

Hobart not Highrise

Submission to the Review of the Tasmanian Planning Commission

Responses to the terms of reference

1. The Commission is able to continue to perform its role as an independent decision maker and advisory body, in a fair, just, efficient and effective manner;

We support and wish to maintain the TPS as an independent and expert based decision making and advisory body. The TPC's independence is critical to the communities trust and confidence in its roles and responsibilities for land use planning.

The central planning authority needs to have evidence based and merits based decision making not developer influenced or politically driven decision-making. Hobart not Highrise has found the Tribunals to be professional and independent, while considerate of all views and issues in reaching its decisions within the constraints of the relevant legislation.

TPC hearings are the only forum where the community can be heard without needing a lawyer or a body of experts to represent it on the issues it is concerned about with regard to planning and environmental matters.

The TPC gives communities the right to have input into strategic planning matters. It is vital that it continue to hold public hearings, be staffed by experts and remain independent from government or industry dominance.

2. the Commission's statutory functions are not compromised by its membership including representatives of State Agencies or bodies that are proponents of matters that the Commission's functions extend to;

Key people from groups like TasWater and State Growth (transport and other infrastructure planning) are essential on the Commission. But we should consider changes to the list of desired attributes in the act. There is a need to achieve a balance of expertise which includes consideration of environmental, social and economic sustainability factors. The profiles of the current Commissioners on the website do not suggest a balanced focus has been achieved. Perhaps Commissioners could include scientists and experienced social planners/social services managers, as well as members with Local Government, Legal, and Government Authority experience.

Under the *Tasmanian Planning Commission Act 1997* the TPC is *(b) to provide advice to the Minister in respect of matters related to land use planning*. There seems to be a lack of use of this facility with regard to the environmental, social and economic sustainability factors, perhaps because there is a lack of broad representation on the Commission.

The TPC's planning roles are important for reducing the risk of corruption and maintaining separation of powers which are a critical aspect of functional liberal democracies. The government passes the legislation which governs the planning sphere and the TPC ensures the laws are applied fairly and openly.

The TPC should maintain and enhance its key role in public participation in planning. Public hearings for major developments should be required and not discretionary.

3. The ongoing structure of the office of the Commission and its resourcing is reflective of its extended role in the planning system as an independent decision maker and advisory body on the new components of the Tasmanian planning system;

The TPC needs to be better resourced so that it can deliver on its obligations under the Acts; and potentially be given greater powers than merely advising the Minister. It may be reasonable to give the TPC an Ombudsman's powers to be the final arbiter in the decisions relating to complaints.

The TPC needs an appropriate number and types of people to do its role. Lack of staff has resulted in them taking far too long with the LPS's which have been required as part of the new planning scheme.

The TPS should have power to issue the SPPs and LPSs and to make changes (perhaps major ones could be subject to parliamentary approval).

Under the *Tasmanian Planning Commission Act 1997* the TPC is *(b) to provide advice to the Minister in respect of matters related to land use planning*. A planning authority should be concerned with planning, not just the rules around building structures in the landscape. Unfortunately they seem to have been ignored in initial proposals around large scale new developments like those proposed at Huntingfield and the former Hobart Showground which offer the opportunity for strategic long term planning. There appears to be no regard to the environmental, social and economic sustainability factors if the proposals released to the public are correct. These proposals fail to offer green space with trees to reduce heat and improve mental and physical wellbeing? Why is there not better planning for using stormwater to create wetlands? If there were broader representation on the Commission these matters could be given better consideration and there would be more scope for sound well researched advice going to the Minister to ensure planning for liveable developments and resilient communities.

Tasmania's three Regional Land Use Strategies (RLUS) are likely to be reviewed this year and will guide land use planning. The regional land use strategies have a significant role to play in the setting the medium to longer-term strategic directions for each region in Tasmania. The development of the RLUS should come under the TPC not be developed by private consultants as with the current RLUS.

4. Its functions are not undermined by the demands of historically designated roles under other legislation that might be better reallocated to another agency or body.

The TPC must have a broad policy role and this should not be removed. As the people continually examining and applying any planning legislation or planning schemes to practice within the community, they are best placed to be aware of problems or shortcomings in these matters. Their expertise should be valued and extended with the addition of experts in areas relating to environmental, social and economic sustainability factors.

