

23 June 2023

City Planning
REQ2023-075575

Mr John Ramsay
Executive Commissioner
Tasmanian Planning Commission
GPO Box 1691
Hobart, TAS 7001
Via email: tpc@planning.tas.gov.au

Dear Mr Ramsay,

Thank you for the opportunity to make a submission on the Draft Tasmanian Planning Policies (TPPs). The Clarence City Council is pleased to see the implementation of the TPPs, which are considered key land use planning instruments guiding sustainable land use and development for the future.

Within that context, our submission is based on a review of the TPPs against both Clarence City Council Strategic Plan 2021-2031¹ (Council's Strategic Plan) and Section 12B Contents and purposes of Tasmanian Planning Policies in the *Land Use Planning and Approvals Act 1993* (the Act).

Council's Strategic Plan

Firstly, Council's Strategic Plan has adopted six priority areas from of the United Nations (UN) Sustainable Development Goals (SDGs) and these form unifying themes across the supporting strategies. To facilitate better integration across the various levels of government in the pursuit of common planning outcomes, it is recommended that each TPP recognise the relevant SDG.

Our recommendation is consistent with the recommendations from the Premier's Economic & Social Recovery Advisory Council (PESRAC) which demonstrated clear linkages to the aspects covered by the SDGs. In addition, the PESRAC report clearly recommends alignment of its Sustainability Vision with the SDGs and support for government wide adoption.

¹ [Strategic Framework - City of Clarence : City of Clarence \(ccc.tas.gov.au\)](#)

Secondly, based on the review, we conclude that there is general alignment with several Council's strategies, including the Active Living Strategy, the Wellbeing Strategy, and the Digital Strategy. However, priority mismatches or gaps were identified in the Cultural Creative Strategy, and the Sustainability Strategy. For example, it is considered that the TPPs do not allocate the same sense of urgency to the issues of climate change action (including community capacity building in relation to risks), waste reduction (via closed loop production), protection of the environment, arts and cultural contributions to the economy, and better integration of traditional first nations knowledge into planning.

These gaps are concerning, as they indicate that there is limited or no direct support from the land use planning system for matters that have been identified as important to the Clarence community. It also suggests that council may need to expend more energy and resources in engaging and collaborating with other stakeholders, within a reduced legislative framework despite the fact that a number of these substantive matters were designed to align with State Government policies and strategies, for example the "Cultural and Creative Industries Strategy"², and the "draft Waste and Resource Recovery Strategy 2022"³.

A particular area of concern is the appropriate management of community expectations with regard to natural hazard events that are projected to increase in frequency and intensity. Based on the Sixth Assessment Report⁴ from the Intergovernmental Panel on Climate Change (IPCC) urgent action is required now to limit further warming of the atmosphere. It is therefore concerning that on the one hand decisions are to be based on "balanced consideration and judgement derived from evidence"⁵, yet on the other hand there is no Climate Change Action planning policy based on the IPCC report.

In fact, the Climate Change Statements provided in the pre-amble to each policy target area, are not included in the operative parts of the TPPs which are outlined in the general application guidelines on page 3. Neither are they specifically listed as elements that are "not intended to have operative effect" in paragraph 2 on the same page. Such lack of clarity on the role these statements play, is considered a major oversight and it is strongly recommended that the Climate Change Statements, as a minimum, are added to the operative parts of the TPPs.

Council's preference would be for either a specific Climate Change Action policy or key climate change principles included in each TPP.

² [Cultural and Creative Industries Recovery Strategy: 2020 and Beyond \(stategrowth.tas.gov.au\)](https://stategrowth.tas.gov.au/)

³ [Draft Tasmanian Waste Strategy \(wrr.tas.gov.au\)](https://wrr.tas.gov.au/)

⁴ [Final Warning: The key things you need to know from the IPCC's Sixth Assessment | Climate Council](#)

⁵ General Application principle No. 7) page 4 draft TPP

Section 12B

Attachment 1 provides further details on matters of concern relating to both content and implementation that arose from the review of the TPPs against Section 12(B) of the Act. However, in summary, it is our view that the TPPs as drafted do not align with section 12(B)1 and section 12(B)4 including the Schedule 1 Objectives of the Act, and would benefit from greater clarity relating to implementation matters.

Opportunities for improvement

It is our view that there are both content and implementation matters that need to be resolved to ensure the TPPs achieve their purported intent of providing ‘direction to guide planning outcomes’.

