminent election. Specifically, we have not been able to ascertain a categorical position from elected representatives in relation to the discussion on the interim planning scheme process, as referenced later in this document.

We are aware that a number of councils have made direct submissions. Any omission of comments they have made should not be viewed as lack of support by the Association for that specific issue.

Any questions should be directed to Dr Katrena Stephenson, Policy Director (Katrena.stephenson@lgat.tas.gov.au).

Some General Issues:

It has been difficult for Local Government, including planners, to respond to all aspects of the paper because of the lack of detail on the content of amendments. This has limited the ability to weigh risks and benefits and posit possible alternatives.

As outlined in the 2014 LGAT Election Manifesto, *Collaborating for our Communities,* the vast majority of development applications in Tasmania are approved efficiently and effectively by councils despite the increased community expectations about the objectives of the planning system in relation to solving complex urban and regional issues.

The present suite of planning reforms, will go a long way to meeting the Government's desired consistency and streamlining (as might be delivered through a single planning scheme) and we have previously advocated for better integration of legislation (such as the subdivision provisions in the *Local Government (Building and Miscellaneous Provisions) Act* with respect to LUPAA).

There is also clearly a need to ensure orderly, strategic and beneficial review and change to occur rather than a more ad-hoc approach that can produce unintended consequences. It is uncertain whether the Planning Taskforce will have the ability or remit to undertake a full strategic review of the planning system and support structures but this would be highly desirable. DPAC's Role of Local Government Project, Legislation Working Group expects that councils may identify a number of possible improvements in relation to Planning and will forward those on for consideration as they become apparent.

Finally in terms of ongoing consultation and communication, Local Government would welcome:

- clearer articulation of the nature of a single state-wide planning scheme,
- timeframes for implementation and
- clarity on to whom (Taskforce, Justice, TPC) ideas and issues should be put forward.

Local Government Planners would welcome the opportunity for direct dialogue with policy makers in implementation issues and note that there is no-one currently in State Government who has experience in implementing PD1. LGAT is happy to coordinate any such engagement and strongly supports the idea of a technical advisory group or reference group attached to the Taskforce, particularly as concepts are fine tuned. Finally, regular communication from the Taskforce, perhaps in the form of a communiqué after each meeting, would be appreciated.

In relation to the discussion paper, in principle, most of the notions outlined are supported by most councils with the following key exceptions:

- Third party appeals
- Assessment period for permitted use
- The process for progressing the interim planning schemes
- Timeframes for 30J reports and public exhibition of interim planning schemes.

For a number of other proposed amendments, while agreed in principle, a number of risks or areas in need of clarity were identified.

It would be fair to say, that there is some concern from Local Government planners that there is under-estimation of the complexities of the planning system and inadequate consideration of issues of natural justice and procedural fairness in some of the propositions.

Detailed feedback is provided in the table below.

Planning Process	**Proposed Change and Provision**	**Local Government Feedback (largely at this stage from planners forum but also some council submissions).**
Interim Planning Directives	Interim planning directive may amend, override, or suspend a current planning directive while in force LUPAA 12Ame	Local Government agrees with this change in principle recognising the purpose is to have only one planning directive to be in force in relation to the same planning issue. A number of questions were raised that we hope will be addressed in the Bill as a number of potential risks exists and difficult to comment given the high level nature of the discussion paper. This generally applies in relation to all issues raised. • How is this triggered, at whose urgency? What structure/processes sit behind? • There is concern that if the Ministerial powers are very open ended there will be overlap with (and possibly erosion of) the functions and powers of planning authorities. • Legislation needs to clearly define the circumstances that justify an urgent response. • Early notification is key. Communication and notification needs to be embedded in legislation to ensure Councils and applicants have right of reply – there has been a lack of forewarning in relation to recent amendments which reduced the credibility of the planning system • Transparency is important the LG recommends the Minister's reasons be published. • There needs to be consideration of 'grandfathering' – that is consideration of an application on the basis of the planning scheme in effect at the time of lodgement.
Replacement of Accidentally Destroyed Buildings	Enable reconstruction of accidentally/unintentionally destroyed or damaged building or work for a conforming use without need for a permit or compliance to provisions of a planning	Local Government understands the purpose of this amendment is to avoid unreasonable cost, delay and uncertainty due to non-compliance with standards if an application for a permit is required. There are however, some concerns, particularly related to rebuilding when the hazard still exists (eg landslip, coastal inundation) and the effectiveness

