The Environment Association (TEA) Inc

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15th May 2017

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Feedback on the exposure draft Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 and other related or germane matters to Land Use Planning Policy Reform and Policy Development.

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DRAFT

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TEA's Position Regarding The Bill in General Terms

TEA has repeatedly called for planning schemes and templates to be underpinned by a comprehensive suite of land use policies. It is obviously very poor planning to not have a rigorous and comprehensive set of land use policies underpinning strategies, templates and schemes in Tasmania. This current attempt does not even meet the standards of the Planning Institute of Australia.

Regarding the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 (LUPAA-TPP Bill) and after considering both the Bill itself, the two explanatory documents and the example policies and bearing in mind our familiarity with State Polices under the State Polices and Projects Act (1993) we have come to a position over the LUPAA-TPP Bill:- The Environment Association (TEA) Inc. does not have any confidence in the LUPAA-TPP Bill, as a vehicle for the development of sound land use policies in accord with the RMPS's LUPAA Schedule 1 objectives for Tasmania.

TEA does not consider the LUPAA-TPP Bill to be useful or as good a legislation as the existing policy legislation, the State Polices and Projects Act within the RMPS. We explain further about this aspect later in our representation.

The State Policies and Projects Act 1993 already provides a rigorous process for developing State Policies and achieving consistency on matters of State Significance. We discuss this in our representation, as it is obviously a relevant consideration for the Parliament.

Further TEA is not convinced we need a second level or tier of Policy for the land use planning system in Tasmania. No adequate reason has been given to justify such a convoluted policy structure.

TEA has long advocated for a suite of land use policies and we see no reason for the avoidance of using the already legislated State Policies mechanism of the RMPS.

TEA is not convinced the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 will provide a platform for ensuring that Tasmanian Planning Policies have the power to withstand appeal over the wide range of land use planning matters, some social, some environmental, that should be considered in a Policy framework. We seek the legal advice the Government obtained over this draft Bill in this regard.

TEA has significant probity concerns regarding the nature of this current consultation in particular and the so-called planning reform process in general.

There would appear to be no penalties for non-compliance with a Tasmanian Planning Policy.

There are, very concerningly, inadequate rights of appeal and civil enforcement associated with the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017.

Introductory Background and Observations

The Tasmanian Government is currently seeking feedback on an exposure draft of the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017.

It is described by two Dept of Justice (DoJ) Papers, which ostensibly outlines various matters and a third document, a copy of the draft Bill, drafted in the Office of Parliamentary Counsel.

1. 'Tasmanian Planning Policies EXPLANATORY DOCUMENT A paper to accompany the draft Tasmanian Planning Policies for consultation purposes April 2017' by Department of Justice.

2. 'Planning Policies OVERVIEW AND SUITE OF POLICIES CONSULTATION DRAFT' by Department of Justice. It is undated but seemingly also April 2017.

3. 'LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING POLICIES) BILL 2017' Drafted in the Office of Parliamentary Counsel TASMANIA

The Explanatory Document states:

> *"This Paper provides an overview of the development and content of the draft Tasmanian Planning Policies.*
>
> *The Paper has been prepared by the Tasmanian Government for consultation on the draft Tasmanian Planning Policies.*
>
> *Submissions in relation to this Paper and the draft Tasmanian Planning Policies may be provided to:*
>
> *planning.unit@justice.tas.gov.au; or*
>
> *Manager, Planning Policy Unit*
>
> *Department of Justice*
>
> *GPO Box 825 Hobart 7001*
>
> *The closing date for submissions is Monday 15 May 2017."*

And on page 3

> "Consultation process
>
> *The Government is seeking views on the proposed content of the new Tasmanian Planning Policies. The consultation process will be managed by the Department of Justice in collaboration with other state agencies represented on the State Policies Interdepartmental Committee (SPIDC), which has overseen the preparation of the draft Tasmanian Planning Policies."*

The 'Overview and suite of policies consultation draft' document states:

> "The Tasmanian Planning Policies provide a comprehensive suite of policy *objectives and strategies for how state interests should be considered in land use* planning.
>
> The policies provide strategic direction to assist the State and local government in *undertaking land use planning in relation to these matters and will inform a range of* planning instruments.
>
> *The policies were developed with reference to relevant State legislation, policies and* strategies and aim to support the application of these to the planning system.
>
> *A new legislative mechanism is proposed to be introduced for the Tasmanian* Planning Policies to be made under the Land Use Planning and Approvals Act 1993.
>
> *The policies have been prepared to be consistent with State Policies made under the* State Policies and Projects Act 1993 and seek to further the objectives of the planning system in Tasmania, which are set out in Schedule 1 of the Land Use Planning and Approvals Act 1993."

The Department of Justice website states:

> "Planning Amendments Bill

The Government is seeking your feedback on several amendments that will help plan *for Tasmania's future land use needs.*

Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill *2017*

The Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) *Bill 2017 introduces several updates to the Land Use Planning and Approvals Act 1993, including:*

- *establishing the mechanism to create Tasmanian Planning Policies (TPPs)* that will provide strategic direction on land use planning;
- ensuring that the TPPs are consistent with state policies;
- ensuring regional land use strategies are in line with the TPPs; and
- ensuring planning controls – both the State Planning Provisions and the *Local Provisions Schedules – are consistent with the TPPs.*

Feedback from local government and other stakeholders has indicated that these amendments will address widely recognised gaps in the current planning system.

Now we're asking you to have your say on the amendments.

Download the draft Land Use Planning and Approvals Amendment (Tasmanian *Planning Policies) Bill 2017 (pdf, 378.6 KB)*

Additional documents

We have provided these examples only to aid in your review of the draft bill. They are not intended for consultation at this time.

- Draft Tasmanian Planning Policies (pdf, 330.0 KB)
- Tasmanian Planning Policies - explanatory document (pdf, 336.4 KB)

Comment period

Please send your comments on the draft bill to the Department of Justice by Monday, 15 May 2017. Email submissions are preferred.

If you wish your submission to be treated as confidential please clearly mark it as 'confidential'."

The Paper has, it says, been prepared by the Government for consultation purposes with local government, stakeholders and the Tasmanian community on the proposed model, and accompanies the draft Exposure Land Use Planning and Approvals (Tasmanian Planning Scheme) Amendment Bill 2015.

TEA considers this Position Paper and the other documents are not sufficient to describe the overall proposed reforms within both the RMPS in general and within the LUPAA Amendment Bill and not sufficient to consider the impacts of those proposed reforms, under current reform process on the RMPS, nor even under the current Land Use Planning And Approvals (LUPAA) (Tasmanian Planning Policies) Amendment Bill.

We maintain the DoJ Position Paper does not even describe all the proposed changes covered within the Amendment Bill 2015. Nor has a tracked changes version of The Bill been provided in the spirit of an adequate consultation with the Tasmanian community. There is a range of other deficiencies as described further on.

The Faulty and Deficient DoJ Consultation re the Draft Bill

TEA strongly considers there has not been an adequate description or consultation over the whole of the so-called planning reforms process and indeed, we are critical of the poor quality and limited extent of consultation to date. It is an anthema to sound governance and in

is breach of a range of standards and agreements. It does not measure up to the PIA's guidance on public consultation either.

Currently we perceive that the Planning Policy Unit, Office of Strategic Legislation and Policy in the Department of Justice has proposed and is conducting this consultation over a program of Policies which the Planning Policy Unit itself has carriage of, is managing and intends to administer.

TEA questions whether the Bill itself and the consultation actually have the probity to meet the Tasmanian Resource Management Planning System (RMPS) objectives. We contend it does not. Specifically in regards to the consultation aspects PART 1 - Objectives of the Resource Management and Planning System of Tasmania 1(c) *"to encourage public involvement in resource management and planning;"* and *"to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;"*.

Why isn't there an analysis of overall performance with the design of the planning system being described and indeed fully considered as a part of the redesign process? TEA considers it highly inadequate that no preliminary background paper setting out an overall plan has been developed for the public.

Indeed TEA claims there is no adequate description of the far reaching nature and covert proposal for a redistribution of power, including the intended demise - ipso facto, of State Policies planning in Tasmania from the Tasmanian Parliament. Given the potential far reaching impact of the Policy changes (we cannot describe them as reforms) one would have thought a greater degree of sound management planning would have been applied to the project.

Public comments on the draft Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 to the Department of Justice are due by Monday, 15 May 2017. This whole notion of public consultation on legislative change of this magnitude for only three weeks on such a far reaching change is complete nonsense and massively inadequate.

The Government claims that The Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 would provide strategic direction on land use planning to the Land Use Planning and Approvals Act 1993. Again we dispute this draft Bill would: *"to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;"*.

Yes, we agree: This draft Bill proposes to introduce a suite (several) of Tasmanian Planning Policies (TPPs) as one statutory document. TEA is not supportive of this approach, if the "examples" which have been given are what is envisaged. There is indeed little guidance in the Bill as to what sort of Policies would be created, how they would be created, their scope and the amount of detail which would be expected to provide sufficient Policy basis to act as a conduit between the Objectives in Schedule 1 and both the existing Regional Strategies and any Scheme which may be created.

The Bill claims to ensure that the TPPs would be consistent with existing State Policies, (under the existing State Policies and Projects Act) but does not explain the arcane overlap exampled in the consultation document.

Further, the aim would appear to ensure the three existing Regional Land Use Strategies would conform to the Tasmanian Planning Policies which would also themselves conform with the State Policies. The Regional Land Use Strategies of course, are limited to dealing

with the Local Provisions Schedules of the 29 Council based planning schemes under the mantra of the Tasmanian Planning Scheme and the State Planning Provisions.

The limited number of State Policies has been an identified failure of the RMPS since at least 1997. See The Edwards Report. Governments could have introduced more State Polices and indeed revised this legislation in about 2009, but then did not use it for creating new Policies.

If the draft Bill were successful, then at some stage thereafter the Government may decide to introduce the TPPs and only may ensure planning controls – both the State Planning Provisions and the Local Provisions Schedules – are consistent with the TPPs. It may then be that during the current Local Provisions Process to the Tasmanian Planning Scheme the State's land use policies would actually change and along with them the RLUS would be revised and then the Local Provision's work (by LG and community) would have to be revised and redone again, apparently at some 5 year cycle. This in itself is a shambles. It would seem the pathway for introduction of TPPs should be reconsidered. The amount of discretion should be reduced.

It (the draft Bill) is tantamount to an admission regarding the failure of this Liberal Government to construct the new Tasmanian Planning Scheme on a firm and well thought out policy basis.

Now one may be wondering the reason for the need to introduce a second lot of Land Use Policy legislation, because the state's planning system, the RMPS, has long had good, sound, state land use policy legislation – The State Policies and Projects Act.

In a fit of making it "simpler" the Liberals consider Tasmania should now get a second set of legislation for land use Policies. Remember the Liberals election mantra: *"Fairer, Faster, Cheaper, Simpler*" but nothing about being smarter! The Liberals want one statewide planning scheme for 29 local governments, yet two sets of Policies for use by one state government in order to overhaul 3 Regional Land Use Strategies. Is this logical? Is it fairer, faster, simpler or cheaper? It doesn't seem to be smarter! One could even see it as part of a back to front circus created by the Property Council, in concert with their captive political party.

It is abundantly clear the overriding short term purpose of the Tasmanian Planning Policies is primarily to dumb down and diminish the suite of three currently approved Regional Land Use Strategies, which inform the current process of creating Local Planning Provisions and possibly to diminish the role of State Polices.

In essence the potential of the Tasmanian Planning Policies (TPPs) to subvert and erode the community's views, as expressed through the Regional Land Use Strategies (RLUS), replacing them with the Minister's views, constraining the RLUS content by way of the very limiting and basic TPPs (if the examples are to be believed) is a genuine concern.

It is hard to believe this (TPP) LUPAA Amendment Bill: The Minister may firstly write TPPs (which in effect he has already done, - against the Liberal pledge) and then he even gets to consider the Tasmanian Planning Commission's summary of representations in its report on the objections, before himself making the final decision. TEA opposes the amount of Ministerial power vested in this draft Bill.

This draft Bill represents a retrograde step over the State Policies and Projects Act. The Minister may not even get to see the Representations themselves. There are no criteria in the draft Bill about how brief or puerile the TPC's summary may be. The TPC is involved in the creation of the TPPs so it has an unavoidable conflict of interest. TEA opposes such conflicts of interest and accumulations of power. It is not healthy, not wise and not supported. It will not enhance the RMPS nor will it build trust in the TPC.

Consultation in relation to TPPs under the draft Bill would seem to be limited to technical matters including in relation to changes to the RLUS. Why should a Minister have these multiple roles and this conflict or lack of separation of powers? Talk about self-serving. Somewhere along the way, “Fairer” has dropped off the Liberal's list. Why should the Tasmanian Planning Commission likewise have multiple roles and a conflict or lack of separation of powers? We are firmly opposed.

The Tasmanian Planning Policies have already been constructed even though the legislation is only at the DRAFT Bill stage. How is this fair and orderly land use planning? Again, this action is against the pledge the Liberals gave. Oh, they are only examples! Please we did not come down in the last shower. Could there be any point in referring the matter to the Integrity Commission? Or should Tasmania have an Independent Commission Against Corruption (ICAC)?

The Tasmanian Planning Policies which are described in the DoJ Consultation document have:

1. No supporting background data.

2. No adequate supporting background report.

3. No adequate explanatory report providing reasons for the policy positions adopted or proposed.

4. No description as to who makes up the ad-hoc group which created the TPPs.

5. No preliminary community consultation about the process or the content.

6. No discussion over what policy subjects should be included in the TPPs.

7. No discussion whether each policy subject should be treated as a statutory document in the TPPs.

8. No discussion about the range of legislation which should be covered by TPPs.

One can see from the DoJ website, one currently has absolutely no right or ability to make comment on the actual draft Tasmanian Planning Polices at all. They are ostensibly there, only as a mere “example” of planning Minister Gutwein's ability to wreck local government, along with the beleaguered RMPS and LUPAA planning system – our democracy at work!

If in regards to the published TPPs, it is indeed (as the DoJ website claims) so that:

> *"We have provided these examples only to aid in your review of the draft bill. They are not intended for consultation at this time."*

Then why would The Dept. of Justice have published a document that states ‘Consultation Draft’ but not seek public comment? Their facile reason is implausible. Nor do they disclose they are already consulting privately with some sectors.

The DoJ 'Tasmanian Planning Polices' document does not refer to the Policies as *"examples"*. Why is the Document titled: ‘Tasmanian Planning Policies, overview and suite of policies – Consultation Draft’ – authored by Department of Justice, is being treated as an additional document. What does *"additional documents"* actually mean? Is the DoJ Policy Section out of control? TEA believes the DoJ is consulting over the TPPs, just not with the public.

It is even worse than this: When one goes to the DoJ website: http://www.justice.tas.gov.au/tasmanian_planning_reform , this is the page titled: 'Tasmanian Planning Reform', one finds no mention of the new draft LUPAA TPP Bill or the consultation, just the statement: *"The Government intends to commence consultation on the Tasmanian Planning Policies in the second half of 2016"*...TEA claims the misdirection of the public, which indeed may be unwitting, but nonetheless a misdirection and because that page does not alert the public the consultation over the draft Bill should be redone. We suggest it is redone after some much needed changes.

The obvious intent of seeking comment on the draft LUPAA Bill and the TPP policies together, when there is no underpinning legislation is in itself somewhat amazing. It maybe that is what is actually intended. We are confused but we make the clear statement, we are not commenting on the Tasmanian Planning Policies at this stage. The drafting of such land use policy, willy nilly, without legislation was surely a malfeasance and should be refereed to the Integrity Commission. How was there ever a proper delegation?

It gets worse: In the Government's DoJ documentation, there are no adequate reasons given for the new (TPP) system (bearing in mind Tasmania already has the existing State Policies and Projects Act (SPPA) and some existing State Polices). This should be the first discussion the Liberals have with the community.

Further there are no adequate reasons for the fact that and the way in which the draft 'Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017' confers greater powers on the Minister for Planning under the RMPS when compared with the existing RMPS Policy system which confers powers to the Premier and to the whole of the Parliament who in essence become responsible for State Policies. In essence, the change from the SPPA to the TPPs would have far reaching impacts in terms of Policy Development and the concentration of power. TEA does not support such a diminishing of the RMPS and finds it both intolerable and unwise.

The TPPs probably will be the precursor to the wrecking of a number of Policies which sit outside of the RMPS, such as Tasmania's land clearance policy. This, of course, has not been disclosed but in Tasmania, people who have no professional policy making skills seem to be rubbing out meaningful policies, replacing them with drivel.

The Liberals puerile "example" TPP Policies, as now published, show the contempt for the proper legislative process which should have been followed. Making land use policies even "example" ones, when you have no right to do so and when there is already a proper alternate means to do so under the State Policies and Projects Act, which Government is in essence subverting, deserves a severe public rebuke and suggests an impropriety worthy of the investigation of a Commission of Inquiry. TEA considers this to be shady sort of behaviour.

The suspicious and ad hoc removal from the draft LUPAA Tasmanian Planning Policies Bill's current consultation process, of the suite of 5 draft Tasmanian Planning Policies, which nonetheless remain on the DoJ website in a "consultation draft" document is a major confusion and surely a lack of fair and orderly land use planning. It doesn't get more confusing and incompetent than this effort.

Land Use Planning And Approvals Amendment (Tasmanian Planning Policies) Bill 2017'

TEA provides some comment including concerns and objections on parts of the Draft LUPAA TPP Bill. But in short, TEA does not support this Bill at all in its current form.

However, we also have some specific concerns regarding the LUPAA TPP Bill additional to the above section's comments about process some of which should result in a rectification in a finalised Bill.

TPP Policies must be rigorous, of good quality and based on science and evidence and all policy statements supported with reasons.

There is no definition of what a Tasmanian Planning Policy must be. That definition should be open to a public consultation because political brains are not always capable of original diligent thought.

State Policies are created by approval in both houses of Parliament. This is a robust solution for long-term policies and mitigates against policy change. However only when one has a mandated set of policies to be completed (and approved by Parliament) does that work.

TEA suggests the DoJ look at this Act and build several of the good features into the draft Tasmanian Planning Policies LUPAA amendment.

The Bill should be modified to ensure that a background and an explanatory document should be produced at the Draft Policy stage for each TPP Policy. TEA cannot discern where the "example" stage fits in with the draft stage. But we can see there is no precedent for having "example" Tasmanian Planning Policies.

The Liberals are seemingly planning to get rid of Land Capability, State Policies under the RMPS as we know them, some of which they have rewritten and diminished as Tasmanian Planning Policies. It seems the RLUS being gutted like the Heritage List.

There is no mandated right of a hearing in the Act. A genuine and independent Hearing right should be mandated in The Act.

The Tasmanian Planning Commission is charged with being involved in writing the Policies and reviewing them, handling any optional hearing and writing the report to the Minister. That is a serious probity concern: A Sham and a conflict of interest.

One needs more than 42 days to make comment on Draft TPP policies. TEA suggests that if the Government proceeds with the multi policy TPP Policy book idea then it should be 90 days. If the TPP Policies were introduced singly then a shorter time would be okay such as 60 days or 8 weeks. After successive Governments, they have been trying the think up Policies since 1997, and this Government since the day it was born in 2013. So 42 days public consultation on a difficult subject which the public has trouble relating to is inadequate rubbish.

There are no RLUS criteria for TPP content or process and that must be addressed now and incorporated into the TPP LUPAA amendment Bill.

The Liberals obviously plan to introduce a Major Policies Act (likely another Amendment to LUPAA) and this would probably be preparation for further overturning the community's thoughts, feelings and amenity. So getting rid of State Policies has a twofold function in their step to get rid of SPP Act. Excuse our cynicism.

Who should write the Policies?

What rights of enforcement should civil society have?

There would appear to be no penalties for non-compliance with a Tasmanian Planning Policy. The draft LUPAA TPP Bill should regard non-compliance with a Policy as breach or an

offence. TPPs should create new enforceable obligations. Currently the only recourse for an inconsistent revision would be judicial review.

There are inadequate or no 3rd party rights of appeal and civil enforcement associated with the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017. TEA urges these shortcomings be rectified.

There is no legislated requirement for a single TPP policy to be created. This is very poor. See our comments on this matter elsewhere.

There is no mandatory implementation of The Amendment Bill in terms of Policies. Thus, the draft "example" TPP list should be viewed as aspirational.

There is no mandatory list of content or subject matters to be addressed through TPP policies so uncertainty is the rule of this draft Bill.

There is not a single standard around rigour of the TPP Policies. The rigour of the final suite of planning policies is a critical issue and criteria to ensure rigour and factualness is surely essential if one is to embrace the LUPAA Schedule 1 Objectives.

There are no 3rd party hearing rights before the TPC re TPP Policies. The Tasmanian Planning Commission must consider representations but is not required to hold a hearing. This is unfair and unacceptable and against the RMPS Objectives in TEA's view. We acknowledge the Commission is not required to hold hearings in relation to State Policies either, but the SPPA at least makes provision for hearings at the Commission's discretion. So, this new Bill is a retrograde step, a diminishing of rights and of involvement opportunity. Poor!

The draft amendment Bill and "example" TPP Policies would not apply to a Strategic Plan of a LG Council or a Strategic Land Use Plan of a Planning Authority outside of the RLUSs?

TEA considers the current planning Policy vacuum (and the 5 year clause) could actually undermine the existing statements in the RLUS by way of Councils having an excuse around the lack of mandated policy over issues or subjects within its local planning schedule, such as populating the Local Heritage list over which you have already advised the TPC cannot force a Council to populate their Lists. It should be clarified right now whether the 29 local government LPS should be consistent with 3 current RLUS. We are aware the RLUS may be changed in future to reflect TPPs, but the draft Bill doesn't change application of current RLUS.

There is no 3rd party right of appeal, no 3rd party hearing right and no 3rd party enforcement ability over a RLUS and compliance thereof. Thus if the TPPs come into effect it is only The Minister who gets to decide whether the TPPs are reflected in the RLUS. This effectively locks out the people of Tasmania.

Section 11 of the draft LUPAA TPP Bill (and the proposed s.87E) both refer to Planning Panels. The proposed Schedule also refers to the Land Use Planning and Approvals Amendment (Tasmanian Planning Provisions and Planning Panels) Act 2017. The current Bill does not otherwise refer to Planning Panels. How confusing. If the Government is proposing such arcane devices, how about a preliminary consultation?

The current State Planning Provisions are not required to be reviewed to determine if they are consistent with the TPPs. This is obviously a significant shortcoming. Remember the Liberals want "Consistency".

The draft LUPAA TPP Bill's Section 12C(3) suggests that the Minister *"may"* direct the Commission to advertise a draft TPP for public comment. This process occurs only if the Minister directs the Commission to advertise the draft TPP. Therefore, the draft Bill's wording allows the Minister to make TPPs without any public consultation whatsoever. That is atrocious and against the LUPAA Schedule 1 Objectives. The DoJ should replace "may" with "must" in section12C(3) of the draft Bill.

The draft LUPAA TPP Bill's, Section.12G(3) states that the Minister cannot make a TPP until s/he has considered a report from the Commission. What sort of report is envisaged? Wasn't the TPC involved in creating the TPPs? There should be a mandatory event of Public Exhibition and comment.

Regional Land Use Planning Strategies

The suite of Tasmanian Planning Policies would target firstly the Regional Land Use Strategies (RLUS).

We support both regional planning generally and in principle including, most importantly, the three current Regional Land Use Strategies (RLUS), which we consider to be valuable, even if not perfect. These important Strategies contain and reflect an amount of up to date local consultation with the community and should not be unilaterally changed by The Minister. We oppose that aspect and power.

TEA considers that the three RLUS, which were created without a comprehensive suite of State Policies, have been slower and made more difficult to create because of the lack of a comprehensive State Policy environment.

Land Use Strategies, of course, are not and should not be a surrogate for State Policies. The lack of State Policies shifted the onerous policy deliberation to the 29 Local Governments who are the partners of the three regional organisations, which created the three RLUS. That problem remains and has ongoing deleterious ramifications.

TEA also opposes any proposed demise or diminution of the three RLUS. We are not reassured by any political promises or indeed by the current retention of inadequate provisions in the current legislation. We note the last attempt by the Northern Region Councils, through Northern Tasmania Development (NTD) to secure a Ministerial approval for a policy neutral update of the Northern RLUS was rejected by the Minister in 2015.

The fact is there is little legislative support for the three RLUS and there are inadequate criteria, process and gamut spelt out in legislation. This should be addressed.

State Policies, a Key Purpose of the State Planning Provisions

Fair and orderly planning under the RMPS requires State Polices to be created under their relevant legislation, The State Policies and Projects Act, within the RMPS.

Clause 2.1.1 of the State Planning Provisions states:

> *2.1.1 The purpose of this planning scheme is to further the objectives of the Resource Management and Planning System and the planning process set out in Parts 1 and 2 of Schedule 1 of the Act and be consistent with State Policies in force under the State Policies and Projects Act 1993 by:*

(a) regulating or prohibiting the use or development of land; and

(b) making provisions for the use, development, protection and conservation of land.

Section 12B of the draft LUPAA TPP Bill claims that the purpose of TPPs are to *"set out the aims or the principles that are to be achieved or to be applied by the Tasmanian Planning Scheme"* TEA is completely confused by the combination of the above clause 2.1.1 and Section 12B. It is obvious that the LUPAA TPP Bill and then the suite of TPPs should have come first.

TEA is highly critical of the lack of a set of statewide land use planning policies. State Policies, state the TPC website, are purposed to achieve a State consistency:

> *"State Policies are made under the State Policies and Projects Act 1993 (the Act) to articulate the Tasmanian Government's strategic policy direction on matters of State significance related to sustainable development of natural and physical resources, land use planning, land management, environmental management and environment protection."*

Note that Tasmania has only three State Polices and thus a statewide approach has been avoided on many, many issues of great relevance to land use planning. From http://www.dpac.tas.gov.au/divisions/policy/state_policies

> *"Existing State Policies*
>
> *There are currently three State Policies operational in Tasmania:*
>
> - *State Policy on the Protection of Agricultural land 2009*
> - *State Coastal Policy 1996*
> - *State Policy on Water Quality Management 1997*
>
> *Detail regarding each of the Policies is provided in the table below."*
>
> *"National Environment Protection Measures (NEPMs) – statutory instruments that specify national standards for a variety of environmental issues – are also taken to be State Policies in Tasmania. Further information regarding NEPMs can be found on the Environment Protection Authority Tasmania website."*

But the EPA website link is broken! TEA thinks the planning system is broken.

The TPC website states:

> *"Planning schemes and planning scheme amendments must be consistent with State Policies."*

NB: the word must!

Why doesn't Tasmania have a proper and rigorous set of cogent State planning Policies? Herein lies the real nub of the consistency issue… a lack of a comprehensive set of rigorous State Policies. The lack of a suite of State Policies was identified way back in the 1990s as a problem. The Edward's report mentions it. So does the 'Better Planning Outcomes' process.

Any PIA Planner worth a pinch of salt would tell you to get the land use Policies right first. The land use Policies give you an insight into the planning outcome where the planning scheme is built upon the policies, as well as the land use strategies.

The Government has also failed to deliver on its promises, such as over State Policies but somehow they are getting away with this aspect. We explain that issue and the relevance below.

Logically a comprehensive suite of State Policies should have been created and have had a comprehensive comment opportunity before the State Planning Provisions or any other state-wide-style planning schemes were introduced, were it to be done competently and fairly under the RMPS legislation.

Creating State Policies first would have also been "Fairer" because it would be far more transparent as to the particular Policy shifts and introductions proposed to go into the State Planning Provisions. It would have been considerably more competent too.

TEA believes that the TPC should have made a decision over the Draft State Planning Provisions to insist that properly legislated State Polices be created before the finalisation of the State Planning Provisions. TEA argues this would be reasonable and fair and would save all Councils funds.

The State Policies and Projects Act, which legislates State Polices, is the legal instrument by which statewide consistency is intended to be achieved. Simple as that.

TEA considers The Hodgeman Liberal Government is possibly still trying to understand the fundamental concept of how the Tasmanian planning system is designed to work under the various RMPS legislations. It is deeply sad but only somewhat pathetic. Or else it is subverting the existing legislated system. Which is it?

In December 2015 Minister Gutwein started prattling on about State Policies and so-called second level policies in the PIA Newsletter but the Minister who is meant to do State Polices is meant to be the Premier, William Hodgeman not the Planning Minister, Peter Gutwein. Minister Gutwein was acting well and truly beyond his remit in TEA's opinion.

The sound and reasonable idea of the RMPS is that State Polices are there to provide consistency. The Liberal Government has been avoiding a sound and reasonable land use Policy development but rather infesting 'policies' untransparently into the State Planning Provisions.

There is, of course, even now with the current exposure draft LUPAA TPP Bill, no legislative mandate or laws for second level or tier of policies, recently termed, Tasmanian Planning Policies. We argue this second level or tier of policies is a confusing idea of absolutely no merit, which will be directly against consistency and which is not even consistent with the Liberal's own promise of generating State Policies. There has been no mandate to create anything else and no mandate to close down the State Policies and Projects Act.

The Tasmanian Liberals made promises ostensibly in order to get elected. What did the Liberals promise before the election regarding State Policies? Hear it is!

> *"A fairer, faster, cheaper, simpler planning system"*
>
> *"A Majority Liberal Government has a plan to fix the Labor-Green planning mess:"*
>
> *"State policies for consistency"*

"Immediately after the election, a majority Liberal Government will provide the leadership and consistency that has been lacking under Labor and the Greens. We will commence drafting state policies to provide the necessary guidance to councils on how to implement the single state-wide planning scheme and plan for Tasmania's future land use needs."

"These policies will make clear the government's intention to once again make Tasmania 'Open for Business' and provide certainty to both investors and the community about how the planning scheme will work."

"State policies will include, for example, objectives such as:

- *Planning and land use is to be geared toward facilitating economic growth and investment;*
- *Planning and land use is to take into account future needs of the community and potential growth; and*
- *Sustainable and sensible development is to be encouraged to assist in conserving and allowing access to Tasmania's parks and reserves.*

"All state policies will be drafted pursuant to relevant laws and regulations."

TEA wishes to highlight the words: *"to provide the necessary guidance to councils on how to implement the single statewide planning scheme"*. This is actually not entirely true, as a State Policy would apply to all aspects of the RMPS system including the intended Tasmanian Planning Scheme. But clearly there is a major and incompetent disconnect here, which cannot be avoided any longer.

TEA also wishes to highlight the words: *"All state policies will be drafted pursuant to relevant laws and regulations."* Because the policies have already been drafted. One can see them now in the DoJ consultation documents, now before the draft Bill has even been considered by the public, let alone considered by the Parliament. We consider this sort of malfeasance to warrant a Commission of Inquiry into the Liberals diminishing of the integrity RMPS, as well as their own integrity.

It is normal and considered good practice that land use policies (termed State Policies in Tasmania) create the values and principles and positions to achieve sustainable development objectives, which underpin the planning scheme provisions and importantly to guide the exercise of Discretion in making decisions. Without significant standards, policies and strategies there is insufficient guidance for decision makers.

TEA cannot understand the logic of the Liberal Government, which is doing it back to front or upside down? How could anyone trust such an illogical idea?

Firstly: Was there a Labor and The Greens *"mess"?* Are the Interim Planning Schemes a *"mess"*? Is the three Regional Land Use Strategies a *"mess"*? No! Certainly, TEA considers that if the reforms are predicated on the above assertions, which prove to be a fatuous untruth, then it is entirely possible that there is not a sound basis for the State Planning Provisions at all. Likewise if the State Policies and Projects Act provides State Policies which provide state consistency then why have the Tasmanian Planning Policies other than an unprincipled, crass grab for a bit more power.

TEA argues the basis of this so called reform was a fallacious, fatuous assertion made by a political party seeking political advantage possibly for its masters the Property Council. This close relationship should be explored in any Commission of Inquiry.

What do the Liberal's words *"Immediately after the election"* actually mean? Which election?

Has the *"necessary guidance"* to Councils been provided in advance of the Draft Statewide Planning Provisions? Will Councils be forced to populate their Codes and Local Provisions in a responsible manner?

Has the Tasmanian public seen any evidence that Tasmanian Planning Policies have been drafted in accord and *"pursuant to relevant laws and regulations"*? Of course, it hasn't.

NB. The use of the term *"State Policies"* in the above extract from the Liberal's planning promise. What relevant laws for state policies would apply other than the State Policies and Projects Act? But that can now be shown to not be the case.

TEA is left wondering when someone is going to call this State Government to account over this decrepit deception. Certainly, the lack of a comprehensive suite of State Policies has dogged the RMPS system over the years and now impacts on the competence and merit of the Draft State Planning Provisions.

TEA is left wondering how the PIA (Tasmania Division) can be so weak over one of their long terms core positions, being the creation of a suite of State Policies.

We hope that the Tasmanian Planning Commission, the 29 Local Government Councils and indeed the LGAT will realise how important a suite of State Policies could be in achieving a statewide consistency, if they were competently drafted under The State Polices and Projects Act.

TEA has absolutely no confidence in any clandestine process that creates non-legislated, pseudo and motherhood policies, obviously intending to be a reconstruction exercise post the drafting, and indeed post the finalisation, of the State Planning Provisions, which in itself has proposed to make substantial, nigh on impossible, translation changes to the 28 Interim Planning Schemes, way beyond any reasonable and fair process. Indeed the proliferation of a whole raft of new community groups working on Land Use Planning is testament to the unfairness and unacceptability of the Liberals process, legislation and scheme provisions.

It is, in fact, against the Development Assessment Forum (DAF), A Leading Practice Model For Development Assessment In Australia's recommendations of March 2005. Bear in mind that DAF is from the far right of town. The Property Council loves this stuff but it cannot even come at following its own doctrine.

Indeed the deferral of Policy creation whilst the Planning Reform Taskforce is obviously working away on the development of the Tasmanian Planning Scheme must be considered both dishonest and devoid of best planning practice, as well as against the Liberal planning brochure of February 2014.

What does the legislation say?

> *"A State Policy:*
>
> - *must seek to further the objectives of the Resource Management and Planning System (RMPS)1 (which are set out in Schedule 1 of the Act);*
>
> - *may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy;*

- *must seek to ensure that a consistent and coordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and*

- *must incorporate the minimum amount of regulation necessary to achieve its objectives.*

The Premier is the Minister responsible for State Policies."

Further information on State Policies can be found on the Tasmanian Planning Commission's website.

Currently the absence of a suite of State Policies reduces the community's ability to understand the qualitative values and intent of the planning system and the underpinning strategic and policy positions, which are necessary to achieve sustainable development, as envisaged by the RMPS objectives. It reduces the State's ability to design planning schemes that have the potential to achieve sustainable development. The absence of a suite of genuine State Policies reduces the ability of local government planning professionals to assess developments in a sound way and makes the exercise of Discretion far harder.

State Policies should have guided the finalised State Planning Provisions over a wide range of important planning matters to achieve state consistency and the TPC knows but ignored this fact. State Policies are the long established mechanism in the RMPS that avoids the primitive and inflexible approach of a single statewide planning scheme where policy change and the scheme provisions cannot be transparently deduced or separated.

The Tasmanian Planning Scheme will almost inevitably give the green light to development, which the community finds unacceptable because there is firstly an insufficient guiding suite of balancing State Policy instruments.

More importantly, TEA argues there is insufficient policy to guide all land uses within the State Planning Provisions to meet the RMPS objectives under Schedule 1 of The Act.

The Tasmanian Planning Scheme created in the absence of a full suite of State Polices will reduce both government and the community's ability to rein in poor quality development, which harms amenity, the environment and way of life and potentially will impact adversely on land values.

Poor quality development proposals, in the absence of Policy driven standards, which are also absent in the State Planning Provisions, will have the potential consequence of slum development and environmental harm.

As a matter of some urgency, a set of quality State Policies must be put in place now so as to guide and underpin any new planning scheme/s, which are created under the RMPS. This has been a repeated recommendation for local government planning for about two decades – and it has been ignored over and over again, almost a pathological disdain for state land use Policy. How grossly inadequate and untransparent? This TEA argues is possibly because only the most cursory of Policy would not tighten up Tasmania's open slather planning system – termed performance based but the reality is, the performance is poor. One punter describing it as Reactive Planning.

The regionalised Interim Planning Scheme process brought a vast reduction in the number of planning schemes and a vast improvement not only in overall cooperation between Local Government Councils but significant gains in consistency between schemes. It was not a mess in our view, even though we felt it had some problems. Those problems are not being

rectified and others have been created by the dumb down approach of the current Government.

Is it a mess? We do not think so.

TEA calls upon the Tasmanian Government to rescind the prohibition on the finalisation of the Interim Planning Schemes, until such time as a redesigned process which creates a suite of land use Policies and then allows them to be an underpinning of properly designed Strategy/ies in an orderly manner before the consideration and deliberation over the merits of any Draft Local Planning Provisions and the finalisation of the Tasmanian Planning Scheme.

Additional State Policies Proposed by TEA

TEA has in the past made proposals in our representations and recommendations for additional land use Policies preferably State Policies to include:

- Biodiversity and Threatened Species
- Land Clearance and Vegetation Management
- Settlement Strategy Within the Urban Growth Boundary (All towns and cities)
- Settlement Strategy Outside the Urban Growth Boundary – Avoidance of Rural Decline
- Natural Hazards (bushfires, flooding, landslip and shoreline recession)
- Infrastructure Related Issues
- Energy Efficient Housing
- Islands NB Tasmania is a state of some 374 Islands (worthy of planning control).
- Scenic and Cultural Heritage Landscape Management
- Tasmania's Built Heritage Items and Precincts and Significant Trees
- Riparian Land Management and Catchment Management

Legislated Planning Policies Proposed

If the Government does not accept our recommendation to continue to use and expand State Polices then our recommendation is that Tasmanian Planning Policies in certain areas or subjects should be mandated in The Act. We propose and recommend:

- Legislatively: There must be a land use Policy on issues of Population (not just growth).
- Legislatively: There must be a policy on Climate Change.
- Legislatively: There must be a policy on Land Clearance.
- Legislatively: There must be a policy on Catchment health and riparian areas.
- Legislatively: There must be a policy on the health of cities.

- Legislatively: There must be a policy that creates a Settlement Strategy within the Urban Growth Boundaries (UGBs) (All towns and cities) NB not all towns have UGBs in the RLUSs. That shortcoming has come about through the lapsing of Local Land Use Strategies. They need to be restarted in fact to provide a more sophisticated level of strategic direction which underpins the Local Land Use Provisions.

- Legislatively: There must be a policy that creates a Settlement Strategy outside the Urban Growth Boundaries of cities and towns. There is significant rural population in Tasmania outside of towns.

- Legislatively: There must be a policy addressing rural decline and diminishing or rationalising of rural services.

- Legislatively: There must be a policy on Threatened Species and Ecological Communities (that would tie us in with EPBC).

- Legislatively: There must be a policy on the built Heritage, any heritage precincts.

- Legislatively: There must be a policy on cultural heritage landscapes and protection of places of significant scenic landscape amenity. (Such as desirable for tourism)

- Legislatively: There must be a policy or group of policies on Natural Hazards (bushfires, flooding, landslip and shoreline recession).

- Legislatively: There must be a policy on Infrastructure related matters such as roads, the power grid, gas pipelines and so forth.

And so forth, a minimum list of important public interest subjects. In the Act. In short, we do not support a haphazard aspirational list of Polices put up as examples. Build the minimum list into the legislation.

Have a process for additional policy subjects to the legislated List. The notion that the Minister merely “may” create a Tasmanian Planning Policy is ludicrous.

The Current Regional Planning Reforms and IPS Process

TEA criticised aspects of the regional planning reforms to LUPAA about 8 or 9 years ago, especially the Interim Planning Scheme (IPS) concept which resulted in a procedurally unfair

situation where a scheme would operate and a right of objection to any aspect was deferred to a hearing, post the commencement of the operation of the scheme, sometimes never dealt with in a timely manner. Then during those hearings, some were progressed properly and others truncated and diminished into a farce of meetings courtesy of Liberal's push claiming the need for a fairer system. Such travesties of justice are never forgotten nor forgiven.

TEA welcomed the updating of some very old planning schemes and considers that the regional process should be genuinely allowed to finalise. We remain aggrieved at the proposed demise of the recently created 28 Interim Planning Schemes.

We criticised many of the 2008 regional planning reforms to LUPAA but supported and continue to support regional planning and, we reiterate, the three RLUS, which we consider to be valuable for regional Tasmania.

TEA made several representations to the NRLUS process and has also invested substantial resources into fair and orderly planning in Northern Tasmania.

Whilst we had reservations about the IPS process, nonetheless we believe the IPS process is intrinsically far superior to the proposed Tasmanian Planning Scheme (TPS) approach. It is superior because it will deliver better, more flexible, more durable planning outcomes. TEA thus supports the finalisation of the 29 Interim Planning Schemes attached to the 29 local governments in Tasmania. That process has been underway since about 2010 and thus a large amount of expense and effort has been expended undertaking a major overhaul of planning in Tasmania. With planning, there is always room for improvement but we recognise this significant overhaul of the system has validity and should be allowed to complete.

TEA does not support any proposal for a single, dumbed-down, state-driven, state-wide Tasmanian Planning Scheme. Nor do we support the creation of planning schemes that have any potential to avoid or diminish local and regional individualities and amenity or reduce the opportunity for local planning which reflects community aspirations and which provides opportunity for local scrutiny of local planning initiatives and developments.

The fact is that if the 3 RLUS are being properly and fully retained, then a regional interference in the proposed Tasmanian Planning Scheme is inevitable and indeed would even be welcome. It is our submission that regional character, provisions and individuality should - and indeed must, be retained.

We consider the current legislative draft Bill will significantly disadvantage local communities because it will result in a scheme which fails to retain sufficient elements of local planning intent which is translated from the current interim schemes to a statewide scheme's local schedules.

It will become obvious, even to the secretive Tasmanian Planning Reform Taskforce that one cannot create a valid and conforming Statewide Planning Scheme under the three RLUS, as they currently stand. To disempower the three RLUS would be to deny the regional amalgam of local community its vision for its region and accordingly would gain no social license. The three RLUS do, more than any other previous process, reflect community aspirations in terms of land use planning in Tasmania.

TEA does not believe that sustainable development can be achieved without an articulate emphasis on regional planning. Regional environmental, social and economic interests are a relevant consideration in land use planning decisions.

It is TEA's conclusion the Hodgeman Liberal Government might just try to achieve a back door demise and sanitisation of the three RLUS to render them meaningless. Some trite

excuse such as conformity with the mythical new State Policies would likely be trotted out, so we take the opportunity of rejecting such an artifice now.

TEA predicts that Premier Hodgeman and the Liberal Government lack the ability to create sound and competent State Planning Policies. And it is the responsibility of the Premier.

The Lack Of A Full Compliment Of State Planning Policies

Fair and orderly planning under the RMPS requires State Polices to be created under their relevant legislation, The State Policies and Projects Act, within the RMPS.

TEA is highly critical of the lack of a set of state wide planning policies. State Policies, state the TPC website, are purposed to achieve a State consistency:

> *"State Policies are made under the State Policies and Projects Act 1993 (the Act) to articulate the Tasmanian Government's strategic policy direction on matters of State significance related to sustainable development of natural and physical resources, land use planning, land management, environmental management and environment protection. "*

Note that Tasmania has only three polices and thus a statewide approach has been avoided on many issues of great relevance to land use planning.

Why doesn't Tasmania have a proper set of State planning policies? Herein lies the real nub of the issue… a lack of rigorous State Policies. The lack of a suite of State Policies was identified way back in the 1990s as a problem. The Edwards report mentions it.

Any PIA Planner worth a pinch of salt would tell you to get the policies right first. The Policies give you an insight into the planning outcome where the planning scheme is built upon the policies as well as the land use strategy.

The Liberal brochure of 14th February 2014, titled: 'A fairer, faster, cheaper, simpler planning system: Building a Tasmania we can be proud of.' clearly states:

> *"Immediately after the election, a majority Liberal Government will provide the leadership and consistency that has been lacking under Labor and the Greens. We will commence drafting state policies to provide the necessary guidance to councils on how to implement the single statewide planning scheme and plan for Tasmania's future land use needs."*

And TEA wishes to highlight the words "*to provide the necessary guidance to councils on how to implement the single statewide planning scheme".* This is actually not entirely true, as a State Policy would apply to all aspects of the RMPS system including the intended Tasmanian Planning Scheme. But clearly there is a major and incompetent disconnect here.

It is normal and considered good practice that land use policies (termed State Policies in Tasmania) create the values and principles and positions to achieve sustainable development objectives, which underpin the planning scheme provisions. TEA cannot understand the logic of the Liberal Government, which seems to be doing it back to front or upside down? How could anyone trust such an illogical idea?

Why is Tasmania's single, statewide planning scheme being designed before statewide policies, which are intended to be purposed to deal with state significance issues, are put in place?

Why, when the Liberals stated their intent: "*Immediately after the election...We will commence drafting state policies ...*" is the Tasmanian community still waiting for a list of and the content of the Policies, which are anticipated to be created? We have not seen a single draft State Policy yet there is State Consistency to be created in many policy areas. There has not been a single background discussion paper on any of the mythical new State Polices.

TEA has absolutely no confidence in any clandestine process that creates policies obviously after the drafting, and now potentially after the introduction, of a single state-wide scheme, which in itself is proposing to make translation changes to the 28 Interim Planning Schemes beyond any reasonable and fair process. This in itself will cost a fortune. What a stupid and untransparent idea. It is, in fact, against the Development Assessment Forum (DAF), A Leading Practice Model For Development Assessment In Australia's recommendations of March 2005.

Indeed the deferral of Policy creation whilst the Taskforce is obviously working away on the development of the Tasmanian Planning Scheme could be considered both dishonest and devoid of best planning practice, as well as against the Liberal planning brochure of February 2014.

What does the legislation say?

> *"A State Policy:*
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> - *must seek to further the objectives of the Resource Management and Planning System (RMPS)1 (which are set out in Schedule 1 of the Act);*
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> - *must incorporate the minimum amount of regulation necessary to achieve its objectives.*
>
> *The Premier is the Minister responsible for State Policies."*
>
> *Further information on State Policies can be found on the Tasmanian Planning Commission's website."*

Currently the absence of a suite of State Policies reduces the community's ability to understand the qualitative values and intent of the planning system and the underpinning strategic and policy positions, which are necessary to achieve sustainable development, as envisaged by the RMPS objectives. It reduces the State's ability to design planning schemes, which achieve sustainable development.

State Policies should guide the state planning template over a range of important planning matters to achieve state consistency. State Policies are the long established mechanism in the RMPS that avoids the primitive and inflexible approach of a single statewide planning scheme.

The Tasmanian Planning Scheme will give the green light to development, which the community finds unacceptable because there is an insufficient guiding suite of balancing State Policy instruments to create either a statewide planning scheme or indeed any other scheme. More importantly TEA argues there is insufficient policy to guide all land uses to meet the RMPS objectives.

The Tasmanian Planning Scheme created in the absence of a full suite of State Polices will reduce both government and the community's ability to reign in poor quality development, which harms amenity, the environment and way of life and potentially will impact adversely on land values.

As a matter of some urgency State Policies must be put in place now so as to guide and underpin any new planning scheme/s, which are created under the RMPS. It has been a repeated recommendation for local government planning for about two decades – and it has been ignored over and over again, almost a pathological disdain for stated Policy. How grossly inadequate and untransparent.

Planning Scheme Zones and Codes should be Mandated where Values are Present and the Scheme Mechanism Applicable

TEA supports a full suite of planning scheme zones and a consistent range of zones across the State, as is currently the case.

We are critical of any proposal that promotes any one zone over another. We are critical of zone amalgamation or eradication and would oppose any such proposition.

We do not support the redesign of any zone or code especially where one may be laden with policy but where the policy position change has not been articulated firstly in a State Policy subject to the State Policies and Projects Act or under the Tasmanian Planning Policies.

We support mandating use and retention of a full range of Codes and consider those to be a vital part of viable, responsible planning schemes which at best have an intention to meet the three RLUS and currently the only three State Polices.

We are critical of the avoidance and lack of use of certain codes in some Municipal schemes. We consider that not all codes have been applied properly with the various IPS in breach of RLUS. Two local examples are the Heritage Code and the Scenic Management Code.

The Broader Planning Consultation Reality

In our introductory comments and section on consultation, we criticised aspects of the community consultation over planning reform and over the consultation over this draft Bill and the draft Tasmanian Planning Policies.

The current process is obviously untransparent and lacking probity, in our view.

The Liberal Statewide Planning Sham – The deception, deceit and dumbing down of Tasmania's local community's local planning schemes is never likely to be accepted by those who understand the purpose of planning scheme controls and the concept of sustainable development.

The enclosed Planning Institute of Australia (PIA) Policy on Public Participation dated the 31-5-2010 shows an entirely different and better standard of consultation practice than the current, so-called, planning reform process in Tasmania.

TEA's recommendation is that the community consultation process for Tasmanian Planning Policy reform in Tasmania needs to be put in the hands of professionals and a genuine

attempt made to consult widely and with probity across the community. The confused current consultation over the LUPAA TPP draft Bill is unacceptable to TEA and should be redone.

A Raft of Various Other Land Use Planning Solutions and Proposals Recommended by TEA

TEA asserts on the basis of the 2012 Risby report to the PIA that Tasmania's planning system does not need to be reformed into a Tasmanian Planning Scheme at all. It needs other reforms including a suite of genuine and effective Land Use Policies.

TEA recommends the Tasmanian Government abolish the ad hoc Planning Reform Taskforce. It is not even a designed component of the RMPS. It has no reasonable sectoral spread of people sitting on it. It has had not a skerrick of transparency. A disgrace born out of the Property Council.

Reinstate that part of the LUPAA legislation to allow the finalisation of the 29 Interim Planning Schemes.

Retain and progress the Regional Land Use Strategies.

Create a suite of State Polices with a full and proper public consultation.

Initiate a universal application of the state-wide RMPS planning system to those land uses currently outside of the RMPS.

Solve the physical land use planner resource limitations facing the smaller of the 29 local governments and ridiculously the Tasmanian Planning Commission.

Redesign the process of planning reform now. Stall the current Bill. Improve consultation.

Consider the now defunct Tasmania Together aspirations and goals where they relate to planning.

Consider, especially as a solution for those planning authorities, which have limited planning resources, the concept of creating (one or more) regional or sub regional Planning Authorities and taking LG planning departments and building departments and establishing professional offices which serve multiple local government areas. That is essentially an amalgamation of Planning Authorities. Of course, this would have to be done with fairness and with cooperation.

Establish a more open and consultative engagement with the community over its aspirations for land use planning and the local values it wishes to retain and enhance, the rights it wishes to retain and the responsibilities it wishes to accept.

TEA recommends a Royal Commission of Inquiry into all aspects of land use planning in Tasmania including all aspects of the RMPS and any other land use, which is currently legislated, with a view to determining a reform of the entire land use planning system.

Conclusion

It is always worth remembering that Tasmania is remote, isolated and economically poor, with a lower living standard, a lower education standard and a shorter life expectancy.

Governments should therefore be relying on genuine and carefully constructed consultation and seeking reasoned community input and then with a generous timeframe making an informed and neutral response to the representations and to the proposals including at the design stage.

TEA has considered carefully the bizarre and dubious proposition of a set of Tasmanian Planning Policies (as a single statutory document) and given the existing State Policies and Projects Act, at this juncture remains firmly opposed to Tasmanian Planning Policies (as a single statutory document), considers it less sophisticated and that a second set of policies is more complex, less flexible, less fair, less just and less likely to meet the needs of local communities and further under this draft Bill would be less robust, less consistent and less durable than provided under the State Projects and Policies Act as a State Policy.

It is a confused and to the public will be a confusing concept to have two levels of land use planning policy and can only be described as immensely arcane. TEA has, as you can see considered the draft Bill prefers State Policies to TPPs and the existing legislation to the new proposed draft Bill. TEA considers it an unnecessary grab for power and control that engenders a zero amount of additional trust and confidence in the RMPS and its minions.

END

The Environment Association (TEA) Inc

The Environment Association (TEA) Inc is a not for profit, volunteer based, regional environment community association. We are a long-term stakeholder in this land use legislation and reform process.

TEA has a long-term interest in environmental, social and land use planning outcomes in our region, Northern Tasmania. We have long worked on various land use issues including planning schemes, strategies, so called legislative reforms, heritage issues, scenic protection and the lack thereof, catchment management, forest conservation, biodiversity and forestry issues.

The Environment Association has worked in the public interest since its inception in 1990. As one of only two rural based environment centres in Tasmania, The Environment Association (TEA) is a long-term independent stakeholder in any resolution to complex land use conflicts in Tasmania.

TEA is not represented by any other conservation organisation, formally or informally. We have no affiliation with any political party under our constitution. Accordingly, we consider it vital to put our position.

We are not publicly funded.

Please Note: We reserve the right to publish this submission at any stage and in any forum or form.