In our view, opportunities for improvement to the TPPs include:

- Linking each TPP to the relevant UN SDGs to enable better implementation across spatial scales and stakeholders;
- Strengthening the focus on Climate Change Action, by including a specific Climate Change Action TPP, or including Climate Change Action principles in each TPP or as a minimum incorporating the Climate Change Statements into the operative parts of each TPP;
- Reviewing the suite of TPPs to verify that they address the planning system output requirements for all existing State Government policy areas;
- Using terminology consistent with the Act to remove confusion during implementation;
- Improving alignment with the Schedule 1 Objectives of the Act, to ensure intended planning outcomes achieve sustainable development;
- Reducing the number of policies, for example where matters are already addressed by State Policies;
- To facilitate implementation, provide greater clarity for each TPP on the following:
 - the planning outcomes to be addressed and how to measure achievement of the TPP aim (i.e., the TPP objective). There is significant research available on defining planning outcomes, for example the *Measuring what Matters – Planning Outcomes Research Report*, by the Royal Town Planning Institute from Nov 2020⁶,
 - specifying the intended planning instrument where they are to be applied,
 - using terminology that is consistent with established planning instruments and providing clarity on the meaning of terms not already defined, such as infill development, under-utilised land, higher density residential, and the intended ‘operational response’ to verbs such as improve, facilitate, enable, support.

⁶ [RTPI | Measuring What Matters: Planning Outcomes Research](#)

- identifying the source of the 'best evidence' data and defining the 'decision maker(s)' involved at the different spatial scales.
- Reviewing the TPPs to ensure they only have regard to matters which can be delivered by the land use planning system.

General Comments

It is noted that the TPPs are being 'retrofitted' into an existing planning instrument hierarchy, where the instruments it seeks to influence already exist; whilst also being prepared concurrently with the drafting of the Regional Planning Framework, and the review of the State Planning Provisions (SPPs). The concurrent timing of these planning reform activities complicates the assessment of the TPPs, because it creates uncertainty about the content and implementation of TPPs. In providing our comments, we have sought to keep the wider planning reform activities in mind.

Notwithstanding that the wider planning reform activities are excluded from the scope of this current consultation, we recommend that the Commission considers how the TPPs integrate into the Regional Planning Framework, and whether the TPPs provide the necessary forward-looking, future oriented guidance for the SPPs review to achieve the Schedule 1 Objectives of the Act.

Given the identified implementation matters, it is further recommended that the Commission, consider amendments to the Act so that Part 1, Section 8A Guidelines, is expanded to provide the Commission with the ability to "issue guidelines for the purpose of assisting planning authorities in respect of (c) the implementation and operation of the Tasmanian Planning Policies".

Thank you again for the opportunity to make a representation. Should you wish to discuss any part of our submission, please contact Indra Boss on 6217 9566 or by e-mail to cityplanning@ccc.tas.gov.au

Yours sincerely



Ian Nelson
Chief Executive Officer

Encl: Attachment 1 – TPP assessment against Section 12B of the Act

ATTACHMENT 1 - TPP assessment against Section 12B of the Act

Section 12B Contents and purpose of Tasmanian Planning Policies

Section 12B of the Act has four subparts and a summary of the TPPs assessment against each subsection and issues identified is provided below.

1) Assessment against Section 12B (1) of the Act

The purposes of the TPPs are to set out the aims, or principles, that are to be achieved or applied by –

(a) the Tasmanian Planning Scheme; and

(b) the regional land use strategies.

The review highlighted that the TPPs are drafted in such a manner, so that it is considered unlikely that their aims or principles will be achieved or applied into the lower order planning instruments, namely the Regional Land Use Strategies (RLUS), State Planning Provisions (SPPs) and Local Planning Schedules (LPS). Matters identified include:

- No clear definition or measures for the intended planning outcome, or aim of the policy,
- Confusion created by using different terminology between the Act and the Operative Parts of the TPPs (namely, Aim becomes Objective; Principle becomes Strategy), noting that the latter terms have quite different meanings, leading to confusion,
- Strategies listed do not identify the instrument to which they apply, which is considered problematic as the instruments operate at different spatial and temporal scales, and
- Planning outcomes rely on contributions from other stakeholders in the development process, and the legislative constraints of the TPPs excludes many use and development categories that materially impact on planning outcomes. It is not clear how these inputs are to be captured or translated into the spatial elements of the lower order planning instruments and what relationship the TPPs have to the Regional Planning Framework, which is also under current development.

