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28 July 2023

Tasmanian Planning Commission
GPO Box 1691
Hobart TAS 7001

By email: tpc@planning.tas.gov.au

RE: Representation - Draft Tasmanian Planning Policies

The [Planning Matters Alliance Tasmania](http://www.planningmatterstas.org.au) (PMAT) thanks the Tasmanian Planning Commission for the opportunity to comment on the [Draft Tasmanian Planning Policies](#).

PMAT has been responding to the largest planning reform agenda in Tasmania's history which has been conducted largely over two phases.

Phase One of the planning reforms involves the introduction of a statewide planning scheme, the new *Tasmanian Planning Scheme*, which consists of two parts:

- *State Planning Provisions* that apply broadly across Tasmania; and the
- *Local Provision Schedules* that is applied to each Council area.

The *State Planning Provisions* came into effect in March 2017 but have no practical effect until a *Local Provisions Schedule* is in effect in a municipal area. Phase one reforms are now nearing completion with the [Tasmanian Planning Scheme taking effect in 21 of the 29 municipalities across Tasmania](#).

Phase 2 of the State Government's planning reform commenced in 2021 and includes a [review of the State Planning Provisions](#), introduction of the [Tasmanian Planning Policies](#), the creation of a [regional land use planning framework](#), and a review of Tasmania's three *Regional Land Use Strategies*.

The *State Planning Provisions* will also require review for consistency with the *Tasmanian Planning Policies* once they are finalised.

Planning Policy Context: State Policies versus Tasmanian Planning Policies

State Policies

[State Policies](#), three of which are operational in Tasmania, '....[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](#).'



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PMAT's long stated position has been for the creation of *State Policies* over *Tasmanian Planning Policies* as they tend to deal with the most important issues that affect the whole State and critically bind all State agencies to uphold them and assist with their implementation.

State Policies are also scrutinised and passed by the by the Parliament of Tasmania, they provide for a whole of Government approach (i.e. they bind the Crown and local councils) and they are the most appropriate mechanism to deliver statewide policy direction for land use planning.

In 2014, the last time the Tasmanian Liberal Party released a planning policy, it stated that '*Immediately after the [2014] election, a majority Liberal Government 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*'.

Since then, no new *State Policies* have been created and Tasmania's three *State Policies* have not been reviewed since they were created in 1996, 1997 and 2009.

Tasmanian Planning Policies

In 2018, instead of creating *State Policies*, the State Government developed a new planning policy instrument called the *Tasmanian Planning Policies* which added a layer of complexity to an already complex planning system.

Tasmanian Planning Policies have a narrower affect than *State Policies* as they only apply to the planning system. They are also only signed off by the Planning Minister and are not required to be passed by the Parliament of Tasmania and do not provide for a whole of Government approach.

Also, contrary to logical planning, the State Government developed the statewide planning scheme without providing the policy setting. That is, the State Government created the *Tasmanian Planning Scheme* without guidance of the *Tasmanian Planning Policies*.

Although it is acknowledged that the current *State Planning Provisions* review will consider their alignment with the *Tasmanian Planning Policies*, once these are finalised.

Even though PMAT would have preferred the creation of a suite of *State Policies* to guide the development of the *Tasmanian Planning Scheme*, [*PMAT did welcome the creation of the Tasmanian Planning Policies*](#) as a positive step towards strategic planning as they have the potential to provide some long awaited policy direction to Tasmania's planning system.

PMAT's Submission

Our submission covers:

1. What is PMAT;
2. Hierarchy of Tasmania's planning instruments; and



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3. PMAT's recommendations.

Summary of PMAT's Recommendations

PMAT's recommendations are explained in more detail in Section 3 below.

