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Tasmanian Planning Commission

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

Dear Sir or Madam

Representation - Draft Tasmanian Planning Policies

Thank you for the opportunity to make a representation about the Draft Tasmanian Planning Policies (TPPs). This representation is made on behalf of West Tamar Council.

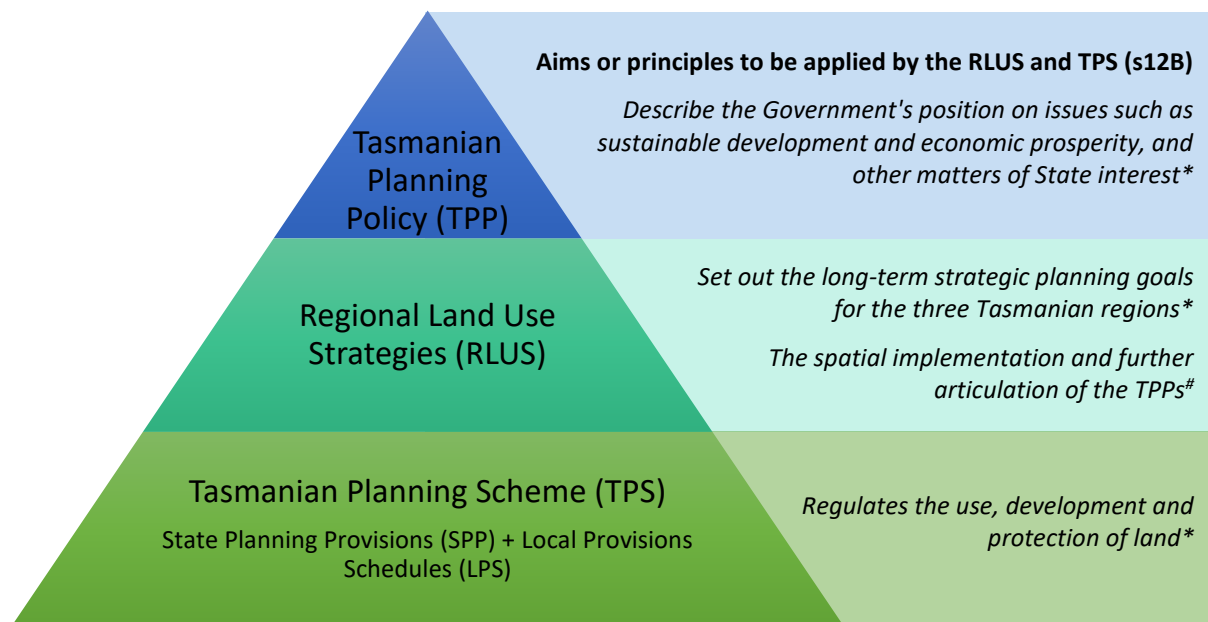
The TPPs will be an important part of Tasmania's planning system by setting out the State's interests in planning and the aims and principles that are to be applied in the Tasmanian Planning Scheme (TPS) and Regional Land Use Strategies (RLUS).

This representation recommends:

- The draft TPPs be recalibrated to provide aims or principles at the right level to provide appropriate guidance for regional and local planning instruments consistent with the requirements of the Act;
- The draft TPPs be amended to provide a clear statement about how a RLUS or TPS establishes compliance with the TPPs;
- Particular attention be paid to the Settlement policies to ensure that all communities are afforded the opportunity to sustainably grow;
- Non-planning matters be removed from the TPPs;
- Minimise repetition; and
- Include overarching planning principles in place of policies regarding planning processes.

The TPPs role in the planning system

The *Land Use Planning and Approvals Act 1993* (the Act) establishes a hierarchy of planning instruments:



* from the [Planning Reform website](#)

[Regional Planning Framework Discussion Paper](#)

This hierarchy means that the highest strategic principles should be expressed through the TPPs at the state level with progressively more detail in the RLUS and TPS to achieve the principles and express the community's vision at the regional and local levels.

