

Responses to Resource Planning and Development Commission (RPDC) Questions - RPDC hearing 25 November 2008

1. The draft Policy refers to 'property management plans' (PMPs) (see Principle 12). The Commission has a copy of an MOU relating to a property management systems framework for Tasmania dated June 2008, between the Crown in the right of Tasmania, TFGA and NRM. The MOU refers to property management planning that is self directed and self regulated.

- What was the basis for selecting PMPs as an implementation mechanism?

The idea of promoting PMPs started from discussions around the restrictions on plantations on prime land.

Principle 11 provides each local council with the opportunity to consider whether it considers new plantation forestry should be allowed on prime agricultural land taking into account the size and location of prime agricultural land and existing plantations, and the practical difficulties with management of plantations and the complexity of land classification across a single farm.

The majority of these difficulties relate to the mosaic of land classification across the State. Areas of prime agricultural land rarely match title boundaries, and in many cases small areas of prime land are surrounded by non-prime land. This creates impractical farming areas if new plantations are prohibited under all circumstances on the prime land.

The need to consider whether the land is prime or non-prime can be avoided if property management plans are utilised. Many land management and environmental imperatives are increasingly favouring the development of comprehensive property management plans which detail a portfolio of integrated farming activity for an entire property including the management of areas and off sets for conservation purposes.

Property management plans provide a mechanism for sustainable farm management and best utilisation of the land resource and may soon be subject to a state wide property management framework.

Where such plans have been subject to some form of approval it is reasonable that these would supersede the need for assessment of land capability for any plantation component where that planting

does not exceed a certain proportion of the property management plan area. Clearly, plantation forestry in these circumstances is a component of a whole-of-farm approach based on detailed land capability and other relevant factors.

The Model Planning Scheme provisions provide both Acceptable Solutions and Performance Criteria approaches to the use of these property management plans.

The Department of Primary Industries and Water, in conjunction with Natural Resource Management groups and the Tasmanian Farmers and Graziers Association, are developing the concept of PMPs. A recently signed MOU indicates that the parties will work towards the completion and implementation of a Property Management Systems Framework for Tasmania. It also seeks to encourage greater collaborative efforts between the Crown and industry towards the simplification of government regulation and planning processes affecting farmers. Consequently the inclusion of a Principle in the PAL Policy encouraging the use of PMPs will further the implementation and, as set out in the Model Planning Scheme provisions, will streamline regulation through planning schemes.

Ideally the PMPs can be used by farmers to meet the requirements of a range of natural resources. The Government does not consider that the PAL Policy itself needs to be definitive in using the term because it is a high level Policy which is not self-executing and because it encourages PMP recognition in planning schemes. As such, the planning scheme process will provide an opportunity to test the veracity and robustness of the PMP process proposed in the absence of any higher level standard set by the Government or through other legislation.

In a policy sense, the inclusion is parallel to the use of terms such as Conservation Management Plan or Environmental Impact Assessment, which are widely used and understood in planning documents without any singular all encompassing definition needing to be provided.

- Is this term defined in any legislation?

The Policy is designed to be aspirational rather than relying on existing 'well-credentialed' mechanisms or tools.

Definition:

The Policy itself and Model Planning Scheme provisions provide a definition which includes a reference to the skills of those who draft them.

1. Property management plan means an integrated plan for part or the whole of a farm or number of conjoined farms prepared by a

suitably qualified person which details property design and management by matching economic production to the property's ecological characteristics and resources.

The term is not defined in the recently signed MOU although 'property planning', 'property management systems', and 'property management systems framework' are defined.

- What does a PMP contain, what skills are required to prepare a PMP, and who approves, implements and enforces PMPs?

There is extensive documentation published around Australia setting out what a PMP is, what it should contain and advice as to who is qualified to prepare them. The NSW Department of Primary Industries runs courses for farmers. There is an ever increasing availability of guidance on these.

The issue of approval, implementation and enforcement requires further development. As the PMPs are being increasingly developed for other purposes, such as nature conservation management including 'off-sets' for protection of threatened species, there is a parallel development of accreditation and agreement. PMPs can include covenants under the *Nature Conservation Act 2002*.

If planning schemes recognise PMPs as an acceptable solution they would be part of the permit and enforceable similarly to any other management regime would be for other issues covered by a planning permit such as a Conservation Management Plan, Sign Regime, Traffic Management Plan or Environmental Management Plan. The preparation of a PMP might be set out in a Part 5 Agreement if not provided at the time of assessment. Monitoring and enforcement of a PMP is likely to be easier than monitoring unapproved farming activity because the PMP sets out the specific land use and farming practices for the whole farm spatially defined, while a lack of such planning would make it difficult to determine whether individual farm activities are consistent with existing uses or require a permit.

- Who would be classed as suitably qualified to prepare a PMP (see Note 4 of Model Provision 18.4) and do you know of any such practitioners in Tasmania?

The use of the term 'suitably qualified' person is becoming increasingly used in planning schemes and is by its nature specific to the issue at hand. In this instance the skill set includes sustainable land management practices, property planning processes and approaches, land capability, conservation management strategies, legal requirements and risk management.

There are a number of suitably qualified people in Tasmania who are currently producing Whole Farm Plans or PMPs. Ideally, a system of accreditation would provide quality control.

There are 29 listings in the Yellow Pages for Farm and Agricultural Advisory Services in Tasmania.

There is a national organisation representing these types of professionals – the Australian Institute of Agricultural Science and Technology (AIAST).

AIAST has one thousand members nationally. Membership of AIAST is open to Agricultural Science graduates working in agriculture and the natural resource environment or related disciplines. Membership is also open to those with agricultural or related experience and who demonstrate equivalence to formal qualifications. Colleagues who do not possess the relevant qualifications but have a keen interest in professionalism in the agriculture and natural resource sectors may also apply.

The Australian Institute of Agricultural Science and Technology (AIAST) has a new national accreditation program, AgCredited, for professionals working in agriculture and natural resource management. Its website states:

The program has been developed to meet the growing demand from farmers for increasingly higher levels of advice and support from advisors.

AgCredited is based on national industry standards aligned to the national Vocational Education and Training (VET) framework.

To become accredited as an advisor or consultant, candidates need to meet specified national core and specialist competencies. Those who are successful in obtaining accreditation will be entitled to use the AgCredited logo, which will become a symbol for superior professional advice and practice.

The program has the support of Australia's leading agribusiness firms, and representatives from Elders and CRT have participated in its development.

AgCredited will enable professionals working in agriculture and natural resource management to build and maintain the highest

possible quality of professional competency and advice to clients.

AgCredited will give Australian farmers the confidence to know who they can trust when they seek help from consultants, researchers, advisors and scientists.

2. King Island Council (Submission 27) provides some options for modification to the draft Policy that would enable the planning scheme to retain the current prohibition of forestry on King Island.

- Do you consider any of the options proposed practical and feasible?
- Are the options consistent with the general intent of the draft Policy?

The Government's position is that King Island should be treated no differently to other parts of the State.

The options proposed by the King Island Council are not considered to be consistent with the general intent of the Policy, which identifies only prime agricultural land as being exempt from the broad proposition that any agriculture dependent on the soil including plantation forestry should be allowed on all rural land.

It is noted that all the proposed options refer to the concept of 'significant agricultural land' and to that degree are aligned to an approach taken in the Policy in encouraging a finer grained approach to agricultural land than the prime / non-prime dichotomy. However, the Policy is specific in terms of not restricting soil-based agriculture on non-prime land.

3. Definition of 'significant agricultural land'

- Has there been any research on the definition of 'significant agricultural land'?
- In your opinion, what constitutes 'significant agricultural land'?

The term 'Significant Agricultural Land' is not part of the PAL Policy and is derived from the drafting of the Implementation Guide and is referred to in the Model Planning Scheme Provisions. By virtue of its characteristics it is difficult to define the concept over and above the intent. It is very much something that will require each council or 'regional planning process' to determine what constitutes significant in specific areas.