	scheme LUPAA 20(3A)	of the proposal is questioned. It appears to offer a simple solution to removing unnecessary bureaucracy and past difference between planning schemes but would benefit from some clarification. Aspects requiring clarification included: • Does this apply to development of a like kind (same use)? • If the cause of destruction is exposure to natural hazard, why not build to new standards to mitigate that risk? • How does this relate to the requirements under the Building Code? It seems the principle won't necessarily flow through to Building. • There may be a need to indemnify councils in relation to losses related to poor planning outcomes. Best practice planning may have changed significantly over time. • Why no planning approval is required yet there is still a need for building approvals, plumbing and so on? Presumably planning scheme standards still apply? • How would this be implemented? (Might still need enabling conditions –given LUPA provides enabling power then maybe what is needed is a planning directive on how to use and under what circumstances. This would allow better outcomes to be delivered). • Maybe interim planning directives could be developed to respond to specific emergencies? • How will footprint/envelope issues be considered? • PD1 is silent on this issue, regardless of the legislation the process is missing. It is considered ht any change to the legislation should corresponds with a change to PD1 or a new directive to ensure the desired consistency is achieved. • Will it enable a dwelling or building to be moved to a safer site? Eg landslip area. This issue should be dealt with separately from s23 of LUPAA.

<table>
<tr>
<td>Interim Planning Schemes</td>
<td>Anticipate introduction of process for single planning scheme</td>
<td>
Local Government understands the Government's commitment to introducing a single planning scheme but finds it hard to comment on some proposed amendments in the absence of how a single planning scheme will manifest and be implemented. The lack of clarity or understanding about what a single planning scheme looks like spawns numerous issues in making decisions about completing or not completing the current process.

It would be fair to say, that prior to release of the discussion paper, the LG sector had largely assumed (based on the Minister's letter) a line would be drawn with the declaration of all the Interim Planning Schemes (IPS) – including the Southern IPS. That is, the expectation was that councils would not have to continue on with public exhibition and reporting on consultations, avoiding overlapping processes and mixed/confusing signals to the public/developers.

That being said what is outlined in the paper, is not considered unreasonable. A key issue relates to timeframes. The preparation and statutory progression of a state-wide planning scheme, in whatever is its final manifestation, should be progressed using the three approved regionally based planning schemes as the base and in an orderly, consultative manner. It is desirable to avoid both the IPS process and that for a State-wide planning scheme (that is yet to be articulated) being hostage to unrealistic timeframes.

The policy development process leading to the state-wide planning scheme (Codes) as well as other government actions requires time and resources on the part of both the State and Local Government. The current budgetary context and decisions emanating from it cannot be ignored.

Councils have already invested considerable effort in the development and progression of regionally based planning schemes.

The best path to take is highly dependent on the Government's commitment to introducing a single planning scheme in 2015.

