

TASMANIAN PLANNING POLICIES

Explanatory document

A paper to accompany the draft Tasmanian Planning Policies for consultation purposes

April 2017

TASMANIAN PLANNING POLICIES

Explanatory document

This Paper provides an overview of the development and content of the draft Tasmanian Planning Policies.

The Paper has been prepared by the Tasmanian Government for consultation on the draft Tasmanian Planning Policies.

Submissions in relation to this Paper and the draft Tasmanian Planning Policies may be provided to:

planning.unit@justice.tas.gov.au; or

Manager, Planning Policy Unit

Department of Justice

GPO Box 825

Hobart 7001

The closing date for submissions is Monday 15 May 2017.

Consultation process

The Government is seeking views on the proposed content of the new Tasmanian Planning Policies. The consultation process will be managed by the Department of Justice in collaboration with other state agencies represented on the State Policies Interdepartmental Committee (SPIDC), which has overseen the preparation of the draft Tasmanian Planning Policies.

This Explanatory Document has been prepared to accompany the enclosed draft Tasmanian Planning Policies and consultation draft of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017* for consultation purposes.

Introduction

As part of its planning reform agenda, the Tasmanian Government made an election commitment in 2014 to prepare policies that would provide guidance to councils on how to implement the new statewide planning scheme and plan for Tasmania's future land use needs.

Feedback from local government and a range of stakeholders on the draft *Land Use Planning and Approvals (Tasmanian Planning Scheme) Amendment Bill 2015* indicated that the new Tasmanian Planning Policies will address a widely recognised gap in the planning system by providing strategic direction on matters of state interest, guiding councils when they make decisions regarding development and land use planning.

The draft Tasmanian Planning Policies have been prepared to support the objectives of Tasmania's Resource Management and Planning System, as set out in the *Land Use Planning and Approvals Act 1993* (LUPAA). They aim to further those objectives through the promotion of sustainable development, sound strategic planning and social and economic wellbeing, and the protection of Tasmania's natural environment and heritage values.

The Tasmanian Planning Policies are also consistent with State Policies made under the *State Policies and Projects Act 1993* (SPPA).

Relationship to State Policies

Tasmanian Planning Policies are different to State Policies made under SPPA. While State Policies can apply more broadly to a range of State legislation and regulation beyond the land use planning system established under LUPAA, the Tasmanian Planning Policies will relate directly to the planning system.

No changes are proposed to the provisions for making and amending State Policies under SPPA as part of the current reforms. The current provisions relating to State Policies in LUPAA will continue to apply, including the requirement for planning schemes and other planning instruments – including the new Tasmanian Planning Policies – to be consistent with relevant State Policies.

Tasmanian Planning Policies will sit below State Policies in the hierarchy of statutory instruments relating to the Resource Management and Planning System.

State Policies may effectively override other planning instruments, and there are penalties, offences and enforcement provisions that apply for certain actions that are not consistent with a State Policy under SPPA and LUPAA.

The Tasmanian Planning Policies will inform the development of, rather than override, other planning instruments such as regional land use strategies and the Tasmanian Planning Scheme.

Importantly, Tasmanian Planning Policies are not self-executing, which means they will not apply directly to the determination of permit applications and related matters by planning authorities and other bodies under the Tasmanian Planning Scheme.

Application of the Tasmanian Planning Policies to the planning system

The Tasmanian Planning Policies will provide broad strategic guidance to assist State and local government in land use planning.