1. The State Government to better fund and allocate more resources to policy and strategic planning work to support the land use planning system.
2. Simplify and redraft the *Tasmanian Planning Policies* and re-advertise for public comment. If it is not redrafted and readvertised for public comment, we would like to provide more detailed comment on the individual policies, objectives and strategies;
3. Tighten and improve the language of the *Tasmanian Planning Policies* and ensure it is consistent with the *Land Use Planning and Approvals Act 1993*;
4. Align the *Tasmanian Planning Policies* with Schedule 1 of the *Land Use Planning and Approvals Act 1993*;
5. Develop a mix of *Tasmanian Planning Policies* and *State Policies* prioritising *State Policy* development for climate change, Aboriginal Cultural Heritage and biodiversity.
6. Provide clarity on how the *Tasmanian Planning Policies* will apply to the planning system and how competing Policies will be resolved;
7. Provide clarity on how the effectiveness of the *Tasmanian Planning Policies* will be monitored;
8. Remove *Tasmanian Planning Policy 7.0 Planning Processes* as it is inconsistent with Section 12B (1) of the *Land Use Planning and Approvals Act 1993* and will allow for the deregulation of the planning system which will undoubtedly favour the development sector over local communities and undermine democratic governance.

An overarching concern

Following the making of the *Tasmanian Planning Policies* the *State Planning Provisions*, which form the core of the *Tasmanian Planning Scheme*, are required to be reviewed for consistency with the *Tasmanian Planning Policies*.

PMAT formed in 2016 in direct response to the many concerns [Alliance members](#) have with the *State Planning Provisions*. We have been advocating for seven years for significant improvement across a range of [key areas](#). PMAT is also participating in the *State Planning Provisions* Review. See PMAT's submission [here](#).



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We are concerned that the *Tasmanian Planning Policies*, depending on how they are worded, could hinder much needed improvements in the *State Planning Provisions* such as better residential standards, biodiversity management and much more.

Public Hearings

PMAT requests that the Tasmanian Planning Commission hold public hearings into the representations and that we are invited to participate in all public hearings.

Yours sincerely,

Sophie

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1. WHAT IS PMAT

The [Planning Matters Alliance Tasmania](#) (PMAT) is a growing network of [almost 70 community groups](#) from across *lutruwita* /Tasmania which is committed to a vision for Tasmania to be a global leader in planning excellence. Our Alliance is united in common concern over the new Tasmanian state planning laws and what they mean for Tasmania's future. The level of collaboration and solidarity emerging within the advocacy campaign of PMAT, as well as the number of groups involved is unprecedented in Tasmania and crosses community group genres: recreation, environment, urban/local community associations, historic built heritage, ratepayers and 'Friends of ' groups.

Land use planning impacts every inch of Tasmania. We hold that good planning is fundamental to our way of life and democracy. PMAT works hard to raise community awareness about planning and Local Government and encourages community engagement in the relevant processes.

PMAT is an independent, apolitical, not-for-profit [incorporated association](#), governed by a [skills-based Board](#). PMAT is funded entirely [by donations](#).

In 2020 PMAT was named Australia's Planning Champion, a prestigious honour awarded by the Planning Institute of Australia that recognises non-planners for their advocacy and for making a significant contribution and lasting presence to the urban and regional environment. PMAT was awarded the Tasmanian Planning Champion title in 2019.

PMAT's purpose is to achieve a values-based, fair and equitable planning scheme implemented across Tasmania, informed by [PMAT's Platform Principles](#) and delivering the objectives of the *Land Use Planning and Approvals Act 1993*.

As outlined in [PMAT's Strategic Plan 2021–2023](#), 'PMAT's vision is for Tasmania to be a global leader in planning excellence. We believe best practice planning must embrace and respect all Tasmanians, enhance community well-being, health and prosperity, nourish and care for Tasmania's outstanding natural values, recognise and enrich our cultural heritage and, through democratic and transparent processes, deliver sustainable, integrated development in harmony with the surrounding environment.'

Planning schemes must offer a balance between development, individual rights and community amenity, and not just make it easier for development and growth at the cost of community well-being and natural and cultural values. PMAT aims to ensure that Tasmanians have a say in a planning system that prioritises the health and well-being of the whole community, the liveability of our cities, towns and rural areas, and the protection of the natural environment and cultural heritage. PMAT considers that the incoming [Tasmanian Planning Scheme](#) will weaken the protections for places where we live and places we love around Tasmania.