The draft TPPs fail to deliver a framework that supports this hierarchy and fails to further the objectives of the Act as required under section 12B(4) as:

- it does not provide for the fair, orderly and sustainable use and development of air, land and water:

The inclusion of detailed strategies rather than high level aims or principles has a negative effect on procedural fairness by limiting the opportunity to plan for local and regional circumstances through the inclusion of a predetermined set of strategies that are neither aims nor principles. The strategies, particularly in relation to Settlement, do not allow the fair consideration of growth outside major urban areas, or true diversity of housing.

- It does not encourage public involvement in resource management and planning:

The directional and detailed nature of the strategies allows little scope for local solutions that are derived through public involvement in strategic planning.

- It does not require sound strategic planning and co-ordinated action by State and local government:

The low level of policy in the TPPs does not allow the capacity for sound strategic planning at the regional or local level, which includes consideration of local characteristics, infrastructure, community aspiration and intent.

Keeping in mind that the aims or principles included in the TPPs ultimately need to be expressed in a regulatory planning instrument, that is, the TPS (through the SPP and LPS) through the strategic planning process. The TPPs should provide sufficient scope for strategic planning to be undertaken at the regional and local level to meet the aims or principles expressed in the TPPs.

The TPPs should be reviewed to ensure they do not replicate the role or function of the TPS with regard to providing the solutions as to how to deliver the aims or principles and not depart from matters that should reasonably be regulated or considered for a planning application or the allocation of zones.

Principles or aims should be redrafted as outcome statements. They are not instructional guides for work that needs to be completed, but rather the vision for the future of Tasmania.

Currently, the draft TPPs are considered to provide directions as to content without permitting strategic planning to occur, meaning they have already provided the solution without the evidence that supports that solution in all locations. This is contrary to the objectives of the Act to encourage public involvement in planning and require sound strategic planning.

A model for expressing State interests in planning, that is considered to be consistent with the hierarchy and objectives of the Act, is established in Queensland through their [State Planning Policy](#). Council requests that the Commission examines this example and its accompanying guidance materials, such as the [Integrating state interest in planning schemes – Guidance for local government](#), as an alternative structure to resolve technical matters with how the TPPs are implemented through the RLUS and TPS, considering:

- how the TPPs sit within the hierarchy of planning instruments in the Act;
- how the Commission will assess a RLUS, SPP or amendments to a LPS to determine consistency with the TPPs;
- Providing principles or aims that are outcome statements expressing the vision for the future of Tasmania and not instructional guides for work that needs to be completed; and
- how the TPPs, as structured, further the ability of the other planning instruments to meet the objectives of the Act, and in particular deliver sustainable development, facilitate economic development (including through residential growth) and sound strategic planning.

There are matters of a technical nature which will affect the application of the TPPs in both the RLUS and the TPS.

Deciding if a RLUS, SPP or LPS is consistent with the TPPs

The Planning Minister and/or Tasmanian Planning Commission will need to ensure that the planning instruments are consistent with the TPPs when:

- RLUSs are made or amended (see section 5A Regional areas and regional land use strategies);
- SPPs are made or amended (see section 15 SPPs Criteria); and
- LPSs are made or amended (see section 34 LPS Criteria).

When describing how the TPP is to be implemented, that is, how a planning instrument is consistent with it, the language should be definitive and avoid ambiguity.

The General Application section of the draft TPPs attempts to '*specify the manner in which the TPPs are to be implemented*' into each of the planning instruments, however it fails to provide the certainty and direction required for an individual applicant, Council as the planning authority or the Tasmanian Planning Commission to decide if an amendment is consistent with the TPPs. **This ambiguity has the potential to lead to protracted decision timeframes and costly preparation of amendments to provide evidence that satisfies the relevant decision maker.**

Recalibration of the TPPs in accordance with the above recommendation in relation to the hierarchy and high level of policy is likely to resolve concerns about the implementation of the TPPs.

