

TASMANIAN PLANNING COMMISSION



Annual Report 2016 - 2017

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Tasmanian Planning Commission
GPO Box 1691
Hobart Tasmania 7001
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The Hon Peter Gutwein MP
Minister for Planning and Local Government
Level 9, 15 Murray Street
HOBART TAS 7000

Dear Minister

I have pleasure in submitting to you the Annual Report of the Tasmanian Planning Commission for the year ending 30 June 2017, in accordance with section 19 of the *Tasmanian Planning Commission Act 1997*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. A. Alomes.', written in a cursive style.

Greg Alomes
Executive Commissioner

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1. Year in Review

The Commission's major priority in 2016/17 was to complete assessments of interim planning schemes and draft State Planning Provisions in readiness for implementation of the Tasmanian Planning Scheme (TPS). Both assessment processes were given effect through amendments to the *Land Use Planning and Approvals Act 1993* (the Act) in January and December 2015 respectively.

The final interim planning scheme assessments were completed in late 2016. During the 2-year assessment period, approximately 1,000 written representations were considered within the scope of the Commission's powers to recommend amendments to the Minister for Planning and Local Government. Collectively, the Minister approved some 4,600 urgent amendments to correct errors and improve the operation of the 28 interim planning schemes. The Commission expects to receive further urgent amendment requests under section 30IA of the Act¹ as councils and property owners identify zoning and related issues with the interim planning schemes.

The Commission also completed assessment of the draft State Planning Provisions (SPPs), which form part of the TPS, in late 2016 and provided a report under section 25 of the Act² to the Minister on 9 December 2016. The assessment covered a substantial number of issues identified in 303 representations and included 25 public hearings in Hobart, Launceston and Burnie.

The Commission's overarching recommendation was that the Minister make the SPPs with numerous modifications to improve the clarity and consistency of drafting. The Commission avoided recommending modifications that were outside the scope of its responsibilities or might change the government's policy intent.

The Minister considered the Commission's report and made further changes to the SPPs prior to approving a final version on 22 February 2017.

The Commission also provided advice to the Minister on a section 8A Guideline to assist councils prepare a draft Local Provisions Schedule (LPSs) for their respective municipal areas. Each draft LPS will be publicly exhibited for representations and subject to independent assessment, including hearings, by the Commission. The TPS will take effect in a municipal area when its LPS is approved, replacing the existing planning scheme.

¹ References to these provisions of the Act are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

² References to these provisions of the Act are references to amendments introduced under the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*.

During 2016/17, the Commission completed assessments of 63 draft planning scheme amendments, including those with combined planning permits, and approved 54 or 86%. The Minister granted time extensions to enable some assessments to be properly completed. This extended the average processing time per assessment to 112 days compared to the statutory 90 day period under the Act.

The Commission also reviewed representations on draft park management plans for the Freycinet and Tasman National Parks and reports on representations prepared by the Director of Parks.

The Commission acknowledges and thanks its staff, councils and representors for their assistance with its assessment workload in 2016/17.



Greg Alomes
EXECUTIVE COMMISSIONER

2. Overview

Tasmanian Planning Commission

The Commission is an independent statutory body established under the *Tasmanian Planning Commission Act 1997* (the TPC Act). The Commission performs statutory planning and project assessment functions under Tasmania's Resource Management and Planning System (RMPS) and other legislation.

The Commission operates in accordance with a Ministerial Statement of Expectation and within the administrative framework provided by the Department of Justice (the Department).

Objectives

The Commission has a statutory obligation to perform its functions and exercise its powers to further RMPS objectives (see Appendix 1).

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 has responsibility to assess and provide independent advice and decisions on statutory planning and project proposals under legislation administered by the Premier, the Minister for Planning and Local Government (the Minister), planning authorities (councils) or State agencies/authorities.

Proposals may include planning scheme amendments, combined permits and planning scheme amendments, planning directives, draft park and water management plans and projects of state or regional significance. Advice is also provided on proposed modifications to regional land use strategies, draft legislation and other matters, as requested by the Minister

The Commission has particular assessment and advisory functions under the Tasmanian Planning Scheme (TPS) reform.