Having said that, clearly areas under irrigation but not 'prime' land would be contenders for the 'significant' tag. The Coal River Valley does not contain any prime land but is clearly of significant agricultural value.

State significant agricultural land is defined in the NSW State Environmental Planning Policy (SEPP) on Rural Lands 2008. However, it refers to a Schedule that has not been populated at this stage.

One of the Tamar NRM Action Plans is to identify and protect significant agricultural land in the Tamar region, and to develop parameters to identify what is meant by significant.

A number of submissions covered the relevance and effectiveness of the 'land capability' classification system. That system is set out in the *Land Capability Handbook* by KE Noble, published by the Department of Primary Industry in 1992, based on the various classes of land.

In short, a variety of other suggestions about assessing the value of land were made in submissions to the review of the State Policy on the Protection of Prime Agricultural Land 2000 (PAL 2000 Policy) with the central characteristics being a broader 'farming capability' assessment. This would include consideration of the land in relation to existing neighbouring land uses (any pre-condition of fettering); whether the land is suitable for specific crops significant to a local area (such as viticulture in the Tamar Valley); whether water is potentially available through some irrigation or waste recycling scheme; the specific size and characteristics of the land; and its ability to be wholly or partially amalgamated with neighbouring titles.

The recognition that all land is valuable and some non-prime land is significant locally or at a regional or state level, was reinforced by submissions from agricultural industry groups and interests. These highlighted the changing practice of agriculture and the potential impacts of climate change that might affect existing and emerging industries.

Concerns about the cost implications of broad mapping of land capability were raised by local councils and individuals. On the other hand, a few submissions indicated that case by case, more comprehensive assessment with associated professional analysis is likely to be even more costly.

There are a number of projects underway in other States that are mapping areas of significant land. For example, in NSW, the Mid-North Coast Farmland Mapping Project is designed to map and help protect

the region's most significant agricultural land. It identifies regionally significant farmland in the local government areas of Port Macquarie-Hastings, Kempsey, Nambucca, Coffs Harbour, Bellingen and Clarence Valley.

Across these council areas, agriculture has an economic value of \$245 million per year, which includes \$105 million from cropping and \$140 million from livestock farms. Key crops include vegetables, nuts and sugarcane, while livestock-farming is based on beef and dairy.

In relation to the PAL Policy, where planning authorities determine the value of some areas of non-prime agricultural land is very high in a local and regional context, they may consider it desirable to apply similar or the same provisions to these areas as those applicable to prime agricultural land.

Using this methodology, the identified locally and regionally significant non-prime land could be mapped, together with prime agricultural land, as one category of 'significant agricultural' land. The advantages of such an approach include avoiding the need for separate controls, and may also circumvent the necessity to verify (through more detailed land capability reporting) the exact boundaries of pockets of prime agricultural land.

The model 'best practice' planning scheme provisions have been drafted on the basis that prime and non-prime agricultural land of identified importance will be mapped together under the planning scheme as a single category of 'significant agricultural land'. This is one method of dealing with areas of significant non-prime agricultural land requiring greater levels of protection.

Areas in Tasmania which might be candidates for significant land status could include areas of the North West Coast, which are made up of a matrix of prime and non-prime land but are farmed without distinguishing those differences; hop growing areas around Bushy Park; the Coal River Valley; some parts of the Tamar Valley wine area; and irrigation areas.

4. The State Policy on PAL 2000 contained a community benefit test.

- Provide the rationale for removing the test.
- What benefits / losses are gained from removing the test?

The Government had concerns about the requirement under Principle 4 of the PAL 2000 Policy for the provision of public utilities and other physical infrastructure to be referred to the Resource Planning and

Development Commission (RPDC) for its confirmation that there “is an overriding need for a use or development for community benefit and a suitable alternative site is not available”.

