

8 September 2022

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001

Via email: yoursay.planning@dpac.tas.gov.au

Dear Brian

State Planning Provisions Review – Scoping Paper

Thank you for the opportunity to provide comment on the Scoping Paper for the State Planning Provisions (SPPs) Review.

The Local Government Association of Tasmania (LGAT) is incorporated under the *Local Government Act 1993* and is the representative body and advocate for local government in Tasmania. We have consulted our members to inform this submission. Councils may also make direct submissions to this process to reflect their particular experience. Any omission of their issues in this submission should not be viewed as lack of support by LGAT for those specific issues.

Please contact Michael Edrich, Senior Policy Officer, if you have any questions or would like further information at michael.edrich@lgat.tas.gov.au or (03) 6146 3740.

Yours sincerely



Dion Lester
CHIEF EXECUTIVE OFFICER

Introduction

LGAT has consulted its members on the State Planning Provisions Review Scoping Paper through meetings and written submissions. We received feedback from the majority of our 29 member councils. These were evenly split between councils already operating on the Tasmanian Planning Scheme (TPS) with working experience of the State Planning Provisions (SPPs), and those soon to transition to the TPS, who will be considering the impending operating environment presented by the SPPs.

Councils provided a wide variety of considerations for the SPPs Review. These range from opinions on the review scope through to specific detail on issues they are experiencing (or anticipate) with the SPPs.

The key points from the council feedback were:

1. to consider a limited SPPs Review now to focus on strategic reforms
2. separate discrete SPPs Review projects are practical and supported
3. major issues for review in priority order:
 - a. critical operational issues
 - b. infrastructure contributions
 - c. stormwater code
 - d. emerging economic opportunities requiring recognition.

Streamline SPPs Review Now – Focus on Strategic Reforms

All parts of the planning system and the current reforms are important, however we would recommend this review of the SPPs is limited and streamlined. This would allow resources to be focused on the strategic level components of the planning system. Councils are eager to have in place the strategic guidance to support the implementation of the planning system. While recognising the importance of both the Tasmanian Planning Policies (TPPs) and the Regional Land Use Strategies (RLUSs), refreshing the RLUSs is urgent due to their statutory effect of constraining land supply and the need to address development demands, in particular housing.

Councils have noted the substantial, concurrent work required with the suite of Planning Reform programs, the TPPs, RLUSs, and the SPPs, for the Tasmanian Government and councils. This is at the same time as unprecedented development assessment workloads, the generational-scale Future of Local Government Review, local government elections and commencement of new councillors in November. Planners

are under pressure to contribute to these competing demands and continuing to deliver a quality, timely service.

The timing of the SPPs Review means that work is on the tactical, rather than the more strategic. We would suggest a better sequencing to facilitate logical information flow is from the strategic to the tactical, first the TPPs, then RLUSs, and then lastly SPPs. Recognising that this may not be practical, limiting the current SPPs Review to the more critical components and urgent changes can allow resourcing to be focused on the strategic documents.

How to limit scope?

Limiting the scope of review involves trade-offs but we would suggest focussing on the following items:

1. critical or urgent operational needs for planning authorities
2. consistent with, or supported by, existing policy or powers
3. where the forthcoming policy basis can be reasonably predicted and catered for.

From that, items can be triaged according to the pathways shown in the Phase 2 Planning Reforms Work Program flowchart¹, specifically:

1. **Minor SPPs amendments.** This is applicable only to items meeting the criteria of section 30NA of the *Land Use Planning and Approvals Act 1993* (LUPAA).
2. **Short term SPP amendments as separate projects.** Separating the SPPs Review work program into discrete projects is sensible and responsive to need. These should be prioritised accordingly, as discussed below.

Then deprioritised items could be picked up after priority items are resolved, such as during the final review for consistency with the TPPs.

Priority matters for SPPs Review

We have previously identified in our submission to the Scope of the TPPs a number of key policy areas of concern to councils. Climate change remains a leading and intensifying concern. However, climate change is complex and relies on a sound policy basis so, despite its significance, it may need to be treated after the TPPs are published, albeit swiftly.