So in relation to stopping at IPS stage (i.e. no public exhibition/hearings):
<table>
<tr><th>Pros</th><th>Cons</th></tr>
<tr><td>Avoid community and council fatigue</td><td>Lack of certainty</td></tr>
<tr><td>Avoids tokenistic response to representations and mixed signals – schemes will only live a year or 2.</td><td>Risk in relation to current representors</td></tr>
<tr><td>Will definitely be completed prior to implementation of single planning scheme (timeframes can be met) – avoids overlapping processes</td><td>Schemes with range of limitations due to inability to get good ideas through the compliance test</td></tr>
<tr><td>Resources can be redirected to state-wide scheme process.</td><td></td></tr>
<tr><td>Provided the new state-wide scheme does not require very significant changes to current state template, (especially if the zones are the same, or only a few added / subtracted) a great deal of the work councils have done will still be valid and can be 'rolled over' into the new scheme(s) under the state-wide model.</td><td></td></tr>
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In relation to progressing to final schemes
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Pros	Cons
Provides some certainty to those waiting to progress developments.	A lot of resources that might be better spent on forward planning for SPS
Provides a voice in relation to IPS	Little gap between finishing this process and starting implementation of SPS
Allows ground truthing of what will go in single scheme – through the hearing/representation process	High risk can't be completed in suggested timeframes – already years beyond original expectations. There was also concerns that starting with a new panel (losing knowledge base) may lead to further delays.
Any council or developer driven rezonings that fall foul of the compliance test and don't get into an interim planning scheme have some avenue of moving forward and that the regional projects can reach a proper end point	One month notification period is too short. Logistically difficult to get combined 30 j report and council endorsement to submit (must go through council meeting cycle)- particular impact in the South. No time for community engagement (eg forums).
Averts risks that might ensure if single planning scheme project is delayed beyond 2015. If the single planning scheme project is delayed beyond 2014 then completion of IPS processes will mean that there is a state-wide template and regional land use strategy based finally approved planning schemes.	May cause confusion for the public, who will be asked to comment on the interim schemes and likely then be asked to comment on draft state-wide model scheme provisions shortly after.
	Requires prudent exercise of the Commission's powers and has the risk that important strategic components may not be considered for the sake of expediency.

The Association, while unable to go back to elected members, has tried to canvas the views of planners and General Managers in the South of the State, who are yet to have IPS declared. The critical influence is the timeframes. If the State Government are able to fully commit and deliver on the single state-wide planning scheme in 2015 then on balance, drawing a line in the sand with the declaration of the IPS is supported. It is significant that there is a high level of doubt that the interim planning schemes will be approved in the South by the end of 2015. There is a strong history of them taking longer than anticipated. If there is any level of uncertainty in relation to meeting that timeframe then the process outlined is likely to deliver the better outcomes (compared to holding a scheme at interim status for years).

If the schemes are held at interim status, then provided persons who believe they are aggrieved by a change in an interim scheme have a pathway to have their grievance heard and determined in a timely and effective manner, any natural justice issues should be able to be resolved.

- Those who wanted zone changes but didn't get them can seek an amendment to the interim schemes – as per the proposed standardised process in the draft legislation.
- Those who believe that an unjustifiable change has