Analysis indicates that this is time consuming and unnecessary for projects that, by their very nature, are almost inevitably in the public interest.

Principle 2 of the PAL 2000 Policy indicates that non-agricultural uses alienate prime agricultural land. Principle 4 provides for exceptions to this which sets up a process for the RPDC to confirm an overriding community benefit before allowing a planning authority to consider an application.

Principle 4 indicates three sorts of proposals that can be assessed. These are ‘public utilities’, ‘other physical infrastructure’, and proposals of ‘significant economic benefit to the region’.

The conversion of prime agricultural land for any of these proposals must pass two tests. It must comply with the planning scheme or amendment, and it must have approval from the RPDC that confirms an overriding need for community benefit.

To assist with interpreting this Principle, a Guideline was issued by the RPDC with the approval of the Minister for Environment and Planning under Paragraph 4 of the PAL 2000 Policy, effective from 30 August 2005.

The Guideline indicated that there is a sequence for achieving the two-part test. It states ‘the first consideration that must be made is whether or not the application satisfies the requirements of Principle 4(ii)’ (ie RPDC confirmation).

‘It is essential that this determination is made prior to lodgement with the planning authority of an application under Section 57 or 58 of the Land Use Planning and Approvals Act 1993 (the Act), so that the 42 day determination period provided for in Section 57(6)(b) or 58(2) of the Act does not commence until the Commission has made its determination.’

The Guideline states that if the confirmation from the RPDC is not provided, the planning authority cannot accept the application. In the ‘Procedure’ section of the Guideline this is expressed as ‘the planning authority cannot consider the application’. This amounts to a refusal albeit not one that is formally decided by the planning authority.

The Guideline provides explanation of the means for the RPDC testing significant economic benefit for the region, overriding need and community benefit, and alternative siting.

The 'Procedure' section also sets out the information requirements of the RPDC for assessment of a proposed development against these criteria.

The Government had a number of concerns about the internal consistency of Principle 4 and its operation under the Guideline.

Firstly, if a proposal needs to comply with a planning scheme, and the planning scheme is already amended to give effect to the PAL Policy, then it is difficult to see why a further sign-off by the RPDC is required, even if the alienation of prime agricultural land would occur. The basic proposition is that the planning scheme has been amended to be consistent with the Policy and therefore any proposal in line with the scheme should be able to be considered by the Council.

However, the wording "comply with the planning scheme or amendment" indicates that there may be occasions where it does not comply with a planning scheme and an amendment is required to allow it. Where an amendment is required, then it would be likely that the application will be considered under section 43A of the *Land Use Planning and Approvals Act 1993* (LUPAA) (as a joint planning scheme amendment and development application). If an amendment is required then the RPDC would test the merits of it (including community benefit) through the amendment assessment process. In this case, the referral process outlined in Principle 4 is either redundant or a duplication.

The application of Principle 2 provides a parallel. In Principle 2, houses (which are also indicated as alienating prime land) are only allowed where the planning scheme has been amended through due process. The Policy does not require referral to the RPDC outside of the amendment process. The requirement is consistent with the general application of a State Policy by implementation through planning schemes.

The second issue is that the RPDC referral process, despite the explanation in the Guideline, is an internal administrative process without any normal access, transparency or review rights. It is also a pre-lodgement requirement the equivalent of seeking land owner consent on applications dealing with Crown Land. There must be concerns with the procedural fairness of this process.

Notwithstanding these procedural issues, the Government submits that while it supports the notion that community benefit is an appropriate test for the conversion of agricultural land it considers it difficult to imagine circumstances where the development of public utilities and other major infrastructure would not be of public benefit.

The suggestion is that appropriate criteria could be included in the Policy (as they are set out in the Guideline) to enable the local planning authority to determine compliance. The approach then is to accept that certain types of utilities, infrastructure and extractive industries are likely to be in the public interest and therefore place the emphasis on setting the appropriate planning standards in planning schemes for their assessment rather than giving the RPDC a relatively unconstrained discretion to allow them to be considered.

This issue also relates to the structure of State Policies more generally. If State Policies are viewed as being implemented through planning schemes and other statutory tools and the Principles are advisory to drafting those planning schemes, then it is questionable whether they should contain operational mechanisms for consideration of developments outside of the planning schemes. The referral requirements of Principle 4 seemed to perpetuate a self-executing aspect of the PAL Policy in respect of individual developments.

Where possible, there is a need to remove machinery clauses that rely on detailed processes outside of normal planning scheme provisions. Therefore the suggestion is that for proposals outside of those allowed by a planning scheme (ie not utilities or infrastructure), the community benefit test is carried out by the RPDC, not as an administrative pre-lodgement process, but as part of a normal amendment to a planning scheme, albeit in most cases a site specific one.

A suggested revision of Principle 4 of the PAL 2000 Policy is:

Public utilities or other open access infrastructure and extractive industries may be developed on prime agricultural land where they can meet stringent performance criteria in relation to the amount of land alienated, whether other uses would be negatively impacted or fettered by the proposal, and whether the particular location is the only feasible option and required for the efficient operation of the service.

Other proposals of significant economic benefit to the region which may cause prime agricultural land to be converted to non-agricultural use should be considered as an amendment to a planning scheme through justification of overriding community benefit.

This removes the current referral to the RPDC as set out in Principle 4 of the PAL 2000 Policy. The replacement arrangement places the onus on the planning authority and the RPDC to make a determination of proposals which have this 'overriding community benefit' in a more generic sense through allowing them as discretionary uses in planning schemes or through scheme amendment. Both the designation of uses, and the criteria for testing them as exceptions to protecting prime agricultural land at all costs, would be tested through the planning scheme or amendment drafting processes set out in LUPAA.

In essence, this relaxes the process for assessing public utilities, infrastructure and extractive industries on prime land by allowing direct assessment under planning schemes subject to strict criteria, but tightens and formalises the exceptions for other significant economic projects by requiring a site-specific amendment rather than a 'peculiar' referral to the RPDC which is not subject to review or appeal.

Review of previous determinations by the RPDC under Principle 4.

Analysis of the RPDC decisions under Principle 4 show that 14 referrals have been made over a 6 year period, with all but one being confirmed. The table below details these:

Table 1

Year	Local Council	Proposal Summary	Status	Total
2001 - 2002	Not specified.	Not specified.		0
2002 - 2003	Not specified.	Not specified.		4
2003 - 2004	Not specified.	Not specified.		3
2004 - 2005	Latrobe	Road realignment.	Confirmed	3
	Waratah - Wynyard	School extension (gym).	Confirmed	
	Waratah - Wynyard	Eco-tourism accommodation	Rejected	
2005 - 2006	Circular Head, Waratah - Wynyard & Burnie	Smithton to Burnie Transmission line.	Confirmed	2
	Devonport	Relocation of road intersection.	Confirmed	
2006 - 2007	Circular Head & Waratah -	Improvements to Bass Highway.	Confirmed	

State Policy on the Protection of Agricultural Land 2007 – Responses to RPDC
Questions

	Wynyard			
	Burnie	Extension of disabled care facility.	Confirmed	2
			Total	14

Brief Commentary on Table 1

- 14 referrals to the RPDC for the period 2001 – 2007.
- Average of 2.3 per year.
- Apart from one rejection in the 2004/2005 period, all have been confirmed.
- Of the 7 referrals detailed, 4 were for major public infrastructure projects of clear community benefit (3 road-related, 1 transmission line).
- Of the 3 remaining, the 2 confirmed were for social infrastructure in the form of extensions to existing facilities (1 at Yolla High School, the other a disabled care facility – Society for the Multiple Disabled People of Tasmania Inc.).
- Yolla High School is zoned Residential, while the disabled care facility is in the Rural Zone.
- Since details of the municipal area were listed (2004/2005 onwards) all referrals are particular to the NW of the State.
- From 2004/2005 – 2006/2007, four referrals (or approx 57% of all referrals during this period) were made for the Waratah-Wynyard municipal area. This despite the fact that of Waratah-Wynyard Planning Scheme 2000 being prepared and assessed by the RPDC as consistent with the PAL 2000 Policy.
- Referral to the RPDC, under the previous Principle 4, for proposals made under planning schemes consistent with the 2000 Policy, or proposals requiring an amendment to a planning scheme are essentially duplicating the RPDC assessment process.