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2. HIERARCHY OF TASMANIA'S PLANNING INSTRUMENTS

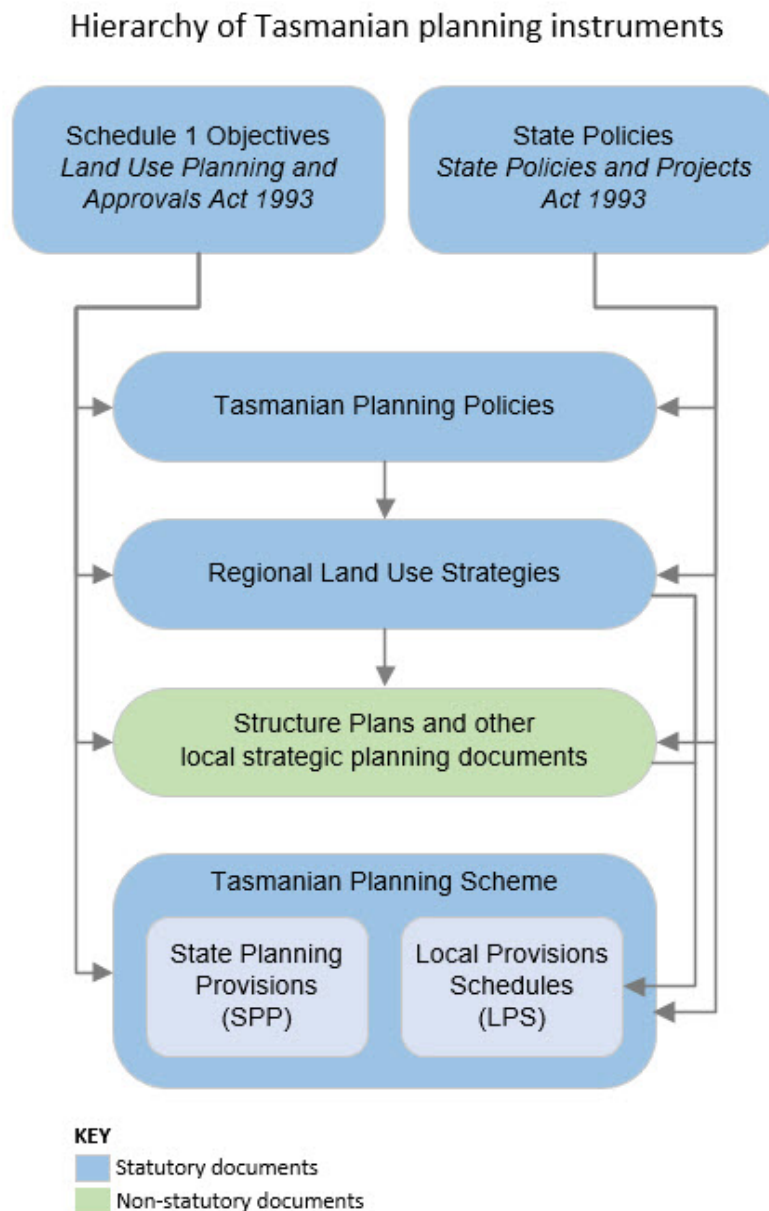


Figure 1 – This graphic shows the hierarchy of Tasmania's planning instruments. Graphic provided with thanks to the State Planning Office.



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3. PMAT RECOMMENDATIONS

PMAT strongly supports the concept of a strategically driven and integrated planning system, but is concerned that the *Tasmanian Planning Policies* as currently drafted will not achieve this.

To effectively deliver on the objectives of the *Land Use Planning and Approvals Act 1993* (Schedule 1) there must be stronger strategic direction given to land use planning in Tasmania.

To this end PMAT considers the draft *Tasmanian Planning Policies* need to be recast and the set of *State Policies* strengthened, as outlined in the recommendations below.

1. **The State Government to better fund and allocate more resources to policy and strategic planning work to support the land use planning system.**

In this time of increased population pressures, housing crisis, increased cost of living, and accelerating climate change – good strategic planning is needed to provide the framework for land use planning. Without resourcing the creation, running and review of good planning systems will result in the loss of Tasmania's inherent values.

2. **Simplify and redraft the *Tasmanian Planning Policies* and re-advertise for public comment.**

The policy content is delivered through seven *Tasmanian Planning Policies* that address broad land use planning topics including: Settlement, Environmental Values, Environmental Hazards, Sustainable Economic Development, Physical Infrastructure, Cultural Heritage and Planning Processes. These seven *Tasmanian Planning Policies* then include a massive 288 objectives and strategies. The *Objectives* set out the aims of the policy and the *Strategies* set out ways that the policy objective can be achieved.

The *Tasmanian Planning Policies* therefore need to be significantly rewritten, re-structured and shortened. For example, reduce the number of policies where they are already addressed by *State Policies*.

We would welcome the opportunity to comment on re-drafted *Tasmanian Planning Policies*. If it is not redrafted and readvertised for public comment, we would like to provide more detailed comment on the individual policies, objectives and strategies.

3. **Tighten and improve the language of the *Tasmanian Planning Policies* and also ensure it is consistent with the *Land Use Planning and Approvals Act 1993*.**

Ensure that the *Tasmanian Planning Policies* terminology is consistent with that in the *Land Use Planning and Approvals Act 1993*.

Section 12B (1) of the *Land Use Planning and Approvals Act 1993* requires that the policies are to be set out with stated aims and principles. However the policies exclude the application of this



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structure, and have been presented and written using language that is clumsy, complex and creates confusion and difficulty in implementing.

Therefore PMAT recommends that plain English and good grammar is used to allow easy access, and understanding and interpretation is made easier.

The language used in the policies is often vague, ambiguous, and contradictory. The planning policies need to be rewritten to ensure that plain English is used and interpretation is made easier.

Ensure the language and terminology is consistent and clear so the *Tasmanian Planning Policies* can be an effective tool in providing strategic guidance to the planning system.

Define all terminology used and where relevant remove altogether wording that will lead to confusion.

Examples include:

The Tasmanian Planning Policy 4.4 *Tourism* states 'Manage visitor accommodation so it does not **significantly** impact the supply of housing for the local community'. As '**significant**' is not defined this will become an impediment for arguing better regulation of short stay accommodation and should be removed.

Strategy 1.1.3.5 refers to '**Actively addressing impediments to infill...**'. This appears to be suggesting that liveability, community concerns and potentially heritage values could be overridden in the interests of densification. The language should be clarified.

As another example, 2.2 *Waterways, Wetlands and Estuaries* uses the term '**considerable**' in strategy 2.2.3.6).

Use of the wording '**Promote the protection of**' provides weak guidance for the protection of essential riparian environments, including drinking water catchments.

4. **Align the *Tasmanian Planning Policies* with Schedule 1 of the *Land Use Planning and Approvals Act 1993*.**
5. **Develop a mix of *Tasmanian Planning Policies* and *State Policies* prioritising State policy development for climate change, Aboriginal Cultural Heritage and biodiversity.**

As State Policies are the strongest instrument to give strategic direction to land use planning in Tasmania, PMAT's preference is to further develop a suite of *State Policies*.

In the absence of this suite of *State Policies*, we recommend that the Tasmanian government create a mix of *State Policies* and *Tasmanian Planning Policies* to ensure the best results for Tasmania's land use planning into the future.



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PMAT's recommends that the State Government prioritise the development of a *State Policy* to address climate change, Aboriginal Cultural Heritage and biodiversity.

Create a Climate Change State Policy

Climate change is the defining crisis of our time and it is accelerating at a faster rate than what has been forecast by the scientific research. It is critical that we adopt a whole of Government approach by developing a *State Policy* to address the consequences of climate change as well as to mitigate to reduce emissions of greenhouse gases.

If the State Government is not prepared to take a whole of Government approach to deal with climate change via the development of a *State Policy*, then at a minimum it is recommended that a specific *Climate Change Tasmanian Planning Policy* be created.

Create an Aboriginal Cultural Heritage State Policy

Tasmanian Planning Policy 6.1 *Aboriginal Cultural Heritage* will have no genuine effect on the planning system and the management and protection of Aboriginal cultural heritage. Given the significance of Aboriginal cultural heritage to lutruwita/Tasmania's shared history PMAT recommends the development of an *Aboriginal Cultural Heritage State Policy*.