However, it is equally important that clear direction about how compliance is achieved is provided to ensure the TPPs can be appropriately applied in the RLUS and TPS. It is therefore recommended that the general application section be redrafted to clearly state:

- 1 The objectives express the aims or principles that are to be achieved or applied by the TPS and RLUS;
- 2 The strategies set out ways the objective can be achieved. Alternative approaches can meet the objectives. The strategies would ideally be included in supporting guidelines;
- 3 The RLUS or TPS is consistent with the TPPs if it is consistent with the relevant objectives;
- 4 A section on managing competing or conflicting objectives in a way that is strategic, practical and delivers good planning outcomes; and
- 5 If the relevant RLUS is consistent with the TPPs, and the proposed LPS amendment is consistent with the RLUS, then the LPS amendment is consistent with the TPPs.

Impact on delivering sustainable development and growth

It is noted that the General Application section states that the TPPs are to be considered in their entirety and that there is no order or hierarchy associated with the TPPs. While Council does not object to the intent of this approach, the current content of the TPPs and the potential operational / mandatory application of the strategies brings with it an unnecessary complication and the likelihood that the combination of strategies will stifle opportunities for growth. This is of particular concern when providing sufficient affordable housing is a key priority.

The strategies establish a policy position that:

- Most growth, residential, industrial, commercial and social services, should occur in major urban centres;
- Infill development is prioritised over outward growth; and
- Rural residential growth is generally not permitted or within very specific circumstances.

The policies have the effect of directing a model of centralisation in a State that has achieved a high degree of decentralisation. This may further reduce the equitable access to services of existing communities and limits housing choice, including rural residential options. It is Council's view that all settlements should be provided the opportunity for sustainable growth. No evidence has been provided that the TPP Growth policies, which are founded on settlement hierarchies, will deliver sustainable development in Tasmania.

The evidence required to propose growth in alternative locations is likely to be time, cost and resource prohibitive for most applicants or Council's to develop, particularly due to the high degree of uncertainty in understanding how to establish an evidence base to demonstrate that a planning instrument is consistent with the TPPs. This is likely to lead to further growth pressures, higher land

costs in an already tight market, reduced diversity and housing choice. This will impact the provision of appropriate and affordable housing for current and projected population growth.

The Tasmanian community, including the development sector, deserve the opportunity to fully engage in the strategic planning process to develop strategies to deliver housing and sustainable growth. These conversations are happening in other jurisdictions and would deliver on the objective of the Act to encourage public involvement in planning. The TPPs as drafted do not provide scope for these conversations to occur to make evidence based decisions about where growth in our communities should occur.

Local Government needs to be enabled to plan for its communities and accommodate the projected growth over the coming decades.

Repetition

The General Application section states that the TPPs must be considered in its entirety. There are multiple duplications between strategies that are not necessary. There is a significant opportunity to rationalise the TPPs in a way that will have more impact than saying the same thing multiple times.

For example, there are multiple policies that are replicated throughout the TPPs such as:

- Transport modes and networks;
- Temporary housing for workers relating to renewable energy, extractive industries and tourism;
- Allocating land for industrial uses, business and commercial use;
- Energy infrastructure; and
- Road and freight corridors.

Note that recalibrating the TPPs as recommended in line with the hierarchy of planning instruments is likely to resolve much of the repetition.

Non-planning matters

There are a number of strategies about non-planning matters that should be removed from the TPPs. It is noted that the State Planning Office's response to this recommendation previously was that all contents of the TPPs relate to matters that can be included as described in section 12B(2) of the Act. Be that as it may, the planning system can only regulate planning matters being a change of use or development and should not unreasonably require consideration of matters that are generally not part of the planning process. This includes but is not limited to:

- Collaboration, co-location and management of facilities eg co-location or multi-use;
- Investment decisions about the location of social infrastructure or commercial activities;
- Provisions that relate to the ownership such as affordable housing;
- Matters that are dealt with under the *Building Act 2016* such as energy efficiency;
- Strategic response for existing settlements at risk from natural hazards or climate change impacts;
- Identifying potential tourism sites, supporting particular types of tourism activities;
- Promoting growth and investment in recreational, art and cultural activities;
- Supporting redevelopment of sites before approving new development (which is out of the control of both government and applicants);
- Types of education and training, innovation or research that should be supported;
- Economic self-sufficiency and circular economy;

- Encouraging participation in recycling and waste reduction; and
- Preparing guidance materials.