The Draft PAL Policy 2007 (the Draft Policy) does not apply to prime agricultural land that is zoned or already developed for other uses. Both the Yolla High School and the Society for the Multiple Disabled People of Tasmania Inc. extensions would be exempt from the Policy.

The only project to be refused by the RPDC under Principle 4 of the PAL 2000 Policy was a proposal for eco-tourism accommodation at Myall Road, Milabena. This was subject to an appeal to the Resource Management and Planning Appeal Tribunal (RMPAT) which ruled that the original Council approval, which imposed a condition requiring the consent of the RPDC prior to construction commencing, was invalid. Furthermore, the Chairman indicated that it was inappropriate for the RPDC to check the compliance of a development against the planning scheme.

'Condition 1 in requiring confirmation to be provided from the Resource Planning and Development Commission that the proposed development complies with the State Policy, requires in part that the developer obtain Resource Planning and Development Commission confirmation that the conversion (development) does "comply with the Planning Scheme". That is, it calls for the exercise by the Resource Planning and Development Commission of an assessment of such compliance. That is not a function which is vested in the Resource Planning and Development Commission by the State Policy; that is instead a function which is given the Planning Authority, the Land Use Planning and Approvals Act 1993. Condition 1 of the permit in this respect makes the effect of the permit dependant upon the provision of a confirmation which is in part outside the functions of the body from which the condition requires the confirmation to issue.'

The referral to the RPDC took place after the Council approval and the Commission found that the proposal did not meet the community benefit test. This sequence of events prompted the RPDC to issue the Guideline indicating that seeking the Commission's approval needed to occur **before** a Council could entertain a proposal.

For the purpose of this exercise the relevant question is how such a proposal would be dealt with under the Draft Policy (ie without the RPDC community benefit test). The application of the principles of the Draft Policy would indicate that a scheme amendment under Principle 7 may be required.

In summary the benefits anticipated from removing the test are:

1. Transparency in process – in relying on the normal LUPAA processes;
2. Removal of duplication – in terms of assessing community benefit as part of a DA or Amendment;
3. Improved procedural fairness – in removing an approval process without review or challenge;
4. Consistency with a non-self executing State Policy – removal of processes set out in the Policy itself as opposed to in planning schemes or under LUPAA;
5. Improved timeliness of decisions – no extra stage of referral;
6. Reduced work load for the RPDC – albeit a small amount;
7. Processes consistent with responsibilities under LUPAA – as per comments of RMPAT cited above about RPDC role in assessing against a planning scheme;
8. Quicker approvals for those projects which are clearly of community benefit – for example, the infrastructure projects approved by the RPDC that are referred to in Table 1; and

9. Removal of a process which is redundant if a planning scheme has been amended or replaced by one consistent with the State Policy. Logically, if a proposal is consistent with a planning scheme approved as compliant with the State Policy, there should be no need to require a further test of compliance with the scheme outside of the planning authority processes.

5. Principle 5

Justify the rationale for Controlled Environment Agriculture being identified as a specific agricultural use, in contrast to the rest of the policy (plantation forestry notwithstanding).

A few submissions raised the issue of the Policy recognising the changing nature and range of agricultural practices. The Government gave consideration to the effect of the PAL Policy on modern and contemporary agricultural and farming practices, including Controlled Environment Agriculture (CEA) and intensive animal husbandry.

CEA refers to growing crops within glass houses or similar structures. Consideration of the suitability of land for this use relates to the presence and efficient use of existing farming infrastructure. The Government was concerned that a strict interpretation of the Policy would result in this form of development being contrary to its provisions.