		occurred and that it adversely impacts them need a pathway as well. The amendment process may not be appropriate here, and another mechanism may be needed. The north and northwest interim schemes have already been publicly exhibited and the parties involved may an have expectation that the assessment and hearing processes will now occur. However, will the timeframe for final approval of the interim schemes be that different than if State and Local Government put all resources into the new state-wide model planning schemes? The progression of 28 interim planning schemes to fully approved status in a 12 month period seems highly unlikely even if the fast-track changes to the legislation are perfect from the start.
	Transitional arrangements Modify LUPAA Division 2A	Designed to enable assessment or finalisation of an unfinished 43A application prior to declaration but question raised was what about unfinished scheme amendments? It was felt a wider capture was needed.
	Declaration if Minister "satisfied" on advice from TPC LUPAA 30F	Removing the expectation that draft IPS must fully comply with all applicable strategies, policies and rules was supported on the basis that it reduces the risks experienced in relation to the Interim Planning Schemes (and rigidity of interpretation) and would likely prevent avoidable litigation.
	Public exhibition reduced from 2 x months to 1 x month 30H(3)	While LG understands the purpose of this proposed amendment is to facilitate rapid completion of IPS by reducing timeframe for community consideration and comment we are concerned it does not allow sufficient time for genuine engagement. The question asked was if the time is to be so condensed then why do it at all? It appears the assumption is that this is only of interest to land owners. This is a new planning scheme and it was strongly felt that longer time was needed – particularly in the South where the formal statutory process for this wholly new scheme structure and content – much of it regional common provisions – is the key one for community input.
	Enable an *IPS may be amended* - • Repeal dispensation process • Enable Minister may direct IPS amendment under normal amendment pathway Repeal LUPAA Part 3 Division 1A Subdivision 4 Dispensation	While generally agreed on the basis of reducing differences and uncertainty, there were a number of questions and issues raised for consideration: • How is the Bill going to deal with all amendments? Currently there are differences. • It was suggested that all the dispensation provisions should be repealed and replaced with a single provision to support a consistency approach. • Transitional arrangements will be needed in relation to already granted dispensations.
	30J Report must be provided to TPC within 2 x months for end of public exhibition LUPAA 30J	It was felt this timeframe was too tight. It was particularly unrealistic if a joint 30J report is required. The question is asked as to whether a joint report is needed? (Some councils in the South have had to make the case for departing from regional common provisions anyway before they are declared). It was noted that the delay with the Northern and North-Western scheme process has been with the Tasmanian Planning Commission, not councils. The size and scope of the draft IPS is considerably greater than schemes

		have been in the past. 3 months is considered more reasonable for assessing and reporting on representations in this first statutory process (esp in Sth) involving template and regional model planning scheme provisions
	30J Report must include statement on whether representation is in relation to – • urgent and administrative matters; • matter that must be dealt with before 30N scheme declared; or • matter that can be dealt with after 30N scheme declared	While agreed in principle it was suggested this may be more complicated in practice and guidance would be needed to ensure it was approached in a consistent manner. At the very least, principles should be agreed by the Commission prior to commencing process and no second guessing should be allowed if this is to be effective.
	Hearings No requirement to finalise all matters LUPAA 30K	Agreed
	Hearings TPC is to categorise matters by whether – • urgent and administrative matters; • matter in relation to IPS that must be dealt with before 30N scheme declared; or • matter that can be dealt with after 30N scheme declared LUPAA 30 K	Agreed
	Hearings - TPC has discretion on whether to hold a hearing on a matter LUPAA 30K(1)(a)	Generally agreed for consistency to 30K(1)(c); and other planning scheme processes. However also noted that while this has worked reasonably well with planning scheme amendments, they are often very localised. The situation of a complete new planning scheme is different – those happy with certain provisions and not making representations would have no chance to be heard if a single individual make s a representation and a decision is taken not to have a hearing. This has the potential to deny due process/natural justice if imprudently exercised.
	Hearings - TPC may conduct regional hearings LUPAA 30K	It was noted this power already exists, especially in relation to joint 30J reports.
	Hearings - TPC must limit hearings to "thematic issues"	Agreed , but noted this has been tried previously and there is a level of uncertainty that it will deliver time savings estimated.
	Hearings - TPC may receive evidence and submissions and make determination on written submissions LUPAA 30K	In general there was support for greater reliance on written representation, noting this would appear to confirm power in Tasmanian Planning Commission Act 1997 s11(4). However a number of issues/questions were raised: • Only written and nothing else, or oral only if invited? • Does this mean there is no right to be heard – all at the discretion of the panel? • The focus should be on clarification rather than representation ? • How will this be implemented? • It might just shift where activity happens. • Some natural justice principles need to be addressed • Difficult to judge without draft Bill. • It may be difficult to deal with differing levels of expertise and skill. Maybe start with only genuinely minor amendments and

		have a fallback option of calling the parties in for a hearing on selected issues. • May have been better introduced in the context of current planning authority based schemes as opposed to template/regional based IPS and a future single planning scheme.
	Finalising IPS TPC must be "satisfied" final IPS complies with Act LUPAA 30N	Agreed
	Finalising IPS Minister may approve TPC to modify IPS and make 30N scheme to include – • urgent and administrative amendments; • non-translation matters if supported by all representation and agreed by TPC LUPAA 30N	While this would facilitate rapid completion of all IPS by avoiding modifications requiring further notification and public exhibition LG planners raised the following: • Shifting significant IPS issues to one side • No significant change to IPS as declared • If planning authority and representor agree, can make change but precludes ability of other parties to see that and object • Lacks clarity • Restrict non translational matters to non substantive matters? • Planning authority doesn't get to take a position on whether to support amendment or not.
	Finalising IPS Minister may approve TPC make 30N scheme and exclude matters that can subsequently be dealt with as an amendment under revised Division 2	No issues raised
	Finalising IPS Enable TPC to provide Minister with a consolidate 30L report on common provisions	Enables regional perspective on provisions common to all planning schemes
Amendment to a Planning Scheme	*Revise process under which to initiate amendment to a planning scheme currently in force* - • Planning authority initiated • Applicant initiated (including in combination with permit application) by owner or developer • Minister initiates/instructs TPC to correct IPS for "incorrect translation" from former scheme • Minister approves TPC to amend for unresolved issues from IPS hearing once 30N scheme • Minister instructs TPC to initiate administrative and urgent amendment • Minister approves TPC to instruct planning authority initiate an amendment Repeal *Part 3 Division 1A Subdivision 4 Dispensation* Modify *Part 3 Division 2 and 2A*	With the purpose of introducing a single, simplified, and consistent process in relation to making a change to the purpose or compliance requirements in a planning scheme currently in force, including an IPS this was largely agreed. It was felt that it could remove multiplicity and unnecessary variation in processes applying for the same outcome. The cautions were as follows: • Parties other than an owner or developer are excluded from initiating an amendment. Needs clarification that other parties not excluded. • There is a need to clarify under what circumstances a council can make amendment that is not consistent with whole (region). If provisions are shared, they must be included in process for examining change. A formal process is required so that common (state-wide) provisions can only be changed through a planning directive rather than scheme amendment. • Common local provisions should be determined by all relevant councils and LUPAA would first need to recognise those common provisions. • Will this encourage more proposed amendments than representations? • How are parallel processes of hearing representations submitted in respect of an interim planning scheme and those for proposed amendments to be fairly and equitably managed and also resourced?

	Revise categories of minor or urgent amendment Enable modification of a current planning scheme without need for notification, public exhibition, or hearing in a planning scheme currently in force, including an IPS if to - • correct an error • remove an anomaly • clarify or simplify a provision • make consistent to 20,21, 30E and 30EA • correct translation error • implement procedural change • achieve compliance to Act • achieve conformity to State Policy • achieve conformity to Planning Directive • remove inconsistency to Act • introduce purpose specified by Minister • introduce other prescribed purpose LUPAA 30IA 37	• It is agreed that this proposed amendment may remove multiplicity and unnecessary variation in processes applying for the same outcome. The requirement for the planning authority to agree to initiate an amendment is an important one. • In relation to a 'purpose specified' in a notice to the Minister it was felt there was risk related to the fact this would be very open ended and reliant on a Ministers' judgement that the public interest will not be prejudiced. • Clarification of the urgent PS amendments (criteria) is required. • Urgent amendments on translational errors should be allowed, but there is a need to differentiate between translational errors vs. representation on other grounds/political pressure. • Needs to ensure doesn't impact on agreed regional consistency. • The requirement for the planning authority to agree to initiate an amendment is an important one. • For a purpose specified in a notice to the Minister – very open ended and reliant on Ministers' judgement that the public interest will not be prejudiced.
	Scope of planning authority or applicant initiated amendment Modify *Part 3 Division 2 and 2A* for consistency to 30O provision	No comments
	Form of Application for amendment Introduce minimum application requirement in a form prescribed by TPC LUPAA 30S 32	No comments
	Further Information Introduce ability to make additional information request on an amendment application - • Establish 28 x day timeframe for additional information request • Introduce TPC review of additional information request Modify *Part 3 Division 2 and 2A*	This was supported but the following matters were raised: • The ability for TPC to review additional information requests is limited to process and not merit. Realistically most disputes in this regard relate to merit, rather than process and applicants may only enjoy a perceived rather than actual protection from unreasonable requests. • Does the application lapse if the request is not satisfied? • Is there a need for a stop clock provision – majority felt yes. The Act is proposed to provide commission with power to specify information required for scheme amendment, but need to be able to say application is not valid until that information is provided (clock doesn't start until then). • What happens if applicant doesn't respond to request for information – should be able to close the file on that application if nothing provided in 6 months, assuming appeal

