

Betterplanning

OUTCOMES

Improving Tasmania's Planning System

A DISCUSSION PAPER



NOVEMBER 2004



DEPARTMENT of
PRIMARY INDUSTRIES,
WATER and ENVIRONMENT

Tasmania

FOREWORD

As the Minister responsible for the newly created portfolio of planning, I believe that Tasmania needs a robust system of land use planning which not only deals properly with natural environments but also the developed and urban environment.

Tasmania currently has a comprehensive and integrated resource management and planning system (RMPS) which has been independently assessed to be one of the best in Australia.

The fundamentals of this system were laid down in 1993 with the introduction of the Land Use Planning and Approvals Act. However, there have been a number of refinements to the system since then that have strengthened and expanded the system.

With the elapse of 10 years since the foundations were laid, and given it is the Year of the Built Environment, it is timely to review the land use planning elements of this system to identify potential areas for improvement.

The growth in Tasmania's population, and the increased interest in new developments in the State as a result of implementation of the Government's social, environment and economic policies, means that there is even greater justification for having a land use planning system which appropriately balances all of the competing pressures.

The Department of Primary Industries, Water and Environment has prepared the discussion paper hereunder as a result of consideration of comments and suggestions for improvement made by a range of parties over the last few years.

The discussion paper starts from the premise that the fundamental building blocks of the current system are sound and the Government supports this premise. However, I am keen that these proposals are carefully considered by all the stakeholders involved in the RMPS – and that is all Tasmanians.

Consequently, community involvement in developing changes to the existing arrangements is important. The discussion paper identifies a number of potential changes. A major area where I consider that improvements can be made is by the Government providing greater clarity to land use planners on Government policies which should be reflected in planning instruments.

Comments on these and any other dimension of the existing land use planning arrangements are encouraged.

JUDY JACKSON

MINISTER FOR PLANNING AND ENVIRONMENT

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1.0 INTRODUCTION

1.1 Better Planning Outcomes – Improving Tasmania’s Planning System

Planning is fundamental to our daily lives. It affects the way that our cities, towns and rural areas look, work and inter-relate. It touches each of us in some way.

Because changes to our environment can have a dramatic impact on the quality of our lives, we need an effective planning system.

It is an integral part of meeting the expectations we have for Tasmania’s future, through Tasmania *Together*.

The current legislative framework for land use planning was introduced more than 10 years ago. While there have been changes to it since its inception (see Appendix 1 for a summary of key changes), it is important to continue a process of continual improvement to keep our land use planning system up-to-date and to achieve better planning outcomes on the ground.

1.2 Why Do We Need Better Planning Outcomes?

The Government has initiated this project to keep the land use planning system up-to-date and ‘in tune’ with recent Government initiatives and policy directions. It is not a major ‘overhaul’.

The aim of the project is to identify improvements to land use planning that will deliver better planning outcomes for government, industry and the community while protecting the integrity of the sustainable development objectives that underpin the Resource Management and Planning System.

Its focus is on land use planning and not all aspects of the State’s Resource Management and Planning System.

The project will canvas a range of reforms, not just to the legislative framework, but to the delivery of land use planning more broadly. These include improvements to:

- make sure that all levels of government follow relevant policies and strategies;
- make sure that planning schemes have a sound strategic basis;
- achieve greater certainty of planning processes for governments, industry and the community; and
- provide a planning system that balances industry and community interests without jeopardising cost effectiveness.

1.3 The Project Process

The project process has the following key steps:

- Release of this Discussion Paper to explain and canvas potential improvements
- Receive feedback on the Discussion Paper;
- Analysis of feedback to the Discussion Paper and release of a Response Report that describes the response to the consultation and explains how the Better Planning Outcomes Project will respond.
- Further project planning to deliver a program of improvements to the planning system over the short to medium term.

The project is being conducted using project management techniques, with direction from a Steering Committee and will have focussed input from a Stakeholder Reference Group(s) as the need to develop more detailed proposals arises.

2.0 ABOUT THIS DISCUSSION PAPER

2.1 Purpose

This discussion paper has been prepared to identify broad opportunities for improvement of land use planning in Tasmania and to canvas the direction any legislative reforms and new initiatives may take. Detailed proposals have been avoided at this preliminary stage in recognition that considerable further investigation and consultation will be required before more detail can be suggested.

It provides an overview of the current legislative system, the way the policy setting has changed during its life and the issues presented by this change.

The purpose of the discussion paper is to seek feedback that will inform the Government about the scope and priority of any future reforms. As more detail is developed, further consultation with stakeholders will be required.

2.2 Overview

This paper discusses a range of land use planning matters that present opportunities for improvement. Generally, it identifies the favoured direction for improvements but does not include detailed proposals for change.

The favoured direction for improvement has resulted from considering the following principles:

- *Equity* (includes fairness, justice, consistency, accessibility and balance);
- *Efficiency* (includes timeliness, cost effectiveness, and the ability for decisions to be made at the lowest possible level);
- *Effectiveness* (includes ability to achieve stated policy objectives and on-ground outcomes, flexibility to achieve good planning outcomes, and clarity); and
- *Accountability* (includes transparency and responsibility for actions).

2.3 Responding to the Discussion Paper

Comments are invited on the discussion paper over a 6 week period, closing on Monday 7 February 2005. These can be submitted by email or in writing as follows:

betterplanning@dpiwe.tas.gov.au or

Better Planning Outcomes Project
GPO Box 44
HOBART 7001

Further copies of this discussion paper can be downloaded from the Department of Primary Industries, Water and Environment's web site on www.dpiwe.tas.gov.au/betterplanning

All submissions will be treated as public documents.

3.0 BACKGROUND

3.1 Tasmania's Land Use Planning System

Tasmania's Resource Management and Planning System was established in 1994. It is a broadly based legislative framework based on a common set of objectives that focus on furthering sustainable development. An important objective is to encourage public involvement in the planning system.

The *Land Use Planning and Approvals Act 1993* (LUPAA) is central to the delivery of land use planning. LUPAA is supported by the:

- *State Policies and Projects Act 1993* (SPPA), which provides a process for making State Policies, State of Environment Reporting and a process for assessment of Projects of State Significance;
- *Resource Management and Planning Appeal Tribunal Act 1993* (RMPATA), which establishes an independent body and a legal framework to review resource management and planning decisions; and
- *Resource Planning and Development Commission Act 1997* (RPDCA), which establishes an independent body to review State Policies, planning schemes and conduct other inquiries.