Situation under the PAL 2000 Policy

The PAL 2000 Policy makes no specific reference to CEA. Principle 2 raises the issue of some 'intensive agricultural industries' alienating prime agricultural land. This concept is not defined so it is unclear if CEA would be considered as such an example of 'intensive agricultural industries'.

The Government has accepted that CEA refers to any production system which reduces the impact of climatic and environmental variability on the production process. Examples of this include growing crops within greenhouses or similar structures. In the draft PAL Policy prepared in 1998, the definition of 'agricultural uses' specifically excluded 'intensive animal feedlots, piggeries and poultry farms and plant nurseries based on either hydroponics or imported growth media'.

This definition was modified in the PAL 2000 Policy and the broader reference to 'some intensive agricultural industries' is relied upon. This provides a less definitive control.

Although CEA products generally compete with soil-based products (eg vegetables such as tomatoes, lettuce and cucumbers), in Tasmania they tend to expand the range of crops beyond those already grown to include those not readily grown because of climatic restrictions. These products are grown specifically for export (including interstate) markets.

Reports into the advantages of hydroponics and other CEA indicate that good quality soil is not (generally) a requirement, and therefore lower cost land can be utilised for production (Carruthers, 2001). Hydroponics also have a smaller land area requirement than conventional soil-based systems, use less water, have lower labour requirements and generally lower costs for production and harvesting. (Hassell and Assoc, 2001).

Opinion suggests that because CEA uses less chemicals, and because runoff, smell and noise can be appropriately managed, it has the potential to be accommodated in urban or urban fringe areas where traditional agriculture has been displaced. This has locational implications which are different to other forms of intensive agriculture such as 'animal husbandry'.

Further advice suggests that there may be synergies and economic efficiencies to be gained from locating CEA on existing farms where it may or may not involve prime land. The issue then is whether these CEA developments alienate land from productive use and therefore might be seen as contravening the objectives of the PAL Policy.

There is now a trend in large scale CEA developments internationally and within Australia, driven by market demand for premium fresh produce. High capital costs in establishing new agricultural ventures result in the establishment of large scale developments, between 5 and 20 hectares (usually in staged developments) being the most cost effective and efficient to operate.

These enterprises are generally located on large, flat acreages with a temperate climate. The most suitable area in Tasmania is a relatively narrow band along the state's north-west coast. As these enterprises are also generally focussed on export markets, proximity to a commercial port is also an important consideration.

Advice to the Government is that the climate along the coastal strip of Tasmania's north-west coast is comparable with other prime international locations for CEA production. As such, it is important for Tasmania to take advantage of the economic development opportunity this represents, both in terms of the local economy and export opportunities.

This strip includes some areas of prime agricultural land. However, the requirement for large areas of flat land (5 to 20 hectares) effectively limits the potentially viable locations and sites within this region. The Government's view is that the PAL State Policy should not place further, undue limitations on the establishment of these enterprises.

It appears that some, or probably the majority, of these CEA operations do not actually make use of the soil and occupy buildings over it, although they do not necessarily rely on sealing the surface with concrete. However, unlike conversion to non-agricultural use, such as residential, the structures might be seen as less permanent and the use more justified through relation to the broad farming land use. In short, the alienation could be both qualified and conceivably reversible.

At face value, there is a fundamental inconsistency between the characteristics of many intensive agricultural proposals which alienate prime land and the central notion of protecting the best land to foster agriculture, as expressed in Principles 1 and 2 of the Draft State Policy on PAL 2007. There may well be overriding or persuasive arguments for allowing these to be developed on prime land in exceptional circumstances, but to seek to directly provide for these generally in the Policy, as though they were other forms of agriculture, might present an internal inconsistency which would undermine the Policy's integrity.