		rights in place and not exercised.
	Initiate and certify draft amendment Introduce 42 x day timeframe within which to initiate, prepare, and certify applicant initiated draft amendment 32, 34, 35	• There was not consistent support for this amendment. Some councils were concerned that a single prescribed timeframe did not take into account the varying nature and scale of amendment requests as well as the time needed for actual signing and sealing. • Further it was noted that this proposal which includes applications for a combined amendment and planning application stands in stark contrast to the proposal for a permit to be in force up to six years. • If this is introduced a longer period is needed as well as a further 'clock stopping ' provision associated with request for additional further information sought by the planning authority. • Is there to be a timeframe to place amendments on exhibition after certification? • It was noted that the timelines suggested are the same as for discretionary planning applications (for example a house which needs a variation) but that proposals to amend a scheme will inevitably involve serious strategic and statutory considerations and unlike a permit application cannot be delegated to an officer for decision. They simply take more time to deal with and so therefore any prescribed timeframes must be reasonable and definitely no less than 60 days.
	Notification Not required for urgent and administrative amendment S37	No comments
	Public exhibition Not required for minor or urgent amendment Modify *Part 3 Division 2 and 2A*	No comments
	Public exhibition Establish fixed 28 x days public exhibition period Retain TPC may approve longer period if complex or significant amendment Modify *Part 3 Division 2 and 2A*	There were mixed views on this. A number of councils have reported that they have a default exhibition period of three weeks – some to align with council meeting cycle – and felt that prescribing a time added an unnecessary bureaucratic hurdle. They also noted that one size does not fit all. A longer timeframe may be appropriate in the face of known or likely significant community interest in a proposal. Standard timeframe for exhibition has risk, no flexibility for complex developments. If it sits with TPC to have discretion rather than a council, what is benefit of changing? How has this been an issue in past? Should rely on council's understanding of its community and likely concerns. Again the short time compared to potential 6 year permit was noted.
	Hearings • Provide TPC with discretion on whether	Councils sought clarification on why an applicant has a right to be heard while other parties may be excluded by TPC?