2) Assessment against Section 12B (2) of the Act

The TPPs may relate to the following:

(a) the sustainable use, development, protection or conservation of land;

(b) environmental protection;

(c) liveability, health and wellbeing of the community;

(d) any other matter that may be included in a planning scheme or a regional land use strategy.

The use of the word ‘may’, indicates that the TPP content can be flexible so as to evolve and respond to land use planning matters as they arise. This approach is supported, but in our view, it also highlights that the number of TPPs could be reduced to capture those matters where a change in direction is required to ensure the STRLUS, SPP and LPS are consistently focused on current issues and the desired future planning outcomes. It is noted that the existing instruments have already been assessed against the State Policies, and Schedule 1 Objectives of the Act, therefore the TPPs need to only provide guidance for new or proposed changes to the lower order instruments, with existing or unchanged provisions considered compliant.

In our view, such a paring back to essentials, would ensure that the TPPs add value to the existing legislative framework, rather than adding unnecessary duplication, thereby simplifying their implementation.

3) Assessment against Section 12B (3) of the Act

The TPPs may specify the manner in which the TPPs are to be implemented into the SPPs, LPSs and regional land use strategies.

The use of the word ‘may’, again indicates that this is not a mandatory element of the legislation.

The TPPs are considered to provide generic guidelines but not specify the way they are to be implemented in to the STRLUS, SPPs and LPs.

As previously stated, the TPPs do not sufficiently define the planning outcomes or aims, nor do they provide clarity where the strategies are to be implemented. Yet the drafting of the TPP strategies is very detailed, and in an several instances reads like strategies that would normally be included in the RLUS, or are at such a level of detail that they read like Scheme provisions, rather than providing principles or guidelines. However, this is not made explicit and therefore different stakeholders could form different views as to when and where the strategies apply.

Furthermore, the General Application guidelines require that all policies be considered and that there is no order or hierarchy associated with the application of the TPPs. This approach is considered problematic because:

- The number of matters to be considered, a total of 34 policies with 254 strategies, appears excessive and is considered unwieldy,
- Competing objectives are to be resolved “based on balanced consideration and judgement derived from evidence”. What is meant by balanced ? Do all objectives have equal status and priority, or is there weighting? Furthermore, no details are provided about the agreed source of ‘evidence’ or indeed the ‘entity’ that is to make the judgement. This lack of clarity would be problematic in any future hearings.

- The policy application statement for many policies is limited to one word, namely State-wide. If the matter is of State-wide relevance, why is it not being addressed as a State Policy in accordance with the *State Policies and Projects Act 1993*?

Therefore, although the TPPs provide generic guidelines to satisfy this legislative requirement, there are significant opportunities for improvement. It is strongly recommended that the Commission reviews this aspect of the TPPs and provide specific guidelines for stakeholders.

4) Assessment against Section 12B (4) of the Act

The TPPs must –

- (a) seek to further the objectives set out in [Schedule 1](#) ; and*
- (b) be consistent with any relevant State Policy.*

Assessment against 12B(4) (a) the Schedule 1 objectives

In Part 1 , section 2 sustainable development is defined as meaning:

sustainable development means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.*

It is noted that the draft TPPs use alternative terms such as ‘sustainable growth’ and ‘sustainable economic development’. The use of these terms leads to the conclusion that referencing such objectives fundamentally means the TPPs are not aligned with the Schedule 1 objectives.

In a closed system there are physical limits to growth per se, that is why the term sustainable development was initially coined. Inclusion of the term economic, creates a further departure as it elevates the economy above the other foundational concepts of environment and society, which is counter to the definition.

Noting that Part 1 section 1(d) articulates that economic development is to be in accordance with the objectives in paragraphs 1(a), 1(b) and 1(c), with 1 (a) where the purpose of the planning system is defined as “to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity”. [emphasis added]

Table 1 below, provides a detailed assessment if the TPPs against the Schedule 1 objectives.

Table 1 Detailed assessment against the Schedule 1 objectives

Schedule 1 -Objectives	
PART 1 – Objectives of the Resource Management and Planning System of Tasmania	
Provision	Draft TPPs commentary
1. The objectives of the resource management and planning system of Tasmania are –	
(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and	Not met , for example: Inconsistent strategies within Policy 1.1 Growth, including 1.1.3 strategies 2, 7 and 8; where strategy 8 allows for expansion beyond the urban growth boundary. Policy 2.1 Biodiversity within 2.1.3 strategies 2 and 5, allocate lower priority to natural values than social and economic benefits. These examples are considered, fundamentally counter to the sustainable development definition.
(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and	Not met , for example: Inconsistent strategies within Policy 2.0 Environmental Values and Policy 4.0 Sustainable Economic Growth are not aligned with the sustainable development definition. The lack of clarity around implementation and overlap with State Policies makes it unlikely that the TPPs would achieve this objective.
(c) to encourage public involvement in resource management and planning; and	Not met Whilst draft Policy 7.1 Public Engagement seeks to further this aim; 7.2 Strategic Planning is more targeted at key stakeholders, and the anticipated outcome of 7.3 Regulation is to move more use and development into Exempt, No Permit Required and Permitted pathways, which effectively remove them from public involvement. Furthermore, specific consideration to engage early and deeply with local indigenous communities on strategic planning matters is missing from all elements of TPP 7.
(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and	Not met As outlined above the contradictions and competing aims between Policies 2.0 Biodiversity, 3.0 Environmental Hazards and 4.0 Sustainable Economic Development do not further this objective.
(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.	Not met The draft TPPs aims are not clearly expressed in achievable or measurable terms. Therefore, it is not clear how the different spheres of Government, the community and industry in the State will interact. More work is required to clarify the implementation mechanisms

Schedule 1 -Objectives	
PART 2 – Objectives of the Planning Process Established by this Act	
Provision	Draft TPPs commentary
The objectives of the planning process established by this Act are, in support of the objectives set out in Part 1 of this Schedule –	
(a) to require sound strategic planning and co-ordinated action by State and local government; and	Not met. The draft TPPs lack clarity on how the policies are to be implemented including what role stakeholders play and how this will be coordinated.
(b) 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; and	Met The TPPs are planning instruments that seek to establish the required elements. But as noted more work is required to clarify the implementation mechanisms and measures of success.
(c) 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; and	Met The TPPs have regard to these matters. But as noted given the ubiquitous impact of Climate Change on all aspects of our world, could be strengthened by including a standalone Climate Change Action Policy, or clearer Climate Change Action principles in each policy or as a minimum incorporate the Climate Change Statements into the operative parts of the TPPs.
(d) 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; and	Not met. The draft TPPs present contradictions and conflicting priorities within and between Policies. Difficult to integrate given broad application principles, lack of ‘defined sources of evidence’ and apparent duplication of State Policy content.
(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and	Not met. The TPPs are constrained to matters of the Act and cannot directly address the land use implications of the wider RMPS, including Aboriginal Heritage. Apart from requiring land to be allocated for their use, the process by which this is to occur is not well articulated. It is not clear how the TPPs interact with the proposed Regional Planning Framework and whether this would provide the necessary detail.
(f) 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; and	Met Several policies including 1.2 Liveability, 1.6 Design, seek to further this objective.
(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and	Met Several policies including 2.0 Environmental Values, 2.4 Landscape Values, and 6.0 Cultural Heritage seek to further this objective.
(h) 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	Met Several policies including 3.0 Environmental Hazards, 5.0 Physical Infrastructure seek to further this objective.

Schedule 1 -Objectives	
PART 2 – Objectives of the Planning Process Established by this Act	
Provision	Draft TPPs commentary
(i) to provide a planning framework which fully considers land capability.	Met Several policies including 1.0 Settlement, 2.0 Biodiversity and 3.0 environmental Hazards seek to further this objective.

Although several of the Schedule objectives are considered met, as detailed above, given the general application principle states that all policies must be considered, then it follows that the draft TPPs do not further the Schedule 1 objectives.

Assessment against 12B(4) (b) the State Policies

It is noted that the regional land use strategies and planning schemes are already required to demonstrate alignment with State Policies. Council's review focused on the *State Policy on the Protection of Agricultural Land 2009 (PAL)*, and a more limited review of the *State Policy on Water Quality Management 1997*.

Reviewing TPP 4.1 Agriculture, with the PAL, identified that many of the TPP 4.1 strategies are basically rewording of the PAL and provide limited additional information, as shown in the example in Table 2 below.

