

TASMANIAN PLANNING COMMISSION



Annual Report 2018 - 2019

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Tasmanian Planning Commission
GPO Box 1691
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The Hon Roger Jaensch MP
Minister for Planning
Level 5, 4 Salamanca Place
Parliament Square Building
HOBART TAS 7000

Dear Minister

I have pleasure in submitting the Annual Report of the Tasmanian Planning Commission for the year ending 30 June 2019, in accordance with section 19 of the *Tasmanian Planning Commission Act 1997*.

Yours sincerely

Peter Fischer
Acting Executive Commissioner

Table of contents

Table of contents	4
1. Year in Review	5
2. Overview.....	6
Tasmanian Planning Commission	6
Objectives	6
What We Do	6
Who We Are	7
Ministerial Responsibilities.....	8
Staffing.....	9
Financial Resources	9
Performance	9
3. Report on Performance	10
Objectives and Priorities.....	10
1. Planning Scheme Amendment Assessments.....	10
2. Draft LPS Assessment - Tasmanian Planning Scheme (TPS) Implementation	12
4. Assessment and Review Resources and Systems.....	13
5. Consistent and high standard of drafting for TPS	13
6. State of the Environment (SOE) Reporting.....	13
Appendix 1: Resource Management and Planning System Objectives.....	15
Appendix 2: Legislative Framework	17
Appendix 3: Ministerial Statement of Expectation	19

1. Year in Review

During the year the Commission's workload has grown as the number of Local Provisions Schedules (LPSs) being referred by planning authorities (councils) for assessment has increased. A total of 12 LPSs had been lodged by 30 June 2019.

The task of reviewing and assessing LPSs is a considerable and complex one, and it will place unprecedented pressure on the Commission's resources.

While there has been a slowing down in the numbers of planning scheme amendments and combined permits and amendments, due to the focus of planning authorities moving to LPS preparation, some assessments can be complex or attract high public interest with consequent resource implications for the Commission.

In acknowledgement of the challenge ahead, the Commission made some business improvements in early 2019, including some organisational changes to more effectively resource the LPS assessment. It also requested approval from the State Service Management Office to establish an employment register for fixed term Senior Planning Consultants and Planning Advisers to assist it more quickly recruit professional staff as and when required over the coming period.

This year also saw the resignation of Chairman and Executive Commissioner Greg Alomes after 12 years in the role. The Commission thanks Greg for his service and acknowledges the significant contribution he made to Tasmania's land use planning system during a time of considerable planning reform.

The Commission acknowledges and thanks its staff, planning authorities, representors and the Department of Justice, particularly the Planning Policy Unit, for their assistance during 2018/19.

Peter Fischer
ACTING EXECUTIVE COMMISSIONER

2. Overview

Tasmanian Planning Commission

The Commission is an independent statutory body established under the *Tasmanian Planning Commission Act 1997* (TPC Act).

Objectives

The Commission is committed to furthering Tasmania's Resource Management and Planning System (RMPS) objectives in Schedule 1 of the Act (see Appendix 1) and to observing the rules of natural justice.

The RMPS objectives promote sustainable use and development of the State's resources and sound strategic planning. The objectives also encourage public involvement in, and shared responsibility for, resource management and planning.

What We Do

The Commission performs a range of independent statutory planning and project assessment, decision-making and advisory functions within the scope of its responsibilities under RMPS and other legislation.

Specific assessment and reviews referred to the Commission by the Minister for Planning, planning authorities (councils) or other Ministers (see Appendix 2) include:

- The Tasmanian Planning Scheme (State Planning Provisions and draft Local Provision Schedules);
- Draft planning scheme amendments and combined scheme amendments and planning permits;
- Draft planning directives and interim planning directives;
- Projects of State or regional significance;
- Draft state policies and state of the environment reporting; and
- Draft national park and state reserve management plans and water management plans.

Some assessments and reviews include public hearings.

Services provided by the Commission include:

- Online access to statutory assessment and review documentation;
- The authorised version of planning schemes, including the Tasmanian Planning Scheme, as it is progressively implemented with the approval of Local Provisions Schedules (LPSs);
- Online access to planning schemes and the Tasmanian Planning Scheme, when operational in municipal areas; and
- Online access to general information on Commission's functions and Tasmania's planning system.

Who We Are

The Commission has a full-time Executive Commissioner and seven part-time Commissioners, each appointed under section 5 of the TPC Act for their particular skills, knowledge and expertise.