If the TPC lost its policy role they could not advise on the Regional Planning Strategies and Tasmanian Planning Policies. This would be a serious loss to the Community because the TPC is best placed to have an unbiased overview.

Questions have been raised around the Commission being the most appropriate agency to conduct reporting on the State of the Environment under the *State Policies and Projects Act 1993*. If the Commission were properly staffed and included a biodiversity expert it could consider and report on these matters

- (a) the condition of the environment; and*
- (b) trends and changes in the environment; and*
- (c) the achievement of resource management objectives; and*
- (d) recommendations for future action to be taken in relation to the management of the environment.*

These matters are of vital importance to planning in the state and so should come under the considerations of the TPC. Other bodies may also make representations to the government but the

TPC should not lose its role in such matters. As said before they should be able to offer advice on all planning matters not just building structures and their surrounds. Protected areas cover almost 50% of Tasmania – thus reviewing their management plans should remain independent.

Reviewing National Park and Mount Wellington Park management plans should remain with the TPC. This is especially important in light of the Governments agenda of opening up protected area to commercial tourism developments. A suggested improvement to this process would be for the TPC to review the final management plans to check that it included reasonable responses to public comments and representations.

The functions and powers of the Commission as outlined in the *Tasmanian Planning Commission Act 1997* seem entirely appropriate and necessary. Our only concern is that the Minister has authority over the Commission and we can see a danger of this being abused. If the government has set up good legislation around the role the TPC and the laws and regulations around planning then there should be no problems with an independent and authoritative TPC.

5. The roles, functions and appointment provisions of the Executive Commissioner to ensure that they:

- a) provide for the appointment of an appropriately qualified person;**
- b) align with the State Service expectations of a senior executive;**
- c) provide flexibility of appointment; and allow for the effective management of the Commission and the Commission's office.**

The Executive Commissioner's position is integral in ensuring the TPC maintains the high standards of governance and accountability in performing its functions and exercising its powers at arm's length from developers, government and political processes. The public expect and rely on this independence.

The Executive Commissioner role is to ensure conflicts of interest are avoided in decision-making and in giving advice to the government. The person fulfilling such a role must show evidence of a high level of personal integrity and an ability to manage an organization and select staff with the required expertise. They would be expected to attain a detailed knowledge of the State's Planning Laws and Regulations but need not have such detailed knowledge as a starting point.

The role of the TPC has been weakened by governments increasing the role and power of the Minister. There has been no open public discussion of this change and no indication that it was necessary.

There should be no conflict between giving advice to the government on policy and being an independent statutory body. If it is able to operate openly and within its legislation the TPC is best placed to have a complete overview of planning in the state.

Extra questions for consideration

Views on terms of reference for the Review?

We were concerned to see this sentence in the outline *"The Secretary may establish a Steering Committee or Reference Group to oversee the review with representatives from the Local Government Association Tasmania (LGAT), the Planning Institute of Australia (PIA), and the Law Institute"*.

We believe community groups should always be represented on such committees or reference groups.

There is a need to consider a complete planning strategy that considers all future projections of state development and needs. Currently the system is piecemeal and the idea of a comprehensive strategy and appropriate planning legislation is ignored while planning is used as a political tool.

What success would look like as an outcome of the Review?

- The TPS remains an independent and expert based decision making and advisory body with oversight of the range of land use planning issues.
- The TPC maintains and improves its role in policy development and strategic planning for the state.
- The TPS has power to issue the SPPs and LPSs and to make changes.
- That the Commission is staffed so that they can deliver their role fully. They could be more effective by using their expertise to undertake public land use enquiries, assist with policy making regarding strategic planning and report on the state of the environment.

What are the key issues the Review needs to look at?

How the Commission performs its roles and functions in the Tasmanian Planning System? (e.g. policy, assessment, advice)

There is an increasing trend of the State Government to develop Master Plans to manage National Park issues. Master plans are not subject to the legal requirements for openness and transparency which apply to formal management plans. The Master Plan process basically undermines the role of the TPC. These matters should be part of the role of the TPC with extensive community input.

In order for the TPC to be able to effectively implement holistic integrated planning laws and policies in Tasmania there must be an end to exemptions such as Forestry on public land, Private Timber Reserves, Aquaculture, Mining exploration, Dams, Utilities, Agriculture etc

A new Major Projