

2 August 2023

Tasmanian Planning Commission
GPO Box 1691
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Via email: tpc@planning.tas.gov.au

Dear recipient,

Draft Tasmanian Planning Policies - Tasmanian Planning Commission Review

Thank you for the opportunity to provide a submission on the Draft Tasmanian Planning Policies (TPPs) for the Tasmanian Planning Commission's review and report to the Minister of Planning under section 12F of the *Land Use Planning and Approvals Act 1993* (LUPAA; the Act). This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government in collaboration with our members; all 29 councils.

LGAT is incorporated under the *Local Government Act 1993* and is the representative body and advocate for local government in Tasmania. Where a council has made a direct submission to this process, any omission of specific comments made by that council in this submission should not be viewed as lack of support by LGAT for that specific issue.

Our review of the Draft TPPs reveals unresolved issues that impact their performance in meeting the TPP criteria.

Please contact Michael Edrich 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

LGAT Submission: Draft Tasmanian Planning Policies – Tasmanian Planning Commission Review

Introduction

We undertook close consultation with all 29 Tasmanian councils, with a high response rate. This included a well-attended workshop with local government planning professionals to inform our response to the draft Tasmanian Planning Policies (TPPs). Interest in the TPPs from local government is extremely high, and councils have been calling for the development of them to fill the policy gap at the heart of Tasmania's planning system [since at least 2018](#).

Development in Tasmania has suffered from very limited policy and strategic guidance material to inform development regulation and support a functional planning framework. This gap creates a significant uncertainty that councils must navigate to achieve their communities' objectives, and that development proponents must navigate to achieve their individual goals. For councils, complete and functional TPPs may be the most important piece of planning reform for over a decade.

There are number of things the current TPPs do correctly and well. Councils strongly support the Tasmanian Government's efforts to fill the critical policy and strategic gap in our planning system, notwithstanding critiques of some elements.

However, our consultation work strongly suggests that a majority of councils are of the view that the current TPPs are not yet fit for purpose and anticipate significant implementation problems in their plan making work and in meeting their communities' development aspirations with the TPPs as drafted. As such, the TPPs need more work before they should be considered meeting the TPP criteria and the Objectives of the Resource Management and Planning System of Tasmania.

There are some councils of the view that the TPPs are good enough to proceed, subject to minor amendments, given the critical need for state planning policies now. We acknowledge this perspective, but the majority of councils are telling us that they are not acceptable in their current form.

The finalised TPPs will have a profound effect throughout the planning system. They will flow through to all the concurrent planning reforms, setting the framework for the Regional Land Use Strategies (RLUSs) updates, the State Planning Provisions (SPPs) Review and changes to council's Local Provisions Schedules. Overlooking current drafting errors in the TPPs and allowing them to flow through the system and the current reform work will generate yet more changes and reform work to resolve.

Given this, it is prudent to invest maximum efforts in getting the TPPs right now, to minimise the impact of errors on the dependent components of the planning system and on planning in Tasmania.

This is the first time Tasmania has attempted anything like the TPPs, a comprehensive suite of policies on development and planning for the state. We do not yet have a clear picture of how they will operate to best effect and efficiency. Developing our proficiency in this will take some devoted effort to achieve through iteration and continual improvement.

General Issues

Clarify functional role and effect of TPPs

The key purpose of the TPPs is not only to express Tasmanian Government policy in how Tasmania develops, but to clearly guide plan-making that will achieve this policy intent by informing how development plans are prepared, as described in Figure 1 below.

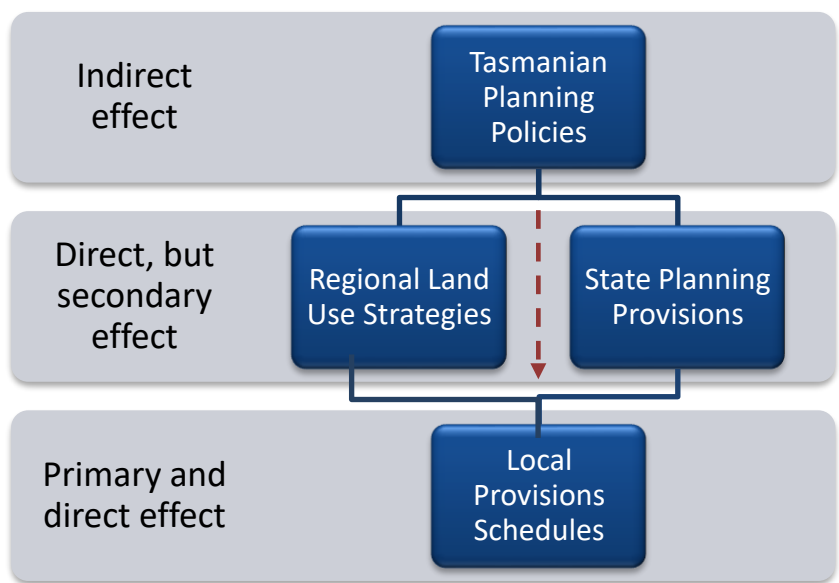


Figure 1. Relationship between planning instruments

To achieve this purpose the TPPs need to be written as clearly and efficiently as possible. They need to provide a clear pathway for the preparation and approval of plans and plan amendments. For efficiency, they need to be drafted in a way to make it clear when plans (or amendments) are unlikely to be approved, to help prevent wasted efforts in amendment applications, and optimise their success rate.

The current drafting of the TPPs is imprecise in a number of areas. The applicability of some statements and policies are too general and broad. This puts the onus of plan development to find ways to demonstrate why a statement or policy may be relevant or should not apply.

The drafting should be reviewed to tighten up language, improve precision of intent, remove non-functional statements, and be practical and effective. The review should look at each section and policy statement, asking the following questions:

1. What will this statement mean for plan-making? For RLUSs, for SPPs, for LPSs?
2. What is the effect of the statement in regulating development?
3. What will the plan maker need to do to comply, and is this practical and reasonable?
4. Does this statement enable and clarify local plan making, or make it ambiguous and uncertain?

These are matters of a technical nature relevant to the application of the TPPs to its subordinate statutory planning instruments, pursuant to section 12F(2)(c).

These are matters we raised in previous submissions (see attached). It is disappointing that this input has not been considered to integrate State development policy generation with local planning implementation. This consideration is part of the LUPAA Schedule 1 Objectives, in particular:

- The sharing of responsibility between the different spheres of Government – Schedule 1, Part 1, section 1(e).
- To require co-ordinated strategic planning by State and local government – Schedule 1, Part 2(a).
- To require land use and development planning and policy to be easily integrated with various policies at State, regional and municipal levels; and – Schedule 1, Part 2(d).

Overall objective – managing growth and change

Development is about change. This can be change occurring to us, such as population growth, or our response to circumstances or change itself. Development is a response to change, allowing us to adapt, but it also represents change for local communities.

However, change can be very challenging for some people and some communities. The TPPs need to be written and designed to facilitate local planning to appropriately deal with change. We believe this requires a more consciously acknowledgment of change and the importance of development in allowing planning to help communities manage change. The TPPs can do more to address this issue and elevate the issue of change to help facilitate good plan making. This would also better align the TPPs with the Schedule 1 objectives around fair, orderly and sustainable use and encourage public involvement in resource management and planning.

Specific Issues

Settlement policy – deflates regionalisation aspirations

Councils hold concerns for the draft Settlement Policy, as it appears to be an impediment to regionalisation goals and the development of smaller settlements.

For example, at 1.1.3(4) the draft Policy seeks to “*prioritise growth of settlements that are within the higher tiers of the settlement hierarchy*”. This appears to run counter to the development aspirations of many smaller communities across Tasmania. Other related studies and strategies have reported on the opportunity that exists both for the regions to grow and the ability of the regions to accommodate the growth we are experiencing.

Instead, the Settlement Policy should outline criteria by which settlements are identified for growth, not merely for their existing characteristics but for their potential for development to accommodate growth and deliver unique, Tasmanian lifestyle opportunities.

The Policy needs improved definition and description around settlement challenges to enable the good outcomes, such as describing where development should be located. The Policy also does not properly distinguish between different types, or broad categories, of development. For example, the intent of the Policy might be to discourage incremental accretion of isolated, site-by-site rezonings, such as under Part 3B of the Act, without a broader and coherent strategic planning intent to back them up.

Indeed, the TPPs could better express the methodology and process of settlement planning it intends. That is, the rigour it seeks when geographically determining locations for growth and development.

Nevertheless, this Draft Policy is perceived as a threat to the growth and continued viability of many settlements across Tasmania and their communities, particularly smaller settlements or even those living in the vicinity of a larger settlement or city.

Developing such an important and underpinning strategy needs to be done with much greater integration with stakeholders, particularly with political representatives, technical experts and the community to reflect their aspirations.

Further attention is needed to consider how this Policy helps Tasmania meet its Schedule 1 objectives.

Infill Development

The TPPs need to be improved to properly support infill development. For example, all discussion of regulatory supply is stated in terms of land, such as “land release” and “land supply” (see pages 10, 11, 13, 16, 41, 42). This implies and favours geographic expansion and fringe greenfield, rather than consolidation and infill, and will affect plan-making decisions. The language should instead refer to release or supply of “development capacity”, which is neutral to infill or greenfield development.

Indeed, infill has been very challenging for Tasmania to fully achieve and optimise, so an infill section within the Settlement Policy would help to support this. This is particularly important with TPPs that seek to implement settlement or urban growth boundaries.

Drafting such a section should draw heavily from the Department of State Growth’s [*Toward Infill Housing Development Report*](#)¹ and seek to further its recommendations in planning policy.

Infrastructure contributions – critical to support sustainable development

Infrastructure contributions are a fundamental tool for helping to deliver infrastructure to support development and place-making. Infrastructure contributions help to activate development and achieve our land use planning objectives. It does this by fairly distributing the cost of the infrastructure networks and upgrades needed to accommodate growth between development proponents, as the primary beneficiaries of the infrastructure, to allow them to proceed with their developments in a fair, orderly and sequenced manner.

Many of the statements related to infrastructure throughout the TPPs refer to maximising use of “...available capacity...” within existing infrastructure. This approach consumes infrastructure network capacity without equitably distributing the cost and creates the conditions for the first mover problem. In this case development halts due to proponents waiting for a competitor developer to upgrade the infrastructure that they will then rely upon for free.

Tasmania lacks a coherent and integrated system for fairly distributing the cost and demand that new development imposes on infrastructure networks. The TPPs are an opportunity to start building the effective system that we need to underpin our land use planning framework and achieve local community and state development and LUPAA Schedule 1 objectives.

¹ Available at this page: https://www.stategrowth.tas.gov.au/policies_and_strategies/populationstrategy

This is a gap that the Tasmanian Government must address. Development is not sustainable without a robust, best practice infrastructure contributions regime, and this is why contributions schemes are so common and growing in other states. To read more on the topic, please see [LGAT's Infrastructure Contributions Discussion Paper](#)².

Recommendations for the TPC

We have been urging close engagement with local government in the development of the TPPs from the very initial outset of work. Unfortunately, engagement has been insufficient resulting in TPPs with a number of issues that will impact local government when it comes to plan-making and the State in achieving its development objectives. We do acknowledge the attempts to ameliorate, but these were late in the process and resulted in minimal amendments.

It is our view that the best course of action is for the TPC to recommend more work on the TPPs. The most important issues to resolve are:

1. Settlement Policy – drawing on closer consultation with local government, refine to:
 - resolve a position on regionalisation goals that are consistent within the Tasmanian Government policy aims, and preferably between State and local government
 - include consideration of infill development to reflect the recommendations of the *Toward Infill Housing Development Report*.
2. Infrastructure contributions – review to:
 - set sustainable infrastructure funding principles
 - properly support best practice local government infrastructure contributions regimes to activate development.
3. Improve TPPs functional role and practical effect – review to make plan-making clearer and more certain by removing ambiguous and impractical statements and clarifying the applicability of statements and policies to matters and circumstances.
4. Anticipate change – review to support and set the stage for better adaptive responses and change management.

² Available here: <https://www.lgat.tas.gov.au/lgat-advocacy/reports-and-submissions>