Local Government Association Tasmania

Our Ref: ME:CA

5 February 2021

Mr Brian Risby
Director Planning Policy
Department of Justice
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HOBART 7001

Via email: planning.unit@justice.tas.gov.au

Dear Brian

**Submission on Draft *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Bill 2020* and *Housing Land Supply Amendment Bill 2020***

Thank you for the opportunity to comment on the draft *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Bill 2020* and *Housing Land Supply Amendment Bill 2020*. We appreciate and commend the Department of Justice for providing an appropriate timeframe for preparing a submission, allowing for time over the end-of-year break and for councils to consider the amendments proposed.

The Local Government Association of Tasmania (LGAT) consulted its member councils and received one formal response from Glenorchy City Council (which was also submitted directly to your Department) and a small number of informal comments. This is a relatively low response rate, which can sometimes indicate insufficient time for review and position development, but given the ample timeframe provided in this instance we believe this is an indication that objections to the proposals are generally low.

**Overall Comments**

The comments received by LGAT demonstrate that, broadly speaking, concerns on both of the amendment bills were low and at least one council felt that the amendments were reasonable and did not warrant formal submission. This is especially the case for the draft *Housing Land Supply Amendment Bill 2020*, where no concerns were received. Most aspects of the draft *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Bill 2020* were supported, with concerns focused on specific components, discussed below.

**Plain English legislation and public accessibility to the planning system**

By far the most common concern received from the planning professionals within councils is overly complicated and complex language, structure and mechanisms.

There is a strong sense from councils that the legislation need not be this complex. Combined with the absence of a public facing simple summary of our planning system, this creates a needless barrier to public understanding of and involvement in the planning system. This then can result in unnecessary public conflict as people avoid engaging in planning at the plan development stage and instead can become agitated at a later date when developments are proposed or approved in line with established planning instruments. It also often contributes discord between council planners and the members of the public they serve as they struggle to interpret what the legislation means. It is also detrimental to public compliance with the Act, as non-professionals struggle to interpret what their requirements are.

This is a long-standing issue with the *Land Use Planning and Approvals Act 1993* (LUPAA) and we feel it is important for the Department to be reminded of this. It goes without saying that councils understand the need for the legislation to be legally robust, but the lack of plain English language employed continually creates problems in interpretation and implementation at the professional-public interface.

Indeed, revising the Act to be more legible and usable for professionals and communities alike would be a valuable piece of work for Tasmanians. Leaving aside whole revision, future proposed amendments such as this should include as one of their objectives the improvement of the language of the sections that they amend as there are substantial public benefits in making the legislation (and ultimately Tasmania's planning system) more accessible to the general public, specifically non-planning and legal professionals. Failing this, it is imperative that a plain English, publicly accessible resource is created to outline the key elements of our planning system for the non-professionals.

**Other issues**

LGAT supports the direct submissions of councils made to the Tasmanian Government. We note two points in particular.

There are concerns that the proposed changes to section 51 – Permits could lead to planning permit decisions being based on provisions in a proposed amendment that are still on public exhibition or yet to be determined. Planning permit decisions should be based on planning instruments in effect at the time of lodgement, or at least certainly fully in effect at the time of the decision.

The proposal to implement certain State Planning Provisions through interim planning schemes (IPS) is not supported by some councils, particularly those still operating under their IPS, as certain conflicts between the SPPs and IPSs will be suddenly overridden by the SPPs without sufficient public consultation at the local level. This is likely to create significant confusion and angst for communities and the council officers who will need to explain this to concerned members of the public.

**Summary**

Again, thank you for the opportunity to provide feedback from the Local Government sector, and especially for the timeframe allowed for analysis of and feedback on complex legislation. From the feedback received it can be demonstrated that there no objections to the general intent of the amendment package, but we urge consideration of the specific points raised above as well as the direct submissions made by councils.

Yours sincerely

Dion Lester
**CHIEF EXECUTIVE OFFICER**