Create a Biodiversity State Policy

A key objective of *Land Use Planning and Approvals Act 1993* is to promote and further the sustainable development of natural and physical resources and as an integral part of this, maintain ecological processes and conserve biodiversity.

It is critical that we take to a whole of Government approach to deal with biodiversity via the development of a *Biodiversity State Policy*.

Review existing State Policies and ensure the Tasmanian Planning Policies are consistent

Review the *State Policy on the Protection of Agricultural land 2009*, *State Coastal Policy 1996* and *State Policy on Water Quality Management 1997*.

Once reviewed, ensure the *Tasmanian Planning Policies* are consistent with *State Policies*.

6. Provide clarity on how the Tasmanian Planning Policies will apply to the planning system and how competing Policies will be resolved.

The apparent purpose of the *Tasmanian Planning Policies* are to 'provide a consistent planning policy setting that will guide planning outcomes delivered through the strategic and regulatory elements of the planning system, more specifically the *Regional Land Use Strategies (RLUSs)* and the *Tasmanian Planning Scheme (TPS)*, comprising the *State Planning Provisions (SPPs)* and *Local*



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Provisions Schedule (LPSs). The Act also requires consideration of the Tasmanian Planning Policies during the declaration and assessment of major projects. '

While the *Tasmanian Planning Policies* are intended to improve strategic planning, there is a risk they will increase uncertainty in the system. Please provide clarity on the practical effect of the *Tasmanian Planning Policies* as it is currently unclear, including how the implementation of competing Policy objectives and strategies will be resolved.

7. Provide clarity on how the effectiveness of the *Tasmanian Planning Policies* will be monitored.

Inherent in the development and effectiveness of a good planning system is its monitoring and evaluation; however a section on how this will be undertaken is absent from the *Draft Tasmanian Planning Policies*.

This will require consideration of performance indicators – and how data will be collected – early in the implementation of the *Tasmanian Planning Policies*.

There also needs to be a link between *State Policies*, *Tasmanian Planning Policies* and *State of the Environment* Reporting.

Please provide clarity on how monitoring, review and evaluation will be achieved.

8. Remove *Tasmanian Planning Policy 7.0 Planning Processes* as it is inconsistent with Section 12B (1) of the *Land Use Planning and Approvals Act 1993* and will allow for the deregulation of the planning system which will undoubtedly favour the development sector over local communities and undermine democratic governance.

PMAT advocates for democratic and transparent planning processes, which deliver sustainable, integrated development in harmony with the surrounding environment.

Section 7.0 *Planning Processes* is unlawful as it does not conform to Section 12 B (1) of the *Land Use Planning and Approvals Act 1993*. It is a surreptitious means to provide justification for the undemocratic deregulation of the planning system.

Deregulation of the planning system will undoubtedly favour the development sector over local communities and undermine our democracy.

Community consultation and the opportunity for planning appeals are central to democratic governance systems, challenging, improving and sometimes stopping inappropriate development. The consequences of poor development decision impact the character of our cities, towns and settlements. It is the community which has to live with the daily consequences of planning decisions.



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PMAT is highly concerned about the implication of 7.3 *Regulation* which has the Objective 'To avoid over regulation by aligning the level of regulation to the scale of the potential impact associated with use and development.' The *Objective* has equally concerning strategies, which should also all be deleted:

7.3.3 Strategies

1. *Allow use and development that has little or no impact to proceed without requiring planning approval.*
2. *Reduce planning regulation to the amount necessary to reflect, manage and be proportionate to, the level of impact that might be caused by the use and development.*
3. *Support the maintenance of regulatory consistency unless there is a demonstrated need that warrants a more specific or different approach.*
4. *Encourage mechanisms that allow for timely adjustments in planning regulation for responses to, and recovery from, situations including, but not limited to, pandemic, climate change and emergency events.*
5. *Facilitate the coordination and rationalisation of regulation where there is consistency between planning and other regulatory regimes.*