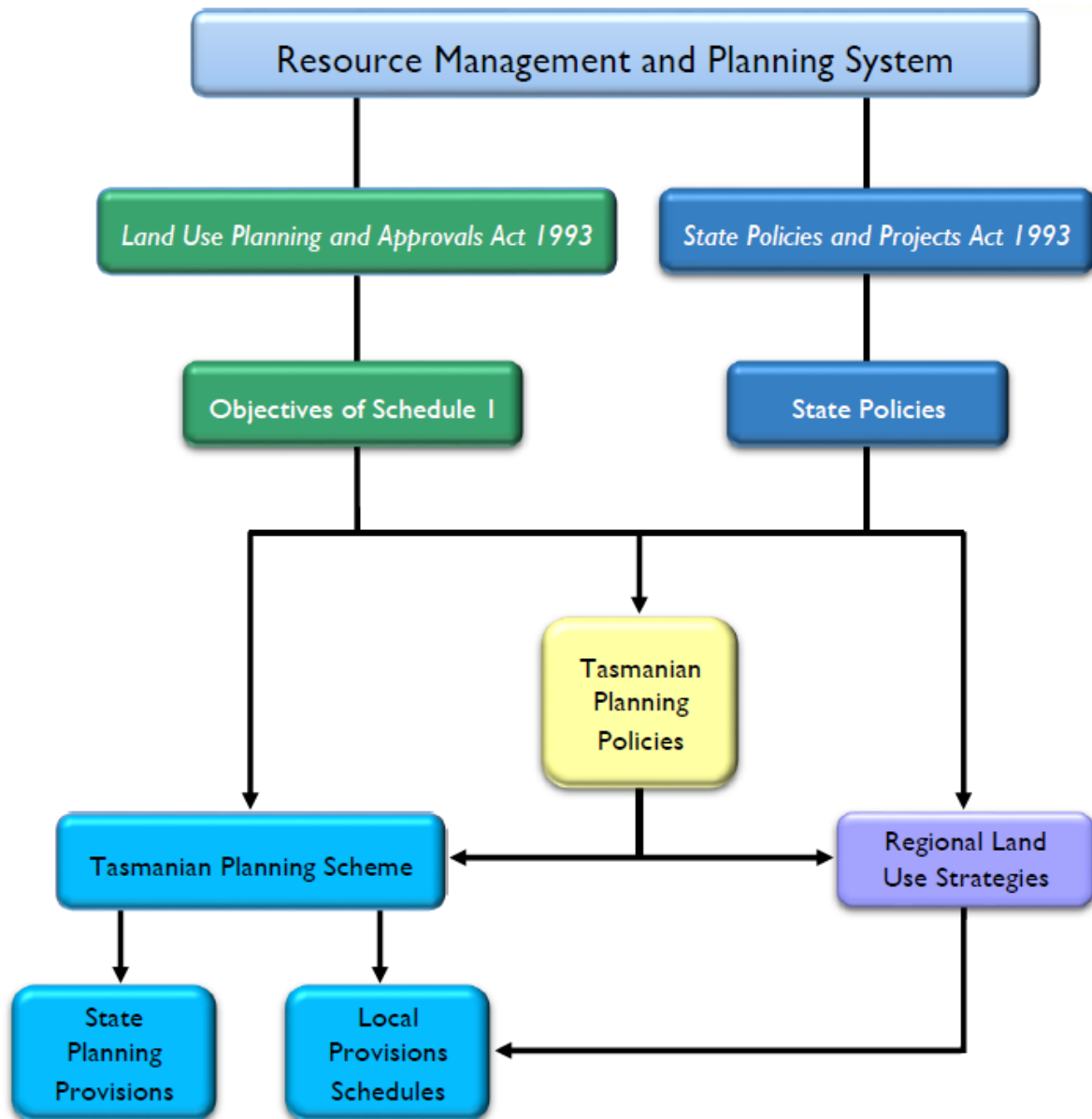
The suite of Tasmanian Planning Policies will inform the planning system primarily through regional land use strategies, which may incorporate local strategies prepared by individual local councils, and the Tasmanian Planning Scheme, which comprises the State Planning Provisions and Local Provisions Schedules.

Tasmanian Planning Policies may also inform a range of non-statutory planning instruments and related strategies such as regional transport and infrastructure strategies, structure plans and settlement policies.

Planning authorities should take account of Tasmanian Planning Policies in their strategic land use planning.

The diagram on the following page indicates the position of Tasmanian Planning Policies within Tasmania's planning system.

Figure 1- Diagram showing the position of Tasmanian Planning Policies within Tasmania's planning system.



Relationship to Regional Land Use Strategies

Regional land use strategies are developed by regional council bodies and approved by the Minister for Planning and Local Government under LUPAA. They set out the long term planning goals for the three Tasmanian regions: the North West or Cradle Coast region, the Northern region and the Southern region.

For example, a regional land use strategy may indicate how much land should be made available for industrial development and guide settlement patterns and the provision of associated infrastructure and community facilities in the region. Planning schemes must be

consistent with the relevant regional land use strategy, which must be considered when planning authorities determine whether to initiate an amendment to the planning scheme, such as a change to the zoning applying to an area of land.

Under LUPAA, the Minister may declare a regional land use strategy for each regional area and must keep these strategies under regular and periodic review. The Minister must consult with relevant local councils, the Tasmanian Planning Commission and relevant State agencies and authorities before declaring a regional land use strategy.

Tasmanian Planning Policies contain a range of strategies that will guide regional council bodies and local councils in developing and reviewing regional land use strategies. Examples include:

- ensuring strategic allocation of land for a particular purpose or type of use;
- protecting land from the encroachment of other sensitive, competing or incompatible uses; and
- providing for supporting infrastructure by identifying urban growth boundaries and major infrastructure corridors.

It is proposed that once the Tasmanian Planning Policies are in place, the Minister will be required to be satisfied that a regional land use strategy is consistent with these policies before it is declared.

The Minister would also be required to consider whether a regional land use strategy is consistent with the Tasmanian Planning Policies when it is being reviewed.

Local councils will continue to lead the preparation of regional land use strategies, with no change to the coordinating role currently undertaken by regional bodies.

Relationship to the Tasmanian Planning Scheme

As well as providing strategic guidance to the planning system at a statewide level, the new Tasmanian Planning Policies will inform the first and subsequent five-yearly reviews of the Tasmanian Planning Scheme in accordance with the requirements of LUPAA.

While the policies will not apply at the level of individual development applications, which are assessed by local councils, they will inform the development or review of the planning controls set out in the State Planning Provisions, which apply to development applications.

Examples of these planning controls include:

- the use standards in various zones, such as restrictions on potential contaminants to water and soil; and
- the requirements of particular codes, such as attenuation distances relating to developments that may produce harmful emissions.

These planning controls must be consistent with, and may give effect to, the strategies contained in Tasmanian Planning Policies.

Tasmanian Planning Policies will also inform the future application of zoning and overlays in Local Provisions Schedules that will provide for the implementation of regional land use strategies at the local level, as well as periodic amendments to Local Provisions Schedules.

Relationship to other strategies and policies

A range of other non-statutory policies and strategies are in place to support land use planning in Tasmania.

These include documents developed by State agencies such as regional industrial land strategies and reports on managing natural hazards through land use planning. Many of these documents have informed the development of the three regional land use strategies.

Local councils and regional bodies have produced various documents to support regional land use strategies and strategic planning in local municipal areas, such as strategic and structure plans for individual council areas.

Mapping and resources developed by State agencies, such as mapping of agricultural land, natural hazards and natural assets (e.g. known locations of threatened species and threatened native vegetation communities) may also be available to inform the development of the regional land use strategies and related policies and strategies.

When the Tasmanian Planning Policies are finalised, these non-statutory documents and resources may also be reviewed where appropriate to identify any opportunities for greater alignment with the strategies outlined in the policies.

Statutory framework

As part of the consultation process on the draft Tasmanian Planning Policies, the Government has prepared a consultation draft of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017* (the Bill), which proposes amendments to LUPAA to provide a new mechanism for the Tasmanian Planning Policies.

The draft Bill provides for a robust and transparent process for making and amending the Tasmanian Planning Policies that is broadly consistent with the processes for making State Planning Provisions under LUPAA, with some differences as outlined below.

The draft Bill proposes that the Minister would prepare the draft Tasmanian Planning Policies in consultation with the Commission, planning authorities and relevant State agencies and authorities.

The draft policies would then be subject to a statutory public exhibition and reporting to the Minister on representations by the independent Commission, before the final policies are made. Any person would be able to make a representation during the exhibition period.

It is proposed that the matters raised in representations would be addressed on the written submissions, without having a specific provision for hearings in the Act, as the draft policies provide guidance to the planning system rather than being implemented directly.

Any changes to those other planning instruments would be subject to separate further statutory processes.

For transparency, the Act would provide for the Minister to seek advice from any party and to make any changes that he or she sees fit before making the final policies, similar to the provisions in LUPAA for the draft of the State Planning Provisions.

The Minister could then make a final Tasmanian Planning Policy by notice in the Gazette and would notify relevant parties including the Commission and planning authorities.

The proposed changes would also provide for how the policies are to be considered in the planning system and for their review. It is proposed that the Minister would be required to keep the Tasmanian Planning Policies under regular and periodic review.

The changes would require that the development and review of regional land use strategies, and the future making and review of the State Planning Provisions and Local Provisions

Schedules that comprise the Tasmanian Planning Scheme, have regard to any Tasmanian Planning Policies in place under the Act.

The Act will provide for additional Tasmanian Planning Policies to be made if the need for further guidance on land use planning within the Tasmanian planning system is identified.

Development of the draft Tasmanian Planning Policies

In developing the suite of draft Tasmanian Planning Policies, consideration has been given to various matters including:

- land use planning matters in which the State has a significant interest;
- the structure and scope of similar state planning policies in other Australian jurisdictions;
- recommendations from the Tasmanian Planning Reform Taskforce;
- existing policy instruments such as State Policies under SPPA;
- other policy documents developed by Government and external stakeholders; and
- advice, analysis and input from State agencies, including those agencies not represented on the SPIDC.

The five broad categories covered by this initial suite of draft Tasmanian Planning Policies reflect areas of State interest comparable to those addressed by state planning policies in other Australian states.

