

Draft State Planning Provisions

Terms of reference

I, Peter Carl Gutwein, Minister for Planning and Local Government, pursuant to section 17 of the *Land Use Planning and Approvals Act 1993*, hereby issue these Terms of Reference for the preparation of the draft State Planning Provisions.

Background

The Tasmanian Government is committed to establishing a Tasmanian Planning Scheme. Recent changes to the *Land Use Planning and Approvals Act 1993* (“the Act”) provide for the Scheme to be introduced.

The Tasmanian Planning Scheme will consist of the State Planning Provisions (SPPs) and the Local Provisions Schedules that apply to each municipal area. Planning authorities will continue to administer all of the planning controls in their municipal area.

The Scheme will deliver a consistent approach to the planning controls that apply across the state, providing greater certainty to investors and the community. It will also provide the necessary flexibility to address local planning matters and ensure that an appropriate balance between consistency and local planning needs can be achieved.

Under the Act, the Minister may prepare the draft SPPs and must consult with the Tasmanian Planning Commission, planning authorities and the state service agencies and state authorities that he or she sees fit.

The statutory public exhibition and assessment of the draft SPPs is undertaken by the Commission, who will provide a report to the Minister. The Minister may then make the State Planning Provisions in accordance with the Act.

Local planning authorities will develop their own draft Local Provisions Schedules which will then be subject to statutory public exhibition and assessment. The Tasmanian Planning Scheme will come into effect in each municipal area once the relevant Local Provisions Schedule is in place.

Scope of the Draft of the State Planning Provisions

The draft of the SPPs are to be prepared with regard to *Planning Directive No 1 – The Format and Structure of Planning Schemes*, interim planning schemes operating in Tasmania, the regional model provisions that informed development of the interim planning schemes, and the statutory requirements of the Act.

Statutory requirements for the Draft of the SPPs

The draft of the SPPs is to be consistent with the requirements of the Act, including:

- Section 11 – Contents of planning schemes and Tasmanian Planning Scheme;
- Section 14 – Contents of State Planning Provisions;

- Section 15 – SPPs criteria; and
- Section 18 – Preparation of draft of the SPPs by Minister

The SPPs criteria to be met are that the draft of the SPPs:

- only contains provisions that the SPPs may contain under section 14; and
- furthers the objectives set out in Schedule 1; and
- is consistent with each State Policy in effect under the *State Policies and Projects Act 1993*; and
- has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*

The State Policies in operation under the *State Policies and Projects Act 1993* at the time of issuing of these terms of reference are:

- *State Policy on the Protection of Agricultural Land 2009*;
- *State Coastal Policy 1996*;
- *State Policy on Water Quality Management 1997*;
- National Environment Protection Measures (NEPMs) that are taken to be State Policies in accordance with section 12A of the *State Policies and Projects Act 1993* including:
 - Air Toxics NEPM
 - Ambient Air Quality NEPM
 - Assessment of Site Contamination NEPM
 - Diesel Vehicle Emissions NEPM
 - Movement of Controlled Waste between States and Territories NEPM
 - National Pollutant Inventory (NPI) NEPM
 - Used Packaging Materials NEPM

General requirements for the Draft of the SPPs

The draft of the SPPs is to:

- Adopt the general structure used in *Planning Directive No 1* including the 22 standard zones used in interim planning schemes operating in Tasmania subject to any minor modifications that may be appropriate;
- Build on the general provisions in *Planning Directive No 1* and in interim planning schemes operating in Tasmania, including the administrative provisions, definitions, exemptions and standard use classes;
- Include any additional general and administrative provisions required to support the structure and operation of the Tasmanian Planning Scheme, including any templates and other provisions relating to the Local Provisions Schedules;
- Be developed with reference to and where appropriate standardise the content of the planning controls for the 22 standard zones and the suite of statewide codes contained in the interim planning schemes and the regional model provisions, with particular reference to the Launceston Interim Planning Scheme;
- Have regard to:
 - any draft Planning Directives prepared by the Tasmanian Planning Commission that have been subject to a statutory process; and
 - any draft statewide codes prepared by state agencies or the Tasmanian Planning Commission in consultation with state agencies for the purposes of consultation, at the time of issue of these terms of reference;

- Contain provisions permitting a Local Provisions Schedule to include, in accordance with section 14 of the Act:
 - particular purpose zones;
 - specific area plans; and
 - site specific qualifications

The draft of the SPPs is also to be developed with regard to the following documents:

- The three Regional Land Use Strategies in place under the Act;
- The drafting rules and terms prepared by the Commission’s Delegated Panel that undertook the statutory assessment of the Launceston Interim Planning Scheme;
- The following Planning Directives in force under the Act and any reviews or proposed modifications to these that are under active consideration by the Commission or the Minister:
 - Planning Directive No. 3 – Single Dwelling in Residential Zones
 - Planning Directive No. 4.1 – Standards for Residential Development in the General Residential Zone
 - Planning Directive No. 5 – Bushfire Prone Areas Code
- The following Planning Advisory Notes in force under the Act and any reviews or proposed modifications to these that are under active consideration by the Commission or the Minister:
 - Planning Advisory Note 3: Supporting information for draft planning schemes;
 - Planning Advisory Note 11: Integration of Land Use and Transport in Planning Schemes;
 - Planning Advisory Note 13: The Planning Scheme Template for Tasmania: Drafting Instructions;
 - Planning Advisory Note 16: Application, Adoption and Incorporation of External Documents by a Planning Scheme;
 - Planning Advisory Note 20: Planning Directive No 5 Bushfire Prone Areas

Further drafting guidance

The following matters are also to be considered in preparing the draft of the SPPs:

- Achieving a logical structure for the document that is user-friendly and has regard to the design of the ‘iPlan’ digital planning scheme interface;
- Ensuring the planning controls are legally robust, having regard to the drafting used in the interim planning schemes, including consistent expression, terminology, language and structure of the clauses;
- Providing consistency in the format and structure of Local Provisions Schedules such as through the inclusion of templates and other relevant controls;
- Ensuring the general and administrative provisions allow the State Planning Provisions and Local Provisions Schedules to operate effectively together for a cohesive application of the Tasmanian Planning Scheme in each municipal area;
- Achieving the following general policy principles, where practicable:

- providing clear permitted pathways for use and development that are consistent with the purpose of each zone;
- providing flexibility in regard to the use and development that can occur within a zone where the use and development supports, is directly related to or is ancillary to a use that is consistent with the zone purpose;
- promoting equity and consistency in the application requirements for use and development, including providing clear criteria for the assessment of permitted and discretionary uses in the planning controls to minimise delays and uncertainty;
- minimising duplication of regulation between different levels of Government, including State and local government and facilitating efficient integration between this regulation where appropriate; and
- providing for consistency with the requirements of other legislation and regulation, including Commonwealth regulation of particular matters;

Process

In preparing the draft of the SPPs, consultation is to occur with the Tasmanian Planning Commission, planning authorities and the state service agencies and state authorities that the Minister sees fit in accordance with section 18 of the Act.

The advice of other relevant bodies including the State Policies Interdepartmental Committee and the Planning Reform Taskforce that each report to the Minister for Planning and Local Government may also be sought in relation to the preparation of the draft of the SPPs, as appropriate.

Expert advice with regard to the legal drafting of the provisions may also be sought where appropriate to ensure their effective operation.

A handwritten signature in blue ink, appearing to read "PC Gutwein".

PC Gutwein
Minister for Planning and Local Government

[Issued 18 December 2015]