These are not poor aspirations to have, it just isn't the role of the planning system to deliver them.

The role of the TPPs is not to direct the contents of community plans, government investment or personal purchasing decisions. Some matters may also sit within the legislative responsibilities of the government to resolve, rather than the TPS such as facilitating developer contributions or integrating planning and engineering design approval processes.

It is requested that the Commission consider whether the TPPs reasonably consider matters that can ultimately be regulated through the Tasmanian Planning Scheme.

Overarching planning principles

The Planning Processes policies regarding public engagement, strategic planning and regulation are not appropriate in the form presented. It is unclear how, for example, a LPS amendment would satisfy this criteria or whether it is necessary in the context of the legislative requirements.

Overarching principles of the planning system are supported, however the location within the TPPs themselves is not. Principles could be established within the General Application section which provide a lens for developing planning instruments. This could be approached similar to the Queensland State Planning Policies and include principles where planning instruments and amendments are:

- Strategic;
- Evidence based;
- Efficient;
- Flexible and responsive to emerging issues;
- Focused on outcomes; and
- Implemented through a partnership approach.

This approach is also a lens through which the TPPs could be reviewed by the Commission.

Attachment 1 provides more detailed commentary around particular aspects of the draft TPPs.

If you would like to discuss this matter further please contact me on 6323 9300 or via email at michelle.riley@wtc.tas.gov.au.

Yours faithfully



Michelle Riley
MUNICIPAL PLANNER

Attachment 1 - Detailed comments

Settlement

- Care needs to be taken to ensure the policies relate to matters that the relevant planning instruments can reasonably deliver or influence.
- Strategies are written in a definitive way, like a provision in a planning scheme. The TPPs should be high level and describe the intended outcome, not the way in which the outcome is achieved. The current drafting approach does not allow for the planning system to adapt to changing circumstances and achieve good planning outcomes that are suitable for the particular circumstance.

Growth

- Rural residential is a valid housing choice and should be recognised for its contribution towards residential growth. Strategies that limit or prohibit potential for intensification of rural residential areas, or the establishment of new rural residential development in appropriate locations are unreasonable and remove an important and desirable housing option from the market. It also contributes to demand for further growth and fragmentation of agricultural land.
- Forecast demand for growth, whether for residential or employment land, should take into account State, Regional and Local policy settings that promote aspirational population growth targets and the potential to change the role of existing settlements to support a prosperous future.
- The strategies make strong policy positions on a number of matters including the cost of delivering services or avoiding certain areas. Not only does this cross over with other TPP content, it may have the effect of preventing growth in areas that do not have services but they are available in a reasonable travel distance.
- There appears to be several strategies that almost say the same thing. The strategies should be reviewed and, if taking a high level policy approach, parred back to the outcomes sought, rather than directing how that might be achieved, which is best left to regional and local strategic planning to resolve.
- They also do not provide for future investment or changes in the role or function of settlements. For example, changing demographics and the ways people can work, provide different growth opportunities for rural towns to attract residential growth. This in turn supports local businesses to establish.
- There is a significant risk that Strategy 4 'to prioritise growth of settlements' in the higher tiers of the settlement hierarchy, will have the effect of not permitting expansion of smaller towns.
- Strategy 5 states 'actively address impediments to infill development...'. This is an example of where care needs to be taken as to the role and function of planning instruments to achieve this purpose. Levels of assessment and assessment criteria can only achieve so much where there are fundamental issues in infrastructure capacity and community expectations that the planning system cannot address.
- Strategy 6 requires the preparation of structure plans with seven criteria that that must be met. The strategy should be deleted. It should not be the role of the TPPs – a high level

policy document – to direct the way that local strategic planning projects are completed. A well-considered and drafted set of policies in relation to state interests will assist in achieving good planning outcomes, rather than requiring compliance with statutory criteria.