The interaction between various strategies in the draft Tasmanian Planning Policies has been considered during their development and in some cases is expressed in the strategies themselves. The suite of draft policies aims to support an integrated approach to land use planning.

Some matters that are addressed in other jurisdictions' state planning policies are sufficiently dealt with in Tasmania through the State Planning Provisions of the Tasmanian Planning Scheme. The Tasmanian Planning Policies have been drafted to support, rather than duplicate, the State Planning Provisions.

Scope of the draft Tasmanian Planning Policies

The five draft Tasmanian Planning Policies aim to provide strategic direction for land use planning matters in the following areas:

- Economic Development
- Settlement and Liveable Communities
- Cultural and Natural Heritage
- Hazards and Risks
- Transport and Infrastructure.

The draft Economic Development, Settlement and Liveable Communities and Transport and Infrastructure Tasmanian Planning Policies include a range of strategies to guide the allocation of land to meet current and future land use needs to support long-term economic growth, the effective and efficient provision of infrastructure and liveable communities.

The draft Cultural and Natural Heritage and Hazards and Risks Tasmanian Planning Policies include a risk or priority based approach to managing various issues based on geographically based considerations, such as the presence of natural or cultural heritage or land being at risk from natural hazards.

The location of areas susceptible to natural hazards, sensitive land uses and sites of natural and historic cultural heritage value may influence the allocation of land including through a review of the regional land use strategies, which may in turn inform the zoning of land in the Local Provisions Schedules.

Economic Development Tasmanian Planning Policy

The draft Economic Development Tasmanian Planning Policy recognises that growing Tasmania's economy depends on planning that ensures allocation of appropriate land for industrial and commercial use, promotes productive and well-connected activity centres and supports the Government's commitment to key sectors of the State's economy, including agriculture, tourism and extractive industries, which drive employment and enable our communities to grow and prosper.

Settlement and Liveable Communities Tasmanian Planning Policy

Community health and wellbeing are influenced by our built and natural environment. The draft Settlement and Liveable Communities Tasmanian Planning Policy supports planning that enables efficient service delivery, maximises use of infrastructure, optimises access to education and employment, meets the diverse housing needs of the community and enhances quality of life and social inclusion.

Cultural and Natural Heritage Tasmanian Planning Policy

Tasmania's diverse cultural and natural heritage enriches our communities and contributes significantly to our economy. The draft Cultural and Natural Heritage Tasmanian Planning Policy supports the management and protection of the State's Aboriginal heritage, historic cultural heritage, and natural heritage through appropriate planning, recognising that their preservation and conservation are important for current and future generations.

Hazards and Risks Tasmanian Planning Policy

The draft Hazards and Risks Tasmanian Planning Policy seeks to ensure that land use and development is undertaken in a manner that avoids, mitigates or minimises the risks associated with natural hazards, minimises the risks to human health and the environment arising from potentially contaminated land, hazardous uses and harmful or nuisance emissions, and maintains the environmental values and productive capacity of Tasmania's water and soil resources.

Transport and Infrastructure Tasmanian Planning Policy

The Tasmanian Government is committed to infrastructure planning and investment frameworks that are responsible, reflect current and emerging demand and user needs, and are integrated with the land use planning system. The draft Transport and Infrastructure Tasmanian Planning Policy supports planning for infrastructure that is efficient, safe, reliable and accessible and meets the diverse needs of the Tasmanian community and businesses.

Structure of the draft Tasmanian Planning Policies

The statutory document that will be made under LUPAA will comprise the five Tasmanian Planning Policies and a high level Overview. Within each of the draft Tasmanian Planning Policies the following structure appears:

- *Preamble*: This introductory section describes the Government's strategic direction for the policy's broad subject matter within the planning system, and provides a context for the specific objectives and strategies that follow.
- *Subcategories*: Each Tasmanian Planning Policy is divided into several subcategories to enable the articulation of objectives and strategies that are specifically designed for and targeted at particular subject areas.
- *Objectives*: There are one or more objectives for each subcategory that set out the Government's policy goals in that area.
- *Strategies*: There are several strategies to assist in achieving each objective through land use planning. These are individually numbered within each Tasmanian Planning Policy for ease of reference.

Where relevant, a list of related state-level policy documents that have informed the development of the policy subcategory is also provided, such as any applicable State Policies under the *State Policies and Projects Act 1993* (SPPA).

It is expected that there will be additional supporting material and implementation guidance that sits outside the statutory policies and may assist local government and others to implement the policies within the planning system. This material may include, for example, planning advisory notes, industrial land strategies, agency guidelines and technical manuals.

GPO Box 825, HOBART TAS 7000

Email: planning.unit@justice.tas.gov.au

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