The *Environmental Management and Pollution Control Act 1994* (EMPCA) and *Historic Cultural Heritage Act 1995* (HCHA) also have direct links with the planning assessment and approval processes established under LUPAA¹.

¹ Other approvals under separate legislation, including Commonwealth legislation may also apply. For example, under the *Aboriginal Relics Act 1975* and the *Environmental Protection and Biodiversity Conservation Act 1999*.

Other Acts that address various aspects of resource management in Tasmania, including fisheries, forestry, mining, threatened species, parks and reserve management also form part of the Resource Management and Planning System. However this project focuses on the planning system, rather than resource management.

It is LUPAA that establishes framework for the planning system that has the following key elements:

- *Policy setting and plan making* (the requirement for Councils to prepare and administer planning schemes and for the Commission to be involved in the independent assessment of planning schemes and planning scheme amendments);
- *Development assessment* (the process for assessing development applications and granting permits that is carried out by Councils); and
- *Review and enforcement* (the independent review of planning decisions; the requirement for compliance with planning schemes; and the enforcement of planning permits).

4.0 POLICY SETTING AND PLAN MAKING

4.1 Situation

When introduced in 1994, it was envisaged that the planning system would be supported by a series of planning instruments. State policies and planning schemes were to be the key instruments.

The success of State Policies in influencing planning schemes was recently canvassed in Phase 2 of the Simplifying Planning Schemes Project. The Project, initiated under a State-wide Partnership Agreement, started out with a focus on developing a consistent approach to the format and structure of planning schemes. It moved on to consider more broadly based improvements to planning schemes, focussing on their strategic basis.

In a discussion paper titled *Strategic Planning and Planning Schemes*, the Project identified some of the key obstacles to improving the strategic basis for planning schemes. Feedback on the discussion paper reflected a high expectation that the State must 'get its house in order' and develop a State or regional perspective to give a policy context to planning schemes. This was a direct response to the limited number of State Policies that have been prepared under the *State Policies and Projects Act 1993*².

Since the introduction of LUPAA, subsequent legislative changes have introduced reforms to the way planning schemes and planning scheme amendments are made, including:

- the capacity for the Commission to certify planning schemes subject to the resolution of named issues;
- self-certification of planning scheme amendments by Councils³; and
- the introduction of a joint development assessment and amendment process.

The Government has also introduced *Planning Directive No. 1 – the Format and Structure of Planning Schemes*, which requires Councils preparing new planning schemes to use a standard 'template'. The 'template' was developed in Phase 1 of the Simplifying Planning Schemes Project and focuses on the mechanics of the planning scheme. The aim was that this would free Councils to focus their resources on the more important strategic basis of the planning scheme.

² There are only three (3) State Policies. However, under S.12A of the SPPA National Environmental Protection Measures (NEPMs) are taken to be State Policies. There are eight (8) NEPMs.

³ Under LUPAA planning authority means a Council. This Discussion Paper uses the term Council rather than planning authority.

4.2 State Policies

There are two key issues. More State Policies are needed to give a State perspective to Councils preparing planning schemes and the implementation of State Policies has been problematic.

The 'take-up' of State Policies by the State Government has been affected by:

- uncertainty about what a State Policy should 'look like';
- lack of familiarity about the process for preparing and introducing State Policies; and
- the need for planning expertise and resources to develop them.

Effective implementation of State Policies has been frustrated by:

- their broad focus and application, not only to planning schemes, but potentially other government and non-government spheres of activity;
- the inclusion of provisions that, in addition to planning scheme provisions, are applied to the assessment of development applications (ie 'self-executing');
- the lack 'teeth' to ensure State Policies are implemented in planning schemes in a meaningful and timely way; and
- the absence of implementation tools, such as a requirement to issue guidelines.

A broader issue is the lack of a 'champion' in State Government to progress their development as an integral part of the Resource Management and Planning System.

State Policies could greatly assist the effective advancement of key State interests through the planning system. For example, issues such as affordable housing and housing choice could be tackled.

The suggested response is to:

1. Clarify that State Policies are to inform and be implemented primarily through planning schemes.
2. Make the Minister for Planning responsible for them, rather than the Premier.
3. Clarify that they should be short high level statements of policy and should not be self-executing.
4. Require their implementation by amendment to planning schemes within a fixed timeframe, with powers to intervene if Councils do not progress amendments voluntarily.
5. Require that State Policies be introduced with accompanying implementation tools.
6. Resource a program for delivery of State policies over the next 2 years.
7. Resource the review of existing State Policies to bring them into conformity with legislative reforms over the next 2 years.

4.3 Regional Planning

In some other States, such as Queensland, Western Australia and New South Wales, regional planning is an important mechanism, bridging the gap between high level policy and the planning scheme that will ultimately deliver the on-ground results.

Regional planning provides a vehicle for the proper consideration of a range of issues that commonly extend beyond municipal boundaries, such as infrastructure and natural resource management. It also allows policies to be delivered at a spatial level. That is, policies can be expressed on a map when focussed at a regional level.

Currently, Tasmania has a wide range of regional initiatives. The recent *Natural Resource Management Act 2002* introduced a requirement for three regional committees to be responsible for developing regional natural resource management strategies. There are numerous other regional initiatives and synergies, such as the Cradle Coast Authority's involvement in tourism development at a regional level.

However, Tasmania does not currently have a program of integrated regional planning – where environmental, social and economic regional interests are drawn together. LUPAA includes a requirement for Councils preparing planning schemes to consider cross-boundary issues with adjoining Councils but there is a view that this may not deliver an effective regional perspective as part of the plan making process.

The benefits of regional planning suggest there is value in exploring its practical application in Tasmania. However, this should not undermine the priority of establishing State Policies, and should build upon earlier experiences of regional planning in the State. While this is being pursued, broader powers could be introduced to promote a consideration of a regional perspective at the time of preparing planning schemes.

The following could advance regional planning:

1. Establish a State-Local Government project to evaluate the benefits of regional planning for Tasmania and consider potential models for its introduction.
2. Require consideration of a regional perspective when planning schemes and amendments are prepared.

4.4 Making Planning Schemes

Planning schemes are regulatory instruments that set out the requirements for new land use and development. They are prepared by Councils and are assessed by the Commission. This is commonly an expensive and lengthy process.

LUPAA brought a new approach to the assessment of planning schemes, introducing the concept of 'certification'. This requires the Commission to certify a draft planning scheme within six (6) weeks, after which it is publicly exhibited. This avoids lengthy and detailed examination of the draft planning scheme and ensures prompt exposure to public scrutiny.

A key change to LUPAA since its inception has been the ability for the Commission to certify a planning scheme subject to the resolution of named issues. (These often relate to the strategic basis of the planning scheme.) While this allows the scheme to advance to certification and public exhibition (instead of stalling), it has the draw-back of:

- exhibiting a planning scheme that may change significantly before being finalised; and
- relying more heavily on others (State government and the public) to scrutinise the planning scheme.

This can leave a greater number of matters for the Commission to resolve through the hearing process. In the interests of procedural fairness, where the end result is significantly different to the starting point, the Commission may then require the re-exhibition of all or part of the planning scheme.

This situation highlights the need to re-focus on the 'front-end' of preparing a planning scheme. Moving quickly to certification should not be at the expense of deferring more matters to be resolved later in the process.

The foremost step in plan making is establishing the strategic basis for the planning scheme. This involves bringing together the relevant information, strategies and policies of all levels of government – a process that Councils have found difficult in the absence of State Policies or regional planning.

While it could be said that a sound strategic basis for planning schemes is implicit in LUPAA, there are no checks and balances to ensure this is so. When a draft planning scheme is assessed and certified by the Commission, practical concerns with the operation of the planning scheme are considered along with the strategic basis, during the brief six (6) week period for certification. There is no requirement for Councils to submit supporting information that sets out the strategic basis or rationale for the planning scheme.

Planning scheme preparation could be improved by introducing the following:

1. Specify core matters that a planning scheme must provide for.
2. Formalise the preparation of the strategic planning basis or rationale for the planning schemes, including the need for specific documentation.
3. Clarify the tests for certification.
4. Require the early involvement of stakeholders on the scope of issues to be the focus of the planning scheme review.
5. Develop practical and effective administrative procedures to ensure the State Government is involved in the preparation of planning schemes and amendments.

4.5 Supporting Planning Directive No. 1

Recently the Commission introduced *Planning Directive No. 1 – the Format and Structure of Planning Schemes* which provides a ‘template’ of core provisions that Councils must use when preparing planning schemes. This has the effect of standardising the operational clauses in planning schemes. There is still considerable latitude for individual approaches to zone provisions and standards for use and development.

By introducing a consistent format and structure for planning schemes it was envisaged Councils could concentrate their efforts on developing the content of the planning scheme, not the detailed drafting of core provisions. That is, to focus on the strategic basis of the planning scheme and how that translates to planning scheme provisions.

There is considerable capacity for this approach to be expanded to include core provisions for a range of matters, such as use and development standards that may result from State Policies. These could be implemented as standard schedule provisions.

To date, some planning schemes are being prepared based on the ‘template’ but none have been certified or approved. As this process unfolds, it is inevitable that the ‘template’ approach will evolve and improvements are embraced.

The following is suggested:

1. Promote the development of standard schedule provisions by appropriate State Government agencies.
2. Provide additional planning resources to coordinate and assist the development of standard schedules.
3. Review Planning Directive No.1 following the assessment of the first planning scheme to be prepared using the Directive. Make any modification to the Planning Directive necessary as a result of the review.
4. Encourage Councils to update their planning schemes.

4.6 Up-to-Date Planning Schemes

The *Strategic Planning and Planning Schemes* discussion paper identified that there was merit in a ‘review’ rather than ‘replace’ approach to planning scheme maintenance, once Councils have reached the point of having a single, contemporary planning scheme in place.

This was considered beneficial because it:

- has potential to be more economic than reinventing the process and documentation each time;
- minimises the need for ad hoc or unforeseen amendments;

- creates opportunities for effective monitoring of performance by allowing comparisons to be more readily made through the use of similar processes and documentation; and
- can provide a longer overall life for the planning scheme which in turn can result in a more consistent approach over time.

Planning scheme currency will be promoted by the earlier suggestion that State Policies should be implemented within a fixed time period. There will still be a need to ensure that as the broader strategic context changes, it is reflected planning schemes. This could be achieved by requiring periodic review to ensure it reflects current strategies, rather than a recasting of the planning scheme.

The following is also suggested:

1. Introduce a requirement to periodically check that the planning scheme is consistent with the Council's strategic planning regime, coinciding with the annual review of the Council's Strategic Plan. This would be an audit, rather than 're-do' and amendments would follow only as required.
2. Require reporting to the Commission on this process.

4.7 Maintaining Planning Schemes

Planning schemes are comprised of a set of plans and a text document. They are legal instruments and their approval requires a copy to be signed and lodged at the Central Plan Registry. When amendments are made, they are also signed and lodged at the Central Plan Registry.

This process ensures that there is an accurate record of the original document and any subsequent changes. In practice, amendments are cumulatively reflected in the documents that are in circulation. These versions reflect all the amendments to date.

This process is loosely controlled. The Commission and Councils each update their own versions of the planning scheme and each have the authority to certify copies of the planning scheme or amendments as true copies. However, there is sometimes a discrepancy between these records because one party has failed to reflect all the amendments, or has interpreted the effect of the amendment differently.

The Department also manages an extensive spatial information database that is publicly accessible. The Land Information System of Tasmania (LIST) includes some free information and some that is available on a subscription basis.

Nearly all of the State's planning scheme are now available on the LIST and can be accessed for free. However, the planning schemes on LIST cannot be relied upon as a true and accurate record due to:

- inaccuracies created by the way digital data has been sourced from manually drafted planning schemes; and
- the inability to guarantee that they incorporate all the amendments made to date.

Electronic access to an accurate record of the State's planning schemes could greatly improve accessibility for industry and the community. This can be important where it is difficult to access the hard copy documents at the Council or the Commission, such as from inter-state.

The electronic environment is expanding and having on-line planning schemes would complement other initiatives, such as e-lodgement for development applications (being investigated nationally).

Clearly there are a number of issues to be resolved before a vision for a single, electronic record of the State's planning schemes that is legally competent could be achieved. In the meantime, the following actions can improve the availability of accurate planning scheme information.

1. Investigate the measures required to give confidence that the documents available on LIST are an accurate record, incorporating all amendments.
2. Introduce requirements for electronic submission of planning schemes and amendments to manage future data.

5.0 DEVELOPMENT ASSESSMENT

5.1 Situation

Development assessment is the process of evaluating proposals for new development or changes to an existing land use.

LUPAA provides the framework for the development assessment process. This includes the provisions that establish the notification and appeal rights that apply if an application is either 'discretionary' (can grant or refuse a permit) or 'permitted' (must grant a permit but can attach conditions).

However, detailed provisions in planning schemes ultimately affect how applications will be categorised and assessed. While the legislative framework leaves considerable latitude for Councils to develop these provisions, since December 2003, Planning Directive No.1 – the Format and Structure of Planning Schemes, requires a more consistent approach to the administrative provisions in all new planning schemes. This affects the way planning scheme standards influence Councils' discretion to approve or refuse applications and necessitates the drafting of planning scheme standards in a particular style.

Recently, at a national level, the Development Assessment Forum, investigated a model approach to development assessment. While final recommendations are yet to be endorsed, it seems unlikely that an Australia-wide process will be mandatory.

However, the Development Assessment Forum exercise usefully conceptualised the development assessment process. It described how more complex proposals require individual assessment but that simple proposals can readily be checked against planning scheme standards by a competent person.

While these are already features of our Tasmanian planning system, there may be scope to improve the operation of these processes.

5.2 Clarify Discretionary and Permitted Developments

LUPAA describes the processes for considering for discretionary and permitted applications. These have remained substantially unchanged since the previous legislative regime. They reflect a time when planning schemes were much more 'black or white'. Early planning schemes tended to have fewer development standards. As a result it was often possible to establish whether an application was discretionary or permitted simply by reference to the Table of Use.

As planning schemes have become more complex, with the obligation to consider a broader range of matters, it has become more difficult to establish the status of an application at a glance. In addition to initially checking the Table of Use, a host of development standards may potentially change the status of an application from permitted to discretionary.

The style of drafting planning scheme standards has also changed significantly. The drafting style required by Planning Directive No.1 has 'performance criteria' (the specific outcome being sought) and accompanying 'acceptable solutions' (a measurable 'bottom-line' that will meet the outcome sought).

The effect of any variation or relaxation of an 'acceptable solution', no matter how minor, is to render the application discretionary. This triggers a statutory notification process and third-party appeal rights. Although the magnitude of variation or relaxation may be minor, this can add unnecessarily to the time and cost of assessing the application.

A more practical approach may be to allow the exercise of judgement on minor matters, such as variations to boundary setbacks, without the necessity for a full-blown notification and appeal process.

Improvements to the development assessment process could be achieved through review of the development assessment provisions in LUPAA to:

- develop an approach that more clearly distinguishes the circumstances in which discretion is triggered given contemporary planning scheme drafting; and
- provide a more efficient process assessing and determining matters of limited impact, while assuring the appropriate level of consultation occurs.

5.3 Private Certification

Private certification has recently been introduced to the building approval regime. Its introduction to the planning regime is being considered nationally by the Development Assessment Forum which is a national body with representation from industry and all levels of government. Victoria has advanced to conducting pilot trials.

Private certification entails the use of accredited practitioners to perform some of the assessment roles traditionally performed by Councils as the responsible authorities for planning approvals.

In Victoria, three levels of certification have been developed:

- *information* – that the application includes all the necessary information;
- *merits consideration* – meets the requirements of the planning scheme sufficiently to proceed to notification; and
- *process certification* – any pre-lodgement processes have been undertaken, such as meetings.

The Victorian pilot trial, involving Glen Eira Council, reported an improvement in the quality of applications and the assessment times for those applications.

Private certification has the potential to reduce the day-to-day pressures on Councils. There is capacity for the (often time consuming) early negotiations with the applicant to clarify the application and supporting information requirements to be dealt with by a private certifier engaged by the applicant.

While potentially a very beneficial improvement to the development assessment process, the shortage of professional planners is likely to be a practical obstacle to its introduction in the short term.

It is also important to recognise its limitations. The Victorian pilot trial limits planning certification to the early stages of the process, only up to the point of proceeding to notification. It does not go as far as certifying that an application is in accordance with a planning scheme (implying it could be granted a permit).

While parallels can be drawn with building certification, certifiers are using a single instrument (the Building Code of Australia) and can develop a familiarity that will give consistency to their assessments. The large number of planning schemes, many very different from each other, gives less confidence that sound and consistent assessments can be assured by private certification.

Tasmania should be open to any improved planning outcomes that private certification could offer. However, considerable further investigation is still needed before committing to the introduction of private certification.

In the meantime, it is suggested that the State Government and Local Government Association of Tasmania keep a watching brief on progress being made nationally on this issue via the Development Assessment Forum.

5.4 Assessment of Regionally Significant Developments

The concept of a separate process of assessment for 'Projects of State Significance' (POSS) was introduced with the *State Policies and Projects Act 1993*. This provides for the integrated assessment of large and complex developments of State importance. In this process, the Commission conducts an assessment, resulting in a recommendation to the Minister who then makes a recommendation to the Governor. Both Houses of Parliament then reach a final decision, with no right of appeal.

Only four projects have been assessed using this process. Two have been approved, with the others being rejected or abandoned⁴.

The *Major Infrastructure Development Act 1999* was introduced to deal with infrastructure projects that typically spans more than one planning scheme and may be treated differently in each planning scheme. Under the Act, a combined planning authority is created to assess the proposal. In the event that this fails, there are powers for the Commission to assume the role of planning authority.

Often, large and complex developments are considered under LUPAA. This was made more attractive by an amendment to LUPAA in 1997 that introduced a combined amendment and development assessment process. This meant that where the proposal was not allowed under the existing planning scheme provisions, a planning scheme amendment and development application could be advanced concurrently. Previously, the amendment had to be made before an application could be entertained. In this new process, the Commission is the arbiter on both the amendment and the permit application.

The few numbers of POSS's and continued reliance on LUPAA process is of concern. There is likelihood that with large and complex developments there may be a need for a more rigorous and integrated assessment than can be achieved by Councils under LUPAA for the following reasons:

- The planning scheme may not be sufficiently robust for a major development. (It is difficult, if not impossible, to foreshadow entrepreneurial developments and so called 'footloose' industries when preparing a planning scheme);
- The development may have implications beyond the municipal boundary, where the Council has no jurisdiction;
- Assessment may require expertise or necessitate the provision of supporting information that is not readily available to the Council.

The POSS process serves an important purpose in the assessment of proposals that are of State significance but may be seen as too cumbersome and open-ended for other projects that are none-the-less large and complex.

This suggests the need for alternative process that has some of the certainty of process and time advantages of LUPAA process, yet provides for broader, more integrated assessment.

A new process for the assessment of Projects of Regional Significance is proposed with the following features:

1. A one-off Development Assessment Panel convened at the direction of the Minister with responsibility for specifying the matters to be addressed by the proponent and ultimately for granting or refusing a permit.
2. Criteria for assessment that will address issues with regional implications.

⁴ Mt Lyell Coper Mine (approved), Northern pulp mill (abandoned), Oceanport (rejected), Basslink (approved).

3. Public input through the exhibition of the development application and supporting information.
4. Appeal rights for the proponent and third parties to the Tribunal.
5. Timeframes for key milestones are specified.

5.5 Pre-Permit Mediation

Under LUPAA mediation can occur before the Council makes a determination on an application. This provision is not used as frequently as it might be. There are a number of factors that could contribute:

- applicants are reluctant to take time over mediation before the permit is determined as the matter may be appealed anyway;
- care is required that matters agreed in mediation will not be at odds with the permit determination (and Council's conditions);
- there is a shortage of skilled mediators available to perform this task;
- there is no guarantee of confidentiality and parties may not wish to prejudice their position before Council determines the permit.

Avoiding appeals to permit decisions by resolving issues before the permit is granted is attractive. The following improvements are suggested:

1. Resource the training of mediators skilled in planning matters by developing a short-course program and a training kit containing guidelines on how to conduct a mediation and materials, such as draft documents.
2. Investigate the appointment of trained mediators to support the Tribunal to be available to the Tribunal (similar to the appointment of Tribunal members) and to Councils.
3. Require that broad confidentiality apply to mediations.

5.6 Determining Applications

The Development Assessment Forum recently considered a nationally consistent approach to the core elements of the development assessment process – known as the Model DA process.

The Development Assessment Forum identified that the delegation of powers to determine planning applications is widespread in all jurisdictions across Australia and that this expedites the processing of applications. It promoted a decision making model that is expert based and limited the involvement of elected members beyond the formulation of policy through preparation of the planning scheme.

This was to overcome some of the perceived problems associated with the current approach. Particularly, the potential for planning matters to be politicised and Councils to blur their statutory planning responsibilities with their broader role as advocates of the people. This can lead to determinations that have popular support but are liable to challenge which can be costly to all the parties involved.

There is also a perception that Council's responsibility as a planning authority under LUPAA is unclear in circumstances where the Council is both the applicant and the planning authority.

While these issues are acknowledged, rather than supplanting the current approach, improvements could be achieved with the following initiatives:

1. Require Councils to access qualified planning advice (whether by sharing planners, use of consultants, appointing staff or other means) creating a greater capacity to delegate determinations.
2. Develop a model for delegations to promote a more consistent approach to the matters that can be dealt with under delegation across the State (this may include a formal role for Councils' internal development assessment or advisory groups in determining applications).
3. Develop administrative or legislative arrangements that clarify the role and responsibility of a Council when acting as a planning authority, including the circumstance where the Council may also be the applicant.
4. Develop information materials or a short course to assist Council's elected members to understand the planning system and their obligations.
5. Require that where Councils approve or refuse permit applications contrary to planning advice, they advise that the decision was made contrary to planning advice and specify the reasons for the decision when giving notice of their decision.

5.7 Subdivision

While subdivision is included within the definition of 'development' in the *Land Use Planning and Approvals Act 1993* (LUPAA), specific requirements are currently made under the *Local Government Building and Miscellaneous Provisions Act 1993* (LGMPA). These include planning considerations, such as minimum access requirements, as well as administrative matters associated with the issue of titles.

The LGMPA was always envisaged as a temporary measure and several parts have already been repealed.

Review of the subdivision provisions began nearly a decade ago and has never been concluded. The objective was to repeal the provisions in the LGMPA and insert the necessary provisions into other legislation.

Strata titles are dealt with separately in the *Strata Titles Act 1998*. This is currently being reviewed.

The Better Planning Outcomes Project provides an opportunity to take stock and reconsider the direction the LGMPA review was taking.

The key matters to be considered are:

1. the need to recognise subdivision as a form of development which would be dealt with primarily in planning schemes (as is currently the practise);
2. reforms to developer contributions and open space arrangements;
3. the legislative and regulatory changes required for the process of subdivision, from the initial assessment of proposals to the issue of title; and
4. the relationship between strata titles and planning schemes.

5.8 Coordinating Expert Advice and Other Approvals

Developments commonly require a wide range of matters to be considered and often even separate approvals. Ultimately, a development will only proceed if it has all the necessary approvals.

When the planning system was introduced it included the capacity for Councils to make referrals to the State Government on prescribed matters. This was always intended to be a temporary measure, until a suite of State Policies was in place and State Government had considered best practice planning scheme provisions to deliver the outcomes envisaged by State Policies. This mechanism has been repealed, although some Councils still refer matters to the State Government for comment where they consider the agency concerned may have an interest or can assist with informing the decision making process.

Over time, separate approval systems have also emerged for specific issues that sometimes overlap with planning considerations, such as threatened species and historic cultural heritage. It can be confusing to applicants to establish the approvals that are required and at what stage 'expert' investigations and separate applications need to be made.

There can also be uncertainty over the matters that ought properly be the domain of the planning system and those that should be dealt with discretely under other approval systems. For example, amenity matters under EMPCA, streetscape matters under HCHA and even building requirements under BCA.

To improve the user-friendliness of the planning system, by better coordinating requirements for 'expert advice' and separate approvals it is suggested that:

1. The relationship with other approval processes and the planning permit process is reviewed. Initially considering the works application process under the *Historic Cultural Heritage Act 1995* and clarifying the relationship between Parks Management Plans and planning schemes⁵.

⁵ Review of EMPCA is currently underway.

2. The State Government identifies those matters it may have an interest in when planning applications are assessed and the administrative arrangements for making any referral.
3. The State Government ensures that when planning schemes are prepared matters of State interest are integrated into the planning scheme provisions, to minimise the need for referral of specific applications.
4. The State Government investigates the wider availability and application of up-to-date spatial data to assist Councils preparing planning schemes and assessing development applications.

6.0 REVIEW AND ENFORCEMENT

6.1 Situation

Council decisions to grant or refuse planning permits and impose conditions can be appealed to the Resource Management and Planning Appeal Tribunal. The Tribunal also considers other resource determinations, such as those under the *Living Marine Resources Management Act 1995* and *Water Management Act 2000*, and enforcement proceedings.

The Tribunal's role in the review of planning decisions and planning enforcement is established in LUPAA and a separate *Resource Management and Planning Appeal Tribunal Act 1993* provides more detail on the role and powers of the Tribunal.

The philosophy underpinning the Tribunal has been to ensure that recourse to the review of decisions is publicly accessible. For example, that legal representation is not the convention and the cost of taking an application to the Tribunal is not prohibitive.

Conversely, the development industry has been critical that the accessibility of the Tribunal can cause expensive delays that are borne by the developer. However, Tribunal statistics indicate a favourable track-record for the time take to resolve appeals in Tasmania when compared with other States.

When introduced, LUPAA provided new powers for civil enforcement proceedings to be brought before the Tribunal. This has made access to enforcement proceedings more accessible and less costly than a civil action in the courts. However, some concerns have been raised that the system relies heavily and potentially unfairly on individuals to act as watch dogs.

6.2 Costs and Fees

Legislative amendment is already in train to clarify the award of costs by the Tribunal and is likely to be finalised by the end of 2004. The amendment will clarify that the default position for the award of costs at the Tribunal will be that each party bears their own costs. Without this clarification, potential appellants may have been deterred from making an appeal with by the threat of costs being awarded against them, should they lose the appeal.

The fee charged for lodging an appeal has only increased marginally and there has been no review of its basis since the Tribunal's establishment more than a decade ago.

The Resource Management and Planning System objectives promote public input into decision making and a modest fee (initially \$50 and now \$57) was intended to discourage frivolous and vexatious appeals, while not making recourse to the appeal process prohibitive. Fees also convey a formality to the Tribunal's role and jurisdiction.

It is crucial that Tribunal remains accessible and that any resulting fee increases does not make access to the Tribunal prohibitive for individuals.

However, review of the appeal fee, with the possibility of introducing additional new fees could assist in making the Tribunal's process more efficient. For example, a fee for parties joined in appeals may reduce the number of parties to an appeal. This need not be detrimental to the outcome if the fee is not prohibitive and key parties are still joined. However, it could reduce the administration associated with the appeal where parties choose to be joined largely because it is their right to do so and would be deterred by a fee.

There are numerous models for setting fees, such as introducing a hierarchy of fees that reflect the complexity of matters (ie fee for mediation and an additional fee if the matter progresses to a full hearing), etc.

Given the period of time since the fee was set, review of appeal fees is appropriate. It is suggested that:

A review of the Tribunal's fee for appeals is conducted. This should consider and make recommendations about the purpose served by fees, whether a fee for lodging an appeal is required and if so, the amount of the fee/fees; the manner of setting fees; and whether any new fees are required.

6.3 More Effective Enforcement

To date, there has been relatively little focus on the enforcement aspects of the planning system. Councils generally invest resources at the 'front end' of the planning system, in planning scheme preparation and the assessment of applications, rather than enforcing the decisions they make.

Councils cite the lack of resources, high costs of pursuing prosecution and lack of meaningful penalties to deter breaches as reasons for not taking a more active role in enforcement.

With the introduction of civil enforcement proceedings under LUPAA, with the potential for individuals and community organisations to expend considerable resources in acting as 'watch-dogs' of the system is an increasing concern.

While it would not be practical or cost effective to audit every permit, the enforcement of permit conditions is important to give confidence in the system.

It is suggested that the following changes be considered in a review of the enforcement provisions under LUPAA:

1. Introduction of provisions for Councils to issue infringement notices to give a more efficient, less expensive means of initiating enforcement proceedings. This would need to be supported by:
 - a) A broader range of specific offences for which infringement notices could be issued; and
 - b) The ability to collect fines associated with infringement notices and to impose penalties for the non-payment of fines.
2. Provide for the recovery of the costs associated with the investigation to support enforcement proceedings.
3. Review the penalty provisions to ensure that they act as a deterrent to breaches of the planning scheme.
4. Require that Councils conduct a periodic audit on planning scheme compliance by sampling permits issued to determine compliance, pursue enforcement where required and report actions.
5. Investigate an annual State Government contribution to an organisation, such as the Environmental Defenders Officer or Legal Aid Commission, to act as an advocate for review and enforcement matters pursued in the public interest.

7.0 OTHER

7.1 Greater Integration Between Marine Farm Planning and Land Use Planning

Separate legislation establishes the planning, tenure and licensing regime for marine farming in Tasmania. The *Marine Farming Planning Act 1995* (MFPA) establishes a process for approving Marine Farm Development Plans (MFDPs) and the allocation and administration of marine farming leases in State waters. The *Living Marine Resources Management Act 1995* establishes the licensing regime for both marine farming and wild fisheries.

Marine farming planning provides a process for responsibly planning the use of a natural resource. MFDPs provide zones in which marine farming is a permitted activity and management controls mitigate any negative impacts of marine farming. Development within the boundaries of a MFDP, such as cages and other structures, can be approved under the MFDP. However, a permit is required for supporting development on adjoining land under the jurisdiction of the Council.

In some instances, Councils, the community and marine farmers have raised concerns about the need for more effective integration between the land use and marine farming planning regimes. The need for integration arises where new or expanded marine farming activities are proposed and adjoining land that is established for other uses (such as conservation, tourism, recreation or residential development) could be impacted upon or could restrict the necessary supporting infrastructure establishing close to the marine farming lease.

The Marine Farming Planning Review Panel is responsible for assessing MFDP's, addressing matters such as the location of marine farming zones. It makes recommendations to the Minister, who is then responsible for approval of the plan.

When the Department reviewed the planning provisions of the MFPA in 1999, it introduced a Local Government representative to the Marine Farming Planning Review Panel to improve the evaluation of new and amended MFDPs and ensure a Local Government perspective is included. However, this alone has not addressed the concerns of some Councils.

The Local Government Association of Tasmania has sought the repeal of the MFPA to bring marine farming under the planning control of Local Government. LUPAA makes provision for planning schemes to extend seaward of the municipal boundary and many already do this to some extent.

However, the issue is complicated by the role of the State Government as the resource manager and 'landlord'. The development of MFDPs is fundamental to these responsibilities and requires scientific and industry expertise that the State Government is better placed to provide than Councils.

Therefore, the most practical point in the process for improving the integration of these planning regimes is at the plan making stage, rather than later on, when a specific development is proposed or when leases are allocated.

This could be achieved by requiring the legislative provisions for both planning regimes to provide more specific requirements about the way in which MFDPs and planning schemes must relate to each other.

Requiring that the Commission assess MFDPs may also improve integration, given the Commission is already required to assess draft planning schemes. The Commission is an independent body that is 'expert' in the processes of review and has the capacity to consider a wide range of matters.

The following actions could advance greater integration between the two planning regimes:

1. Introduce a requirement for draft MFDP's and amendments to be assessed by the Commission.
2. Clarify the current legislative provisions that affect the relationship between the making and amending of both MFDPs and planning schemes to promote closer integration of these two planning regimes.

7.2 Planning Information

Planning information is a crucial link in the system. It is an input to the policy setting and plan making processes at the outset of the planning process and 'closes the loop' by providing the basis upon which we can evaluate the performance of our actions in the system.

Planning information can be widely interpreted to include:

- the data and information that informs the strategic basis for planning schemes (such as vegetation or hazard mapping and demographic data); and
- statistical information about the development assessment, review and enforcement functions of the planning system (such as number and type of development applications and appeals);

Presently in Tasmania there is no centralised investment in the management of planning information. There are a number of initiatives that are useful, including the Department of Infrastructure, Energy and Resources' IRIS web site and State Infrastructure Plan Project. There are also obligations under the State of Environment Report (prepared five yearly) and Tasmania *Together* to report on performance.

The better coordination of planning information can have potentially wide benefits and minimise the duplication of effort. Most other States have a planning information function that complements the activities of the agency responsible for planning. This assists other planning system stakeholders, such as Councils, State Government and the development sector with their planning information requirements. It also allows the performance of the planning system to be evaluated, identifying pressures that may require intervention or response.

A further planning information initiative is the requirement for electronic planning notification for draft planning schemes, amendments and applications. This could potentially be centralised to enable access to all planning notices State-wide. Such a measure would not only assist the community but would make planning information more accessible to the State government.

To ensure that the planning policy framework is well informed and the performance of the system can readily be evaluated the following actions are suggested:

1. DPIWE to establish a planning information function to centralise the collection and regular reporting of statistical planning information to evaluate performance of the planning system and optimise any synergies with the reporting required under the State of the Environment Report and Tasmania *Together*.
2. Legislation or regulation be introduced to facilitate the reporting of planning activity by Local government.
3. DPIWE to facilitate improved access to relevant planning information held by State agencies, to assist the preparation of planning schemes.
4. Investigate measures to advance electronic notification of planning notices.

7.3 Competent planning advice from qualified planners

Over time, the planning system has become increasingly complex to meet the community's expectations for sound decision making that will deliver sustainable outcomes. For example, a typical planning application may require the planner to coordinate the input of a wide range of 'experts' or at least to identify these interests when giving initial advice to prospective applicants. The appeal process for the review of decisions has also become more rigorous and potentially more litigious.

This demand for planning expertise and the competent management and administration of the planning process has met 'head-on' with the recent growth in development being experienced not only in Tasmania, but Australia-wide.

There is currently a national shortage of planners. The Planning Institute of Australia has recently released the findings and recommendations of a National Inquiry into Planning Education and Employment. The findings identify:

- long term shortages of planners in rural and regional areas;
- high levels of work stress due to political pressure, work load, limited resources, legislative requirements and demands of the community and developers;
- difficulty in accessing post graduate training for planners in regional locations and those who cannot get time away from their jobs; and
- 'slippage' due to planners working overseas, moving into other professions or related disciplines and women leaving for family reasons.

The impact of this shortage seems particularly acute in Tasmania, possibly due to:

- perceptions about the island State's isolation and resultant economic conditions, translating to concerns about pay and conditions;
- the lack of local tertiary opportunities since the mid 1990's until the recently established Graduate Diploma and Masters in Environment Planning offered at the University of Tasmania;
- relatively fewer opportunities for inexperienced planners in a work place setting large enough to offer supervision and mentoring from senior professionals, leading to inexperienced planners being 'thrown into the deep end' as the sole planner in a small Council; and
- limited career opportunities, particularly as a result of the small number of opportunities in State Government.

The lack of planners and planning managers and administrators is typically managed by Councils retaining the services of consultants who may report on more complex development applications or undertake appeals.

In Councils, there is a high risk that the lack of good advice and diminishing competency in managing and administering the planning process will lead to more matters going to appeal and more matters becoming politically contentious, both of which will consume even more resources in their response.

At the State level, the low level of resources attributed to planning as contributed to the inability to actively drive a State policy perspective in the planning system and to offer leadership and guidance to support Local Government.

The issue needs urgent attention if the Better Planning Outcomes Project is to meet its objectives. The following actions are proposed:

1. Develop and promote opportunities for the professional development of planners through opportunities for job-swaps to promote different on-the-job experiences.

2. Encourage cadetships with enrolled students of planning and graduate opportunities in larger planning work places where supervision and mentoring can be provided.
3. Investigate sponsorship of scholarships by professional bodies, industry and government to promote entry to planning education.
4. Investigate incentives to attract planners to Tasmania.
5. Promote awareness of the planning profession and the role of planners in the community and in State and Local Government.

APPENDICES

APPENDIX 1 - LEGISLATIVE REFORMS SINCE 1994

Since its inception in 1994 there have been a number of changes to the planning system. These are summarised below:

When	Key Changes
1995	<p><i>LUPAA Amendment Act (No.2) 1995</i> introducing various changes to streamline the new legislation, including:</p> <ul style="list-style-type: none"> ▪ Repeal of interim order and dispensation processes and introduction of special planning orders.
1996-97	<p>Edwards Report (Committee for the Review of the State Planning System)</p> <p>The Government commissioned an independent review of the planning system, which was chaired by Andrew Edwards. It reported favourably finding that the system was "Australia's, if not the world's best practice" but recommended a number of changes that would improve the smooth operation of the planning system. Many of these have been implemented.</p>
1996-97	<p>Nixon Report (Tasmania into the 21st Century)</p> <p>The Hon. Peter Nixon was commissioned to conduct a Commonwealth State Inquiry into the Tasmanian Economy. The scope was much broader than just the Resource Management and Planning System. It was critical of the third party appeal rights and the potential impediment this could pose to economic development.</p>
1997	<p><i>LUPAA Amendment Act 1997</i> (this implemented a range of relatively minor reforms identified in the Edwards Review. More significant were:</p> <ul style="list-style-type: none"> ▪ S24(3) – Certification of planning schemes subject to issues being satisfactorily dealt with later. ▪ S43a – Joint amendment and development application process. ▪ S.57A – Mediation can occur before Council determination of an application. ▪ S19A- Model Planning Scheme provisions (later repealed).
1999	<p>National Competition Policy Legislative Review Program</p> <p>The State Government ran a broad Legislative Review Program to implement a Commonwealth-State Government agreement to review all legislation to remove barriers to open competition. This found that most of the provisions in LUPAA were reasonable and justified and only minor amendments followed.</p>
2001	<p><i>LUPAA Amendment Act 2001:</i></p> <p>S.4 – Act applies to National Parks/reserved land (amendment still not proclaimed);</p> <p>S.9-15 - Powers for Planning Directives;</p> <p>S.35 - Council certification of planning scheme amendments;</p> <p>S.63A – penalties for Councils not enforcing their planning schemes.</p>

APPENDIX 2 – CURRENT STATE POLICIES

- *State Coastal Policy 1996*
- *State Policy on Water Quality Management 1997*
- *State Policy on the Protection of Agricultural Land 2000*

Section 12A of the State Policies and Projects Act 1993 provides that National Environmental Protection Measures (NEPM) are taken to be State Policies. The following NEPMs have been made and are implemented as State Policies:

- Ambient Air Quality
- Ambient Air Quality – Particles Standard PM 2.5
- Ambient Air Toxics
- Diesel Emissions
- Movement of Controlled Waste
- National Pollutant Inventory
- Site Contamination
- Used Packaging Materials.

APPENDIX 3 – STANDARD SCHEDULES

Schedules set out standards for a matter that is not confined to a particular zone (eg inundation) and for particular forms of use and development (eg car parking).

A wide range of matters could potentially be addressed in standard schedules where a core of common standards could be provided.

The following matters are most likely to have a State interest. These are matters that are not limited to zone boundaries. It is also possible the State may have interest in promoting standard schedules for particular forms of use and development, such as for Elderly Persons Units (to support housing for the aged).

Natural Resources	Coastal management Wetlands, watercourses and waterbodies Vegetation management
Natural Hazards	Land instability Flood/inundation Bushfire
Infrastructure	Road and rail asset management Overhead and underground infrastructure Public open space
Cultural/Amenity	Landscape protection/visual management Historic cultural heritage
Environmental Management	Contaminated land Environmental impact (attenuation distances)

APPENDIX 4 - MINOR LEGISLATIVE AND REGULATORY IMPROVEMENTS

The following list identifies potential minor amendments to legislation and regulations that will promote better planning outcomes. This list is indicative only and the any proposals for legislative or regulatory change will be subject to further consultation proceeding. Other matters may be included during this process.

Planning Schemes/Amendments	
1. Allow the Commission to initiate a hearing even when there are no representations.	Matters may come to light that need further exploration but without a representation, there are no powers to hold a hearing.
2. Allow the Commission to pay the costs of witnesses in special circumstances where their appearance is in support of the public interest.	This acknowledges the contribution of some interest groups and individuals to the achievement of better planning outcomes for the broader community.
3. The same requirement for consistency and coordination with adjacent areas as applies to planning schemes should also apply to amendments.	This issue is equally relevant to some amendments.
4. Minor amendments to permits under joint amendment/permit process (s.43) should require approval of the Commission.	It is the Commission that endorses the grant of the permit and therefore appropriate that any minor amendment is also approved by the Commission.
5. Requirements for planning schemes and amendments should include reference to Planning Directives.	Planning Directives may increasingly address matters directly relevant to planning schemes and amendments.
6. Allow the Commission to require amendment to a planning scheme to reflect an approval for a Project of State Significance under LUPAA.	It is conceivable that a POSS is not accordance with the existing planning provisions. This ensures that any future development (possibly relatively minor) can be appropriately dealt with under the scheme.
7. Allow the Tribunal to refer a matter discovered to require amendment to clarify or avoid ambiguity to the Commission for a direction to the Council to amend.	Poor planning scheme drafting can be instrumental in bringing matters before the Tribunal. Because the problem may be seen as minor it is often not rectified.
8. Require all the relevant strategic plans, associated and incorporated documents to be exhibited with the planning scheme or amendment.	This is because the planning scheme or amendment could not be properly interpreted without reference to these other documents.
Planning Directives	
9. Clarify that Planning Directives can apply to both use and <u>development</u> .	To enable the standard schedules to be implemented using Planning Directives, since they will include standards for both use and development.

10. Provide powers to make minor amendments to Planning Directives without the need to undergo the full assessment and notification processes.	For administrative expediency but similar to the provisions for minor variations to planning permits, the scope of the powers should be described.
Development Assessment	
11. Require a longer notification period for development applications notified during the Christmas period.	To allow the community more time to respond given the number of statutory holidays during this period.
12. Introduce a penalty for obscuring or removing an on site notice before the lapse of the 14 day notification period.	To give weight to the importance of the notification of a development application and discourage the obstruction of this provision.
13. Clarify that planning permits are to be made publicly available.	They are on the public record but an express provision would make this clearer and ensure third parties have ready access.
14. Clarify that Councils must accept development applications, whether they consider them complete or not.	Councils will then rely on s.57 (refusal in 7 days) and s.54 (seek additional information). This gives recourse to the Tribunal if the applicant is aggrieved.
Reviews	
15. Require confidentiality of all aspects of mediation outside the mediation process, unless the mediator expressly directs that matters be disclosed.	As a principle, mediation only includes the affected parties and is not a matter of public record.
16. Extend the current legal protection for Tribunal members to include Tribunal appointed mediators.	It is appropriate for Tribunal mediators, who perform similar roles, to have the same legal protection as Tribunal members.
17. Allow the Tribunal to agree to extension of time where all parties agree, without the need for Ministerial approval.	For administrative expediency.
18. Allow the Tribunal to consolidate parties to an appeal when there are common grounds of appeal.	For a more efficient process.
Enforcement	
19. Make parties initiating injunction proceedings liable for losses and damages if the order was wrongly made, with the exception of Councils.	This reflects the current administrative practise of the Tribunal.
20. Introduce third party rights to enforcement proceedings in relation to the <i>Historic Cultural Heritage Act 1995</i> .	For consistency to parallel those available under LUPAA.