- Strategy 7 and 8 are unnecessary and again assumes that a growth boundary is the only way to manage growth. It sets the bar very high for growth and does not allow for the planning system to be adaptive to changing circumstances in a responsive and timely manner.
- Strategy 10 is not appropriate for many urban settlements requiring non-residential development in areas highly accessible by public transport and active transport. In the Tasmanian context this is not achievable while supporting existing towns to flourish. The use of the term 'encourage' is also not supported.

Liveability

- Care should be taken to ensure matters included in this section are required to be dealt with through the planning system as it appears to include additional requirements than currently considered when assessing applications for use or development.
- The strategies should be reconsidered to ensure they are high level state policies, not specific planning scheme provisions or best practice solutions.

Social infrastructure

- There is repetition between the liveability and social infrastructure sections and consideration should be given to merging these sections.
- This section appears to address government investment or operational matters rather than the planning systems role in the process of delivering social infrastructure.

Settlement types

- The objective appears to only relate to settlement with particular environmental characteristics or values. The outcome sought is unclear.
- Several strategies duplicate matters dealt with in other TPP topics unnecessarily.
- Consider how the strategies will impact existing towns and any plans to change the activities within them.
- Strategy 5 should be reconsidered. There is limited scope to develop strategic solutions to providing housing opportunity and sustainable use of land that is already fragmented and not available for agricultural uses. For example, the restriction on rural residential development within an urban growth boundary is flawed and does not allow strategic responses to local constraints where large lots could accommodate development on land that would otherwise remain vacant and have no agricultural, urban or environmental value.

Housing

- Strategies should be reviewed to ensure they are matters that can, or are intended to be, part of the planning process rather than investment or operational matters establishing State policy outcomes.
- This section appears to largely duplicate the policy intent of the Growth section.

Design

- Applies statewide, however the objective refers to urban spaces.

- The TPPs relate to the planning process, care should be taken to ensure that the requirements are not addressing matters that are addressed under the Building Act or are related to government investment or operational matters.
- Most strategies read as planning scheme provisions, and not a state level policy outcome.

Environmental Values

- Encouraging to see an acknowledgment that a significant proportion of protection mechanisms are outside the planning system.

Biodiversity

- Recommend reconsidering the level of detail included in the strategies and the intended variation to the current level of regulation. For example the TPP includes a strategy to minimise the spread of environmental weeds which is a very low level of detail. If weeds are included in this TPP why not weeds, pests and diseases which are all considered biosecurity issues in the State. Again, care should be taken with the level of detail, the more detail, the higher the risk of omissions and the intended intent/objective of the 'strategy or principle' can be lost or misinterpreted.
- Care should be taken to ensure that the TPP deals with planning matters.
- Strategy 1 requires the significance of values to be ranked. While it isn't clear what is intended, it is also not considered feasible to rank the significance of the values. The code provisions in the SPP would also require considerable rework to address this SPP. If this is undertaken as part of the SPP review, the mapping included in RLUSs and LPSs will also require review and it is unlikely that there are resources available to prioritise this.
- This section highlights the need to include a mechanism to balance competing interests – growth or economic development versus environmental values for example. Consideration also needs to be given to historic planning decisions to zone land for urban development.
- The strategies appear to be written as though they would apply to consideration for the identification of new urban areas, however the majority of the time this is not the case. Consideration of how the TPPs will be used in the preparation of planning instruments or amendments needs to be considered in crafting the policies.