	to hold a hearing • Establish applicant must be heard if requested • Establish hearings may be conducted by written submissions	
	TPC Review Expand TPC intervention role on a scheme amendment to - • review process of planning authority in relation to a decision not to initiate a scheme amendment; and • assume role of planning authority if non-compliant to prescribed timeframe s34, 39	This was generally supported IF the discretion remains for the applicant/TPC to grant extra time.
	Finalising amendment • Minister's decision if urgent and administrative change • TPC decision if standard amendment	Agreed - except for Ministerial involvement in urgent and administrative amendments
	Transitional arrangements Enable completion of amendment to a former planning scheme/dispensation to an IPS commenced under a former process Modify *Part 3 Division 2 and 2A*	No comments.
Assessment Period for Permitted Use or Development	*Further Information* Reduce timeframe on request for further information to 14 days. S54	It is not clear in the paper whether this applies only to permitted use or development or all development applications? It is only supported if it is constrained to permitted use. For example, a 14 day request for additional information is insufficient for applications which have been referred to the Tasmanian Heritage Council. In practical terms this means 10 working days to administratively receive a application, create a file and assess for compliance and the need for further information. The number of permitted applications increases significantly under the interim planning schemes and there is a greater complexity of assessment. A practical compromise might be to differentiate between residential and non residential applications.
	Determination Require permit must be granted within 21 days S58	While some councils are meeting these timeframes, and some felt the adjustment was manageable, concern was raised in relation to potential new and more complex permitted development and was even questioned in relation to large multiunit developments that might be allowed under PD4.1. It was felt there was future risk and likely a need for greater staffing levels in councils to deal with such timeframes – particularly in a smaller council. There is little practical difference in the assessment timeframe for a permitted application compared to a discretionary one. The key time saving is in reviewing/reporting on any representations to Council. There is a key difference between permitted and exempt development. Generally permitted applications entail checking against a range of planning controls to verify it is indeed permitted and then to decide what permit conditions should be imposed. Those conditions may cover a range of design, management, environmental and engineering type considerations. Concern was also raised in relation to linkages with TasWater and their 14 day timeframe. There would appear to be a clear need to consequentially reduce those timeframes or require a certificate up front

		from TasWater. It was felt that if timeframes were to be reduced it must be confined to simple permitted use proposals. s58(2) of LUPAA needs to continue to allow for extension to be sought and agreed to. Finally it was noted that assessment timeframes in Tasmania are already significantly less that other States and it was felt there is no evidence to directly link current timeframe performance as having a bearing on that rate of development in Tasmania. One council suggested 28 days might be more appropriate, representing the time allowed for a discretionary application minus the advertising period. It has not been possible to canvas this suggestion with other councils.
Third Party Appeals	*Third Party Appeals* Introduce a $600 fee if appellant is not the applicant or an adjoining owner/occupier.	This proposed amendment is not supported. The following points are raised: • Assumes 3rd party appeals are "unreasonable" and suggests there is not much merit in their interest. • No evidence of massive impost from 3rd party appeals on permit outcomes or timeframes – RMPAT 2012/13 Annual Report indicates a decline in appeals in general. The TPC report that the proportion of total permit decisions appealed is 3.2%, of those 1% are third party appeals of which 0.2% are heard. This is only a few a year. • Introduces "standing" aligned to ownership or interest in land • Inconsistent with RMPS objectives for equitable and fair public involvement (eg Objective 1C- "to encourage public involvement in resource management and planning". • Assumption impact is primarily on adjoining land is inconsistent with RMPS objectives for sustainable development and LUPAA Schedule 1 planning process objectives. • Assumes appeal process can be separated from representation process • Implies representation is always negative • Creates preferred and secondary appellants • Disadvantages State agencies • Disadvantages landowner • Potentially corrupts impartiality • No examination of alternatives • Requires definition for "*adjoining*" – what about strata titles. Assumes greatest impact for adjoining owner – this is not always the case. • The risks and benefits of this vs other options do not appear to have been weighed. Other alternative approaches posited (to at least consider) included: o 2 stage appeal process with initial ruling on frivolous and vexatious. Current mediation is not sufficient. Need to be able to judge whether appeal is on applicable matter. o Awarding costs is a better and fairer mechanism. o Look at Qld Building Tribunal Model. o Fee levels separated by minor (say hearings of less than 2 hours) and major appeals (similar to VCAT). o Maintaining the higher fee for non-adjoining parties, only where the development is for residential purposes, but refunding if the appeal is successful. o Reforming the operation of the Tribunal so that there is a lesser emphasis on lawyers and experts and a greater responsibility for the Tribunal to use its own experiences to make judgements.