During 2019, the Commission members were:

- Peter Fischer – Acting Chair and Executive Commissioner; from 7 December 2018;
Greg Alomes Chair and Executive Commissioner, resigned;
- John Ramsay – Commissioner with expertise and management experience in resource conservation;
- Roger Howlett – Commissioner with resource conservation or planning experience representing community interests;
- Ann Cunningham – Commissioner with experience in public administration relating to project implementation;
- Shane Gregory – Commissioner who represents the State Service Agency responsible for the administration of transport and provision of infrastructure;
- Eamonn Tiernan – Commissioner appointed on the recommendation of the Chairperson of the Corporation within the meaning of the *Water and Sewerage Corporation Act 2012* (TasWater);
- Michael Stretton – Commissioner with planning experience nominated by the Local Government Association of Tasmania; and
- Claire Gregg – Commissioner with planning and appropriate experience in industry and commerce.

The following Deputy Commissioner acts in the absence of the Executive Commissioner:

- Sandra Hogue – Deputy Executive Commissioner.

Ministerial Responsibilities

The Minister for Planning (Minister) has responsibility for the administration of the Act; the *Land Use Planning and Approvals Act 1993* (LUPAA); Part 2 of the *Public Land (Administration and Forests) Act 1991*; and Part 4 and section 46 of the *State Policies and Projects Act 1993*.

The Minister also provides the Commission with a Ministerial Statement of Expectation. The Statement in operation in the reporting period is attached (see Attachment 3).

The Premier is the Minister responsible for the administration of the *State Policies and Projects Act 1993* (except Part 4) and referral of projects of State significance and draft State Policies to the Commission for independent assessment.

The Minister for Environment, Parks and Heritage administers the *National Parks and Reserves Management Act 2002* and the *Wellington Park Act 1993* and referral of representations and reports on draft management plans for review by the Commission.

The Minister for Primary Industries and Water administers the *Water Management Act 1999* and referral of representations and reports on draft water management plans for review by the Commission.

The Commission also has assessment, decision-making and advisory functions as part of the Government's Tasmanian Planning Scheme reform, including draft Local Provisions Schedules (LPS), as and when submitted by each of the State's 29 planning authorities, and draft amendments to the State Planning Provisions (SPP) provided by the Minister.

The Department of Justice and Planning Policy Unit (PPU), including the LPS State Steering Committee, coordinate and assist the Minister with the reform program. The Commission is a member of the Steering Committee. The Commission also meets weekly with the PPU to coordinate other reform tasks.

The Commission operates within an administrative framework provided by the Department of Justice (the Department).

Staffing

As at 30 June 2019, the Commission's staffing comprised senior planning consultants, planning advisers, and specialist technical and administrative staff (16.38 FTEs).

The Commission sought approval from the State Service Management Office to establish an employment register for Senior Planning Consultant and Planning Adviser positions to assist with anticipated increased demand for staff as result of the draft LPS assessment.

Financial Resources

The Commission's 2018/19 revenue budget was \$3.91m.

Performance

The Commission's key performance areas in its 2018/19 Business Plan were, as follows:

1. Planning scheme amendment assessments
2. Assessment of LPSs and implementation the TPS
3. Other review and advisory tasks
4. Assessment and review resources and systems
5. Consistency with TPS drafting standards
6. State of the Environment (SOE) reporting

3. Report on Performance

Objectives and Priorities

1. Planning Scheme Amendment Assessments

Most requests for planning scheme amendments made to planning authorities (councils) and referred to the Commission relate to new planning and development initiatives that do not comply with zoning and planning provisions.

The Commission's objective for 2018/19 was to ensure assessments of planning scheme amendments were not unreasonably delayed or impacted by Tasmanian Planning Scheme reform commitments.

This was accomplished as the Commission maintained an average amendment assessment period of 86 days, which is slightly below the 90 day statutory assessment period in LUPAA. However, some of the more complex amendments required Ministerial time extensions.

The Commission had expected the number of amendments might decline as planning authorities commenced preparation of draft LPSs as part of the Tasmanian Planning Scheme reform. This had occurred in 2013/14 during the interim planning scheme reform.

Most amendments were to change land use zoning and/or planning provisions to facilitate new development initiatives while others were to tighten scheme provisions to protect the character and values of local areas.

An increasing number also involved significant planning issues and often contested private and public interests that required public hearings, comprehensive assessment and drafting modifications.

The Commission's amendment decisions can be accessed in the Assessments and Review section at www.iplan.tas.gov.au.

The Commission's assessment performance is set out in Table 1.

Table 1. Draft amendment and combined permit and amendment applications

Certified Applications	2014/15	2015/16	2016/17	2017/18	2018/19
Total number of applications	73	77	63	70	54
Number of draft planning scheme amendments (section 40 of LUPAA)	54	58	42	49	40
Number of combined permits and draft amendments (section 43A of LUPAA)	19	19	21	21	14
Number approved	66	75	53	52	51
Average number of assessment days	94	74	112	85	86

In addition to section 40 and 43A amendments, the Commission also considered 14 urgent amendment requests under section 30IA of LUPAA during 2018/19. This is a significant decline from previous financial years. This is reflective of the period of time that has now elapsed since interim planning schemes were declared and the completion of the section 30K process under LUPAA for considering representations to interim planning schemes. . (see Table 2).

The number of urgent amendment requests is expected to continue to decline in 2019/20.

Table 2. Urgent amendments to interim planning schemes

Urgent amendments	2015/16	2016/17	2017/18	2018/19
Number of urgent amendments recommended by the Commission and approved by the Minister (section 30IA of LUPAA)	128	226	96	14

2. Draft LPS Assessment - Tasmanian Planning Scheme (TPS) Implementation

Under LUPAA, the TPS becomes operational in a municipal area when a draft LPS, prepared by the relevant planning authority, is assessed and approved by the Commission with the agreement of the Minister. In total 29 LPSs will need to be approved before the TPS is fully operational across the State.

In April 2017, the Minister established an LPS State Steering Committee of State (including the Executive Commissioner) and local government planning representatives to coordinate the lodgment of draft LPSs by planning authorities. The Minister wrote to mayors of all planning authorities in September 2018 advising that he had set a target date for all draft LPSs to be lodged with the Commission by 30 June 2019. In the letter he outlined that he had established a project team to assist planning authorities to achieve this goal. Some staff of the Commission were seconded to the project team for this purpose.

As at 1 July 2018 three planning authorities had lodged draft LPSs. During 2018/19 a further nine draft LPSs had been lodged. The Commission is aware that considerable progress has been made during the year by a number of other planning authorities in the development of their draft LPSs and that lodgment of the draft LPSs was likely in the latter half of 2019.

When lodged, LUPAA sets out a 2-stage review and assessment process.

The first review is for compliance with requirements under LUPAA. In the second assessment, the Commission considers issues raised in written representations during a 60 day exhibition period and responses provided by the planning authority. Public hearings with the parties form part of this process. The Commission may approve an LPS with modifications. Subject to the agreement of the Minister, an LPS is gazetted and takes effect. A total statutory period of 210 days applies to this exhibition and assessment stage.

Three draft LPSs were exhibited during 2018/19; the Meander Valley draft LPS in October 2018, the Brighton draft LPS in April 2019 and the Central Coast draft LPS in June 2019. Hearings were held into the Meander Valley draft LPS in May and June 2019.

The challenge will be to complete all 29 LPS assessments and approvals in a timely manner. Resourcing of the Commission to undertake the compliance check, hearing and approval tasks will also be a challenge.

3. Other Review and Advisory Tasks Performed

During 2018/19, the Commission provided advice to the Minister and the Department on draft legislation and other planning matters.

There were no directions from Ministers regarding draft management plans under either the *National Parks and Reserves Management Act 2002* or the *Water Management Act 1999*. There were no assessments of draft State Policies, projects of State or regional significance and there were no references to the Commission in relation to the future use of public land during 2018/19.

Draft Amendment 01-2018 of the State Planning Provisions (Tasmanian Planning Scheme)

In October 2018 and March 2019, the Minister sought advice from the Commission on draft amendment 01-2018 to the State Planning Provisions (SPPs). The draft amendments included:

- a minor revision to the exemptions to update references and clarify;
- minor revisions to remove an inconsistency in the SPPs relating to the operation of particular purpose zones;
- minor revisions to the Parking and Sustainable Transport Code, Local Historic Heritage Code and Scenic Protection Code to clarify definitions and other matters, and correct drafting errors and anomalies;
- various other minor revisions to correct minor drafting errors and to change a provision that specifies the structure of an LPS.

The Commission submitted its advice to the Minister in October 2018 and June 2019 on public exhibition, the public interest and compliance with SPP criteria under LUPAA. It also recommended modifications to the draft amendments.

The draft amendments have yet to take effect.

During 2018/19 the *Housing Land Supply Act 2018* came into effect and the Minister for Housing issued Housing Land Supply Orders for Rokeby, West Moonah and Devonport. The Commission has no review role in the process but was required to make the requirement amendments to planning schemes.

4. Assessment and Review Resources and Systems

The main initiatives implemented in 2018/19 were the endorsement of a Code of Conduct for the Executive Commissioner, Commissioners and Delegates, updated governance arrangements and a Business Improvement Strategy (BIS) which was prepared in early 2019 to identify opportunities to improve effectiveness and find efficiencies for draft LPS and planning scheme amendment assessments.

The BIS led to further refinement of WHS systems, performance review and professional development systems, and targeted review of Planning Adviser Manuals for assessments.

5. Consistent and high standard of drafting for TPS

The Commission, has provided a comprehensive package of LPS compliance information and advice to assist planning authorities to prepare draft LPSs. In addition, the Commission is reviewing drafting of LPSs instruments in conjunction with planning authorities during post lodgment conferences.

6. State of the Environment (SOE) Reporting

The *State Policies and Projects Act 1993* requires the Commission to publish a SOE report every 5 years. The last report in 2009 identified a lack of adequate information and data on which to base a comprehensive assessment of the State's environmental performance, as required under the Act.

The Commission prepared a SOE review report in 2013 which identified the need for a policy review of the SOE legislation. At that time, this policy initiative was not supported by the Department of Justice.

In the subsequent years, the Commission was unable to prepare an SOE Report due to the priority given to interim planning scheme reform tasks and the transition to the TPS.

The Commission updated its 2013 SOE review report in May 2018 and confirmed the 2013 identified need for a policy review of the SOE legislation. It also committed resources in 2018/19 to progress resolution of the outstanding SOE issue.

Appendix 1: Resource Management and Planning System Objectives

The RMPS objectives are:

- to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;
- to provide for the fair, orderly and sustainable use and development of air, land and water;
- to encourage public involvement in resource management and planning;
- to facilitate economic development in accordance with the objectives set out in the above paragraphs; and
- to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State.

Each of the Acts listed in Appendix 2 include a schedule containing the RMPS objectives. There is a general requirement that undertaking the powers and functions of these Acts will promote the objectives.

Supporting the overarching RMPS objectives are additional objectives, which are specific to the land use planning process. These include:

- to require sound strategic planning and coordinated action by State and local government;
- to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land;
- to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;
- 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;
- to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals;

- to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation;
- to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and
- to provide a planning framework which fully considers land capability.

Appendix 2: Legislative Framework

The Commission operates as an independent statutory body under the *Tasmanian Planning Commission Act 1997*. The legislative provisions under which the Commission operates is, as follows:

Legislative Instrument	Commission Functions
<i>Housing Land Supply Act 2018</i>	<p>Amend the relevant planning scheme to be in accordance with the housing order or revocation.</p> <p>Make any minor errors or anomalies when finalising the amendment to the planning scheme.</p>
<i>Land Use Planning and Approvals Act 1993 (LUPAA)</i>	<p>Assessing:</p> <ul style="list-style-type: none"> • interim planning schemes and dispensations • projects of regional significance • draft planning directives <p>Approving:</p> <ul style="list-style-type: none"> • planning schemes and planning scheme amendments <p>Advising:</p> <ul style="list-style-type: none"> • the Minister in relation to land use planning • local government in relation to planning schemes <p>Planning:</p> <ul style="list-style-type: none"> • for the coordinated provision of transport, and infrastructure, for land development
<i>National Parks and Reserves Management Act 2002</i>	<p>Reviewing representations, and the report of the Director of National Parks and Wildlife, relating to draft reserve management plans.</p>
<i>Public Land (Administration and Forests) Act 1991</i>	<p>Inquiring into public land use.</p>
<i>State Policies and Projects Act 1993</i>	<p>Assessing:</p> <ul style="list-style-type: none"> • projects of State significance • draft State Policies

Legislative Instrument	Commission Functions
<i>Housing Land Supply Act 2018</i>	Amend the relevant planning scheme to be in accordance with the housing order or revocation. Make any minor errors or anomalies when finalising the amendment to the planning scheme.
	Preparing: <ul style="list-style-type: none"> • the Tasmanian State of the Environment report
<i>Tasmanian Planning Commission Act 1997</i>	Establishes the constitution, functions and powers of the Commission and Commissioners.
<i>Water Management Act 1999</i>	Reviewing representations, and the report of the Secretary of the Department of Primary Industries, Parks, Water and the Environment, relating to draft water management plans.
<i>Wellington Park Act 1993</i>	Reviewing representations, and the report of the Wellington Park Management Trust, relating to draft management plans.

The Commission also has designated roles and functions under the following Acts:

Aboriginal Lands Act 1995

Conveyancing and Law of Property Act 1884

Environmental Management and Pollution Control Act 1994

Local Government (Building and Miscellaneous Provisions) Act 1993

Major Infrastructure Development Approvals Act 1999

Marine Farming Planning Act 1995

Survey Co-ordination Act 1944

Appendix 3: Ministerial Statement of Expectation

STATEMENT OF EXPECTATION

Statement of expectation - matter under consideration by the Minister

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