There does seem to be a more compelling argument to allow CEA on prime land than other forms of intensive agriculture because these enterprises are not always disconnected from the productive capacity of the soil, unlike intensive animal husbandry. Nor do they have the same long-term conversion impacts. The nature of the physical structures is less permanent and the types of produce are directly comparable to normal cropping on the prime land (eg vegetable production) and thereby fit better with existing operations and cropping regimes. The specific band of microclimate is also limited to an area of Tasmania rich in prime land, whereas climatic circumstances are far less of an issue with intensive animal husbandry.

This distinction suggests that CEA enterprises be treated differently in the Policy.

In regard to the development of either form of agriculture on non-prime agricultural land, the PAL 2000 Policy is flexible in relation to local councils determining what uses might be allowable on non-prime land, and as such these forms of development can be assessed against a range of appropriate local conditions. Where they might be proposed on prime land, the Policy may need to put in place a process through

which exceptional circumstances can be demonstrated to allow for the alienation of the soil resource.

The PAL 2000 Policy had specific provisions for considering public utility and infrastructure developments that might alienate prime land based around a community benefit test. Where a CEA development is proposed on prime land its appropriateness may be a function of its planned longevity, its locational requirements (particularly in respect of microclimate), links to existing infrastructure, proximity to markets, labour, and for management and other functional synergies.

If an overriding argument based on these considerations can be made to support the alienation of the soil for the development of CEA, then provision should be made to put this case and planning authorities given discretion to approve such proposals.

Where a proposal is for intensive animal husbandry on prime land, the justification requires a far more rigorous test combining consideration of a range of planning matters. The Policy can flag that, notwithstanding that these developments alienate prime land, there may be exceptional circumstances that warrant permitting alienation but that approval is required by means of referral beyond the local planning authority.

The PAL 2000 Policy should be amended to define CEA and an additional clause be introduced that allows this use as discretionary on prime agricultural land where a proposal can demonstrate performance against a predetermined set of criteria or guidelines. Introducing assessment which takes into account the economic effects of development along with the social and environmental effects is, of course, consistent with the requirements for decision makers set out in the Objectives of the LUPAA (Schedule 1 Part 2 (c)).

A possible definition of CEA is as follows:

“Controlled environment agriculture” means an agricultural use carried out within some form of built structure whether temporary or permanent which mitigates the effect of the natural environment and climate. These include production techniques that may or may not use imported growth mediums. Examples of controlled environment agriculture include greenhouses, polythene covered structures, and hydroponic facilities.’

This definition is reflected in the Draft State Policy on PAL 2007.

It is also recommended that the current definition of agricultural use be expanded to include ‘controlled environment agriculture’ to ensure it is

clearly accepted as a form of agriculture and not considered as a 'non-agricultural use'.

A possible definition of agricultural use, as reflected in the Draft State Policy on PAL 2007, is as follows:

"agricultural use" means animal or crop production and includes controlled environment agriculture and plantation forestry.

Additional Question.

1. Consistency of the definition of Utilities.

The Panel asked for advice on the consistency of the definition of Utilities used in the Draft PAL Policy with that in the PD1 Common Key Elements Template.

The Template definition is :-

Utilities	means use of land for: (a) telecommunications; or (b) transmitting or distributing gas, oil, or power; or (c) transport networks; or (d) collecting, treating, transmitting, storing or distributing water; or (e) collecting, treating, or disposing of storm or floodwater, sewage, or sillage. Examples are a gas, water or sewerage main; electrical sub-station; power line; pumping station; retarding basin; road; railway line; sewage treatment plant; water storage dam; storm or flood water drain and weir.
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The Draft State Policy on PAL 2007 definition is effectively the same as follows:

“utilities” means use of land for telecommunications; transmitting or distributing gas, oil, or power; transport networks; collecting, treating, transmitting, storing or distributing water; or collecting, treating, or disposing of storm or floodwater, sewage, or sillage. Examples are a gas, water or sewerage main; electrical substation; power line; pumping station; retarding basin; road; railway line; sewage treatment plant; water storage dam; storm or flood water drain and weir.