Likewise, housing supply is a major problem across most or all council areas, but considerations of supply are strategic allocation matters, outside the scope of the SPPs Review.

¹ See: <https://planningreform.tas.gov.au/planning-reforms-and-reviews>

Reviewing feedback from our members indicates that the following areas of work should be prioritised by the SPPs Review:

1. a detailed review of the critical operational issues that councils are experiencing with the SPPs
2. infrastructure contributions
3. stormwater management
4. emerging economic opportunities requiring recognition.

Critical operational issues

Maintaining optimal operation of the TPS is vital for councils, so identifying and addressing the various critical operational issues that councils experience needs to be a very high priority. Councils are best placed to advise on these, so we recommend close engagement with statutory planners to identify and resolve them.

Infrastructure Contributions

Tasmania is the only Australian state without a framework for local government infrastructure contributions embedded in state legislation. This is a serious gap and hinders Tasmania's ability to cater for growth.

We have published an Infrastructure Contributions Discussion Paper² containing ten recommendations for implementing a complete and mature infrastructure contributions framework for Tasmania. While a complete solution requires legislation changes and supporting materials, there are opportunities to improve the SPPs without legislative amendments, to achieve better support for current contributions schemes and to set up conditions for the development of a legislative framework. The SPPs can assist to facilitate contributions to infrastructure that support development, as planning schemes do in other states.

Improvements to the SPPs should explore supporting the application of intermediate (financial offsets to standards) and, ideally, advanced (general charging) mechanisms.

Stormwater Code

The SPPs lack a stormwater code, an issue identified by councils and the Tasmanian Planning Commission during their drafting in 2016. The SPPs Review is the opportunity to correct that.

² See: <https://www.lgat.tas.gov.au/media-and-publications/reports-and-submissions>

A reported reason that a stormwater code was never implemented was that agreement between councils on the detail of provisions could not be achieved. Unfortunately, this has left a regulatory gap and disadvantaged councils that want to take the lead on achieving best practice stormwater quality and quantity management. This is a problem common to broadscale application of regulations, rather than building best practice first.

Our proposed resolution would support councils in finding their own pathway to best practice. A stormwater code be developed and implemented that empowers councils to act on stormwater. Rather than being prescriptive, the code should be general and leave the detail for councils to determine through policy, in line with the State Policy on Water Quality Management. This way councils can each develop their own pathway to best practice at a pace suitable for their communities.

Consistency in application can be built through guidance documents, some that are already developed. In particular, the *Tasmanian Stormwater Policy Guidance and Standards for Development*³ that we developed in partnership with councils, the Derwent Estuary Program and NRM North. This document would support this role and allows councils to set their standards that they may apply through a generalised stormwater code in the SPPs.

A stormwater code in the SPPs should seek to improve alignment between councils' obligations and powers as stormwater service providers under the *Urban Drainage Act 2013* and the TPS. With a code, the TPS can provide transparency for developers by providing more upfront awareness of stormwater requirements.

A stormwater code should look to:

- Provide councils with the power to refuse development proposals with poor stormwater design or unacceptable stormwater impacts.
- Provide councils with equivalent regulatory powers in both urban and non-urban areas.
- Improve appeal defence and certainty in regulating stormwater in development.
- Refer to a council stormwater policy for the stormwater standards adopted by the council.

³ See: <https://www.lgat.tas.gov.au/member-services/engineering-local-government-standards-and-guidelines>

Emerging economic opportunities requiring recognition:

A number of specific land uses were identified by councils that are poorly provided for in the SPPs. These are relatively newer land uses that represent emerging economic opportunities for Tasmania, such as:

- agritourism
- microbreweries
- micro-distilleries
- bespoke tourism opportunities, such as small-scale events on rural landscape land in a variety of zones.

These uses tend to be more novel in their approach, often of a smaller and lower impact scale than their precursor land uses that were often of an industrial scale and impact. Our planning instruments must keep up with innovation in land use trends and designs to support Tasmania's economy, managing their impacts and finding ways to facilitate harmonious integration into our communities and economies. We recommend that a stream of the SPPs Review work focus on this suite of novel land uses with a view to enable the efficient regulation and approvals.