		• Councils do believe there may be a case for a higher fee where a developer of land has wilfully breached a permit. The ratepayer and applicants who follow due process (though fees) have to fund a council's costs of any appeals resulting from applications arising from compliance action (as well as the cost of that compliance action). Two examples of potential unfairness are provided: 1) Residents on the opposite side of the road to a major facility would be discouraged from appealing a development with very real impacts say through noise, illumination and traffic. 2) Residents one or more houses removed from a factory in a close-by industrial zone – where passing heavy traffic, noise and smell would be unreasonably impacted by a scaling up/intensification of that industry.
Extension of a Permit	*Duration of a Permit* • Allow extension of a LUPAA 57 or 58 permit for a further 2 x years to a maximum of 6 years without substantial commencement • Allow retrospective extension for a period of 6-months beyond initial (year 2) or second (year 4) expiry date S53	While not strongly averse to this amendment, councils noted that it seems to convey mixed messages – with the rush to complete the permit approval process and then extension of time to act upon it. It actually could encourage delay in the implementation of development. It would also promotes uncertainty in relation to surrounding properties. It was noted that substantial commencement time was probably more of an issue (see Victorian and Qld legislation). If it does ahead it is suggest that it link to a test that the zoning of the land has not significantly changed, particularly for the second 2 year extension. If it is accepted that the majority of applications take more than 2 years to substantially commence and option might be to amend s53(5)(a) to 4 years. Or alternatively, as planning schemes are supposed to be reviewed every 5 years –maybe a 3 year permit life with a single 2 year extension.
Minor Amendment of a Permit	*Change to a permit* Modifies process for minor amendment to all elements in a permit if – • the planning authority has granted the permit; or • the RMPAT has granted or modified a permit s56	Agreed – provided there is compliance to the planning scheme in force at date of the modification. Some councils suggested it could go further so that LUPAA provides for minor amendments that whilst not being generally in accordance with the planning permit are so minor as to not warrant notification; as well as amendments that do warrant notification but with the scope of assessment limited only to the amendment. It is considered that the current scope of minor amendment under LUPAA is sufficiently restricted to the extent that the notification processes are unnecessary. It is also noted that the applicant for a minor amendment has no right of appeal - yet adjoining owners do even where they were not the original adjoining owner. There was not support for a notification of amendment – and it was not clear if that is the intent. There is a need to be clear on what can be dealt with as a minor amendment.
Digital On-line Planning Process	*Copy Right and Indemnity Protection* Indemnify Crown, councils, and licensed users (?) against any claim or action in relation to breach of copyright from use of data provided online	The amendment wording is needed to properly scrutinise this proposal. The discussion paper mentions protection for copyright and indemnity for councils. Is that also including matters in relation to out of date or incorrect online material or only protecting copyright issues? The Local Government sector was unclear where Federal copyright law interfaced.

		It was noted that the Planning Scheme Online project has potentially significant advantages to the reform process and should not be impeded by legislative provisions.
Local Government (Building and Miscellaneous Provisions) Act	*Subdivision* Enable a planning scheme may - • establish a permitted pathway for a subdivision application • include requirements for subdivision LG(BMP)A 84, 85	It was agreed that this was long overdue and strong in principle support but with the proviso it needs to be done well. The wider issues in LGBMP are difficult to address through a series of permitted acceptable solutions as a consequence of anything but minor subdivision being unlikely to have permitted status. It is imperative that amendments to LGBMP and any related ones to LUPAA do not occur without careful consideration including an audit of interim planning schemes to ensure that there are not serious omissions or conflicts with other related legislation that result in an inadequate building estate/subdivision statutory planning framework. Some issues in LGBMP go beyond municipal boundaries – the subdivision process more than a sum of a series of individual standards – the wider issues will need to be addressed – eg services and access, dedication of land for public purpose, provision of road widening, deviation of roads and ways, provision of public open space, draining, security for the execution of works and provision of easements and preparation of title documents. This temporary act has been around a long time and some councils suggested priority should be given to repealing LGBMP and incorporating relevant provisions into LUPPA together with provisions for creating strata schemes. LGAT notes however that LGBMP also contained Local Government Long Service Provisions which would need to be incorporated into the Local Government Act should the whole Act be repealed.