Table 2 Comparison of State Policy Content with draft TPPs relating to Agriculture

Principle in State Policy	Strategy in TPP
2. Use or development of prime agricultural land should not result in unnecessary conversion to non-agricultural use or agricultural use not dependent on the soil as growth medium.	2. Protect land that is identified as being within the higher classes of agricultural capability by designating it specifically for agricultural use and development or for purposes that prevent the permanent loss of conversion of the land's agricultural potential.

While this could be construed as an argument to claim that the TPPs are aligned with the PAL, in our opinion it is duplication that introduces potential confusion by using inconsistent terminology and, as a consequence, the risk of inconsistent application. For example, 'land that is identified as being within the higher classes of agricultural capability' rather than the PAL defined term of 'prime agricultural' land as detailed below:

"Prime agricultural land" means agricultural land classified as Class 1, 2 or 3 land based on the class definitions and methodology from the Land Capability Handbook, Second Edition, C J Grose, 1999, Department of Primary Industries, Water and Environment, Tasmania.

In this scenario the TPP does not add value or create greater clarity for implementation, but rather leads to potential confusion, by not using the existing defined terminology.

In our opinion, assessment against State Policies should only be required, where a new TPP falls within the remit of a State Policy.

Staying with TPP Policy 4.1 Agriculture of the 12 strategies listed in Policy 4.1 Agriculture those considered additional to the State Policy content are listed in Table 3 below.

Table 3 TPP Policy 4.1 Strategies relevant to the State Policy on the Protection of Agricultural land.

TPP Strategy	Comments
1. Identify agricultural land, and potential agricultural land, and apply contemporary land capability classification mapping systems, that include access to irrigation water as a criteria of land capability, that identifies and maps the capability of land to sustain long term agricultural uses as a criterion, including under forecast climate change scenarios.	<p>This strategy details the data that is to be collected and mapped to guide the application of zones in planning schemes.</p> <p>However, this will result in a classification system of agricultural land that is potentially at odds with the State Policy, raising the questions:</p> <ul style="list-style-type: none"> • Should the TPPs rely on different source data to the State Policy? • Would it be more appropriate to update the definition of Prime Agriculture in the State Policy to reflect the identified need?
6. Encourage the protection of viable agricultural uses by preventing the fragmentation of agricultural land.	<p>How and who determines what makes for a ‘viable’ agricultural use? Surely many matters beyond the planning system play a role.</p> <p>A more relevant TPP strategy would be:</p> <p><i>Prevent fragmentation of prime agricultural land.</i></p> <p>Such a TPP strategy would align with State Policy Principles 1 and 2.</p>
10. Support the retention of small farms close to urban areas and acknowledge the contribution, or potential contribution, that they make in supplying local producer to farm gate market, agrifood economy and tourism.	<p>What is meant by agrifood economy and tourism? Is this something different to Agritourism as defined in the TPP glossary?</p> <p>If not, then again for consistency and ease of understanding the term agritourism should be used on the TPP strategy.</p> <p>This strategy is also of interest, as it has direct implications for TPP 1.1 Growth, Strategy 2 and 8. However, the alignment between them is not as clear as it could be, given the Growth policy strategies are only concerned with “agricultural land, with more productive classes of agricultural capabilities” (2d iv) or “having regards to...agricultural capabilities” (8b).</p> <p>Perhaps to remove any doubt, rather than rewrite the agriculture aspects - the Growth strategies should just state – in accordance with TPP 4.1?</p>

As the above demonstrates, the new TPP content is not written to clearly align with nor does it provide greater clarity on how it is to be applied into the lower order planning instruments. Rather the issue of non-consistent terminology is evident, further reducing the strategies' effectiveness.

Similar duplication, lack of clarity and direct linkage, arise from a comparison of the Environmental Values TPPs and the State Policy on Water Quality and Management. The latter is a detailed document and incorporates many requirements to protect environmental values and preserve water quality.

Therefore, it is not clear how the draft TPPs provide any greater clarity on how they implement the State Policy requirements into the regional land use strategies or planning schemes. In our view, those TPP strategies that duplicate State Policy content, should be removed to simplify implementation.

The State Policies provide clear direction on their purpose, objectives and principles, and name the planning instruments to which they apply. The State Policies are sufficiently detailed to enable an assessment as to whether a planning scheme or a regional land use strategy is consistent with the State Policy.

Therefore, it is considered that the draft TPPs do not comply with s12B(4).