Waterways, wetlands and estuaries

- Waterways form a critical contribution to the urban stormwater system that needs to be acknowledged and considered in how the strategies are drafted and their intended implementation.
- Consider the intent of the strategies and how the planning system would respond. For example Strategy 4 promotes restoration of habitats which current exemptions under the SPP allow. Further clarity is required to establish how far this strategy is intended to apply.
- Strategy 2 requires the designation of areas in and around waterways to be avoided if it has the potential to cause point source pollution. This is not practical in existing urban areas.

Geodiversity

- Strategies all seem to be quite similar – review and refinement required.

Landscape values

- Strategies duplicate previous strategies unnecessarily.
- The strategies are low level, too specific and unnecessarily restrictive without allowing for regional or local responses to the values to be developed.

Coasts

- Defining the coastal zone as 1km inland from high water mark is not appropriate in most circumstances. There is an opportunity for the TPPs to provide a mechanism for regional or local planning to define an area of coastal influence that is suitable for the particular locations.
- While this section is a higher level than other TPPs care needs to be taken in relation to the language used and how the strategies will be interpreted.

Environmental Hazards

- Recommend replacing the term Environmental Hazards with Natural Hazards. This is consistent with contemporary terminology used in Tasmania for Natural Values, Natural Hazards, Natural Resources and the like.
- The Policy Context statements in relation to landslip should be refined to more accurately represent the regulatory framework for landslip.
- Many of the strategies for the different types of hazards are similar – there is no need to duplicate these if the strategies were elevated to a State interest level. The example of an alternative structure for the TPPs included in Attachment 2 provides an option for redrafting this section.

Contaminated Air and Land

- Contaminated Air and Land does not fit well in this section. Recommend that this could be included in the Settlement section given it relates mostly to land use conflict.
- Identifying and mapping land that has been used, is being used or affected by use and development involving potentially contaminating activities is unrealistic and impractical.

Sustainable Economic Development

- This section requires review to ensure it deals with planning matters and that the strategies are at a level that allows for regional and local responses to outcomes sought.
- This section is also an example of the inherent conflict between the TPP strategies and the need for a mechanism for the State's interests to be balanced and resolved.
- Strategies, such as those under 4.4.3 appear to be requiring investment prospectus' to be prepared and the alignment with the Tasmanian Brand to be part of regulatory planning tools is not appropriate. It is also not appropriate for a planning instrument to give direction or require an assessment about the viability of a project – these are matters for the proponent to consider in making decisions about investment.

Renewable energy

- Supportive of renewable energy, however the role of the planning instruments in implementing these strategies needs to be considered. These strategies may be appropriate

in a government renewable energy investment strategy, but are they appropriate for planning instruments?

Innovation and Research

- Is it the role of the planning system to promote innovation and research?
- Many of these strategies are site specific or developer / industry driven processes such as collaboration, choices about co-location or implementation of a circular economy. These are not matters that the planning system can or should control.

Physical Infrastructure

- The provision of infrastructure and how the planning system interacts with this can be complex given the different legislation involved.
- Clarity around what is required at each level of planning instrument and which entities are responsible for providing the information or data to deliver the intended planning outcomes is required.
- Repetition could be reduced significantly.

Cultural Heritage

- Review TPP 6.1 to to:
 - consult and identify how Aboriginal peoples' connections to country and their internationally recognised rights to self-determination and free, prior and informed consent (consistent with the UN Declaration on the Rights of Indigenous Peoples and following the Uluru Statement from the Heart) can be integrated to the land use planning system;
 - establish strategic and statutory processes and reflect the statutory authorities interact with land use planning; and
 - establish supporting material and processes to implement the process

Planning Processes

- This section should not be included in the TPPs. At most, it could be converted into a guideline.

Strategic Planning

- Some of the concepts in this section could be reframed as overarching principles of the TPPs.
- Noted that this section promotes balancing of competing interests, however this is in conflict with the implementation statement.
- Unclear how this section would be used in determining how a planning instrument has implemented the strategies.