Appendix 2 lists statutory functions prescribed in RMPS and other legislation.

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.

As at 30 June 2017, the Commission members included:

- Greg Alomes – Chair and Executive Commissioner;
- 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;
- Kim Evans – Commissioner who is Head of the State Service Agency responsible for the administration of transport and provision of infrastructure;
- Michael Brewster – Commissioner appointed as the Chief Executive Officer of the Regional Corporations and the Common Services Corporation (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 Commissioners have also been appointed to act in the absence of Commissioners:

- Shane Gregory – Representing Commissioner Evans;
- Eamonn Tiernan – Representing Commissioner Brewster; and
- Sandra Hogue – Representing the Executive Commissioner.

Ministerial Responsibilities

The Minister has responsibility for the administration of the Act, the TPC Act, 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 every 2 years.

A modified Statement for 2016/17 was issued in February 2017 and is available on the Commission's website. The modified Statement clarifies the Commission's role and relationship with the Department on planning policy and reform matters. It also updated the Minister's priorities for the Commission.

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 draft management plans for review of representations and the Director of Parks' report responding to representations.

The Minister for Primary Industries and Water administers the *Water Management Act 1999* and referral of draft water management plans for review of representations and the Secretary of the Department of Primary Industries, Parks, Water and Environment's report responding to representations.

Staffing Structure

The Commission's staffing structure comprises a small team of senior planning consultants, planning assessment advisers and specialist technical and administrative staff.

The staff also included 7 policy/project officers but this was reduced to 3 by 30 June 2017.

Financial Resources

The Commission's 2016/17 revenue budget was \$4.19m. The Commission's actual expenditure was \$3.95m.

Performance

The Commission implemented a new Business Plan in 2016/17 to focus on its assessment functions, objectives and priorities and to remove policy development functions now performed by the Planning Policy Unit in the Department of Justice. The key performance areas are, as follows:

1. Statutory Planning Assessments
2. Interim Planning Scheme Implementation
3. Tasmanian Planning Scheme Implementation
4. Other Assessments and Reviews
5. Digital Planning Information
6. State of the Environment Reporting

3. Report on Performance

Objectives and Priorities

1. Statutory Planning Assessments

Conduct assessments in accordance with statutory requirements, due process and natural justice principles.

Councils certify draft planning scheme amendments under either s.40 or 43A of the Act¹. Most are generally in response to applications from landowners or developers seeking formal assessment of a new use and/or development not possible under existing zoning or planning provisions in a planning scheme. Councils also initiate draft amendments to update and improve the operation of their planning schemes or implement strategic land use plans.

Assessment processes, including public hearings conducted by the Commission, directly engage applicants, representors and councils in the consideration of planning and statutory compliance issues with each application.

In 2016/17, the Commission assessed 42 draft planning scheme amendments and 21 combined permit and draft amendments under the Act.

Table 1 shows the total number of applications certified by councils and assessed over the past five years.

Table 1. Draft amendment and combined permit and amendment applications

Certified Applications	2012/13	2013/14	2014/15	2015/16	2016/17
Total number of applications	71	46	73	77	63
Number of applications for amendments assessed under section 40 of the Act and % of total number of applications	51 (72%)	34 (74%)	54 (74%)	58 (75%)	42 (67%)

¹ References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) in this section of the Annual Report are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

Certified Applications	2012/13	2013/14	2014/15	2015/16	2016/17
Applications for combined permits and amendments assessed under section 43A of the Act	20 (28%)	12 (26%)	19 (26%)	19 (25%)	21 (33%)

Apart from 2013/14, the number of applications has remained relatively constant over the five-year period. The lower figure in 2013/14 coincided with councils preparing draft interim planning schemes for declaration by the Minister. A lower number in 2016/17 similarly coincided with a large number of councils participating in the Commission's formal assessment of interim planning schemes and draft SPPs.

Table 2 shows the number and percentage of applications approved by the Commission remained relatively high since 2012/13. It also shows that between 40 to 60% of applications required modification prior to approval.

A particular issue with a small number of amendments in 2016/17 was a lack of information demonstrating consistency with the relevant regional land use strategy as required under section 300 of the Act.

Table 2. Amendment approvals – 2012/13 to 2016/17

Amendments under sections 40 and 43A of the Act	2012/13	2013/14	2014/15	2015/16	2016/17
Number approved	49	37	66	75	53
% of total number of applications approved	69%	80%	90%	97%	84%
Number and % approved as certified without modification	23 47%	17 46%	24 36%	44 59%	19 36%
Number and % approved with modifications	26 53%	18 49%	38 58%	30 40%	34 64%
% altered to a substantial degree and publicly re-exhibited	0%	5%	6%	1%	0%

Table 3 shows the medium time taken to complete assessments of applications, including hearings. On average, most applications were assessed within the 90 day statutory period under the Act. However, a number of applications required Ministerial time extensions in

2016/17. This was due in part to the complexity of issues addressed and in part to the need to seek further information and submissions.

Table 3. Assessment times – 2012/13 to 2016/17

Amendments under sections 40 and 43A of the Act	2012/13	2013/14	2014/15	2015/16	2016/17
Medium number of days for assessment of applications	101	91	94	74	112

2. Interim Planning Scheme Implementation

Provide the Minister with recommendations on any amendments required to address issues raised in public representations and to maintain the effective operation of interim planning schemes.

During 2016/17, the Commission finalised its assessment of all interim planning schemes under section 30K of the Act. The Commission also considered and implemented actions within the scope of its powers under section 30K(4) of the Act, that is:

- issue a notice under section 30IA(1) of the Act recommending to the Minister that an authorisation be issued for an urgent amendment; or
- seek the approval of the Minister to issue a written direction to a council in relation to a provision of the scheme (including the zoning of an area of land).

Table 4 shows the number of urgent amendments recommended to, and approved by, the Minister since the assessment process commenced in 2014/15.

Table 4. Urgent amendments to interim planning schemes

Urgent amendments	2014/15	2015/16	2016/17
Total amendments assessed by the Commission under section 30IA of the Act	23	128	226
Number of scheme changes implemented through urgent amendments		3,500	1,100

The majority of urgent amendments corrected drafting errors, anomalies and improved the operation of interim planning schemes. Other amendments corrected zone translation errors and anomalies.

While the assessment process under section 30K of the Act has been completed, the Commission expects to receive further urgent amendment requests under section 30IA of

the Act as councils and property owners identify specific zoning and related issues with interim planning schemes.

3. Tasmanian Planning Scheme Implementation

Assess draft SPPs and provide advice on proposed modifications and implementation to the Minister as part of the introduction of the Tasmanian Planning Scheme reform.

The Commission completed its assessment of the draft SPPs which form part of the TPS on 9 December 2016, and provided a report under section 25 of the Act² to the Minister on the same day. A copy is available on the Commission's website.

The process commenced when the Minister approved the draft SPPs for exhibition on 9 March 2016. The Commission exhibited the draft SPPs for a 60 day period between 12 March and 18 May 2016, during which representations were invited. During that period 294 representations were received and a further nine late representations were accepted.

The Commission then held 25 public hearings in Hobart, Launceston and Burnie on dates between July and October 2016 to assist its consideration of the draft SPPs.

A number of issues raised were outside the scope of the Commission's consideration, including the TPS policy, process, timeframe and potential impacts of the SPPs on local areas.

The Commission recommended numerous modifications throughout the draft SPPs to improve the clarity and consistency of drafting. It avoided, wherever possible, making modifications that changed the policy intent of provisions. However, in some circumstances modifications were necessary to ensure that the SPPs could be practically applied and operate in the manner intended.

The Commission's overarching recommendation was that the Minister make the SPPs with the recommended modifications.

Following consideration of the Commission's report and recommendations, the Minister made further changes to the SPPs prior to approving a final version on 22 February 2017.

The next stage of the TPS process is for each council to prepare and submit a draft Local Provisions Schedule for their respective municipal areas. The Commission has provided further advice to the Minister on a section 8A Guideline to assist the LPS preparation process and issued Planning Practice Notes on technical aspects of the process.

4. Other Assessments and Reviews

Planning Directives

During 2016/17, the Commission completed assessment of a revised Bushfire-Prone Areas Code (Code) under planning directive provisions of the Act.

The revised Code was subject to a public exhibition, representation, hearing and assessment process.

² References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) in this section of the Annual Report are references to amendments introduced under the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015

The Commission's assessment report recommended that only minor drafting changes be made to the Code and that it be issued in all interim planning schemes. Due to requirements under the Act, the modified Code is subject to a further and final assessment.

Draft Park Management Plans

In September 2016, the Minister for Environment, Parks and Heritage (Minister) referred representations and two reports of the Director of National Parks and Wildlife (Director) to the Commission for review under Part 3 of the NPRM Act:

- Draft Freycinet National Park, Wye River State Reserve Management Plan 2015 (with 459 representations); and
- Narawntapu National Park, Hawley Nature Reserve Draft Management Plan 2015 (with 19 representations).

The Commission considered that there was adequate information available for both reports and decided a hearing was not required for either plan. The Commission finalised its reports in October 2016 for Narawntapu and in November 2016 for Freycinet, prior to forwarding them to the Minister.

In March 2017, the Minister also referred 21 representations and the report of the Director, regarding the Draft Tasman National Park Management Plan 2016. The Commission considered that there was adequate information available and decided a hearing was not required. The Commission finalised its report in June 2017 prior to forwarding it to the Minister.

The Commission reports, representations and Director's reports can be found on www.iplan.tas.gov.au.

During 2015/16, there were no other directions from Ministers regarding draft management plans under either the NPRM Act 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 2016/17.

5. Digital Planning Information

Continue to transition statutory assessment information and documentation from paper-based systems to digital and online systems.

Online publication of planning schemes and related information via the first stage of the iplan project has substantially improved the accessibility and efficiency of Tasmania's planning system.

Timing of the iplan project enabled 22 of 28 interim planning schemes to be uploaded to the iplan website, including links to zoning and overlay maps on the Land Information System of Tasmania (the LIST). Learnings gained during the implementation and operational stages of iplan have also enabled substantial system improvements.

Stage 2 of iplan has transferred to the Director of Building Control and is now known as the Planning and Building Portal (PABP) project. Following a detailed examination of iplan and

consultations with councils and stakeholders, the PABP team is actively developing the scope of the project.

The Commission will continue to maintain iplan and online access to existing planning schemes, the Tasmanian Planning Scheme (as it is progressively implemented with the approval of Local Provisions Schedules), and draft amendment assessment information, including hearing details. This is not planned to change as a consequence of the PABP project.

Until the scope of the PABP project is finalised, however, the Commission will also maintain existing iplan functionality for:

- property-based search enquiries;
- development search enquiries for scheme provisions for the Hobart and Launceston interim planning schemes; and
- the development application tracking system for Brighton Council and maintain links to existing council systems for Hobart and Launceston.

6. State of the Environment Reporting

The Commission is responsible for the preparation of the Tasmanian State of the Environment (SoE) Report, pursuant to section 29 of the *State Policies and Projects Act 1993*.

The 2009 SoE Report concluded that the extent and quality of data available was not to a quality or sufficiently up-to-date to meet the statutory requirements for SoE reporting. In 2012, the Commission initiated a review of the SoE reporting process, which identified significant concerns about the costs and benefits of the current approach.

The matter is under review as part of the Commission's business plan and budget process conducted in conjunction with the Department and the Minister.

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 co-ordinated 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>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>	Reviewing representations, and the report of the Director of National Parks and Wildlife, relating to draft reserve management plans.
<i>Public Land (Administration and Forests) Act 1991</i>	Inquiring into public land use.
<i>State Policies and Projects Act 1993</i>	<p>Assessing:</p> <ul style="list-style-type: none"> • projects of State significance • draft State Policies <p>Preparing:</p> <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.

Legislative Instrument	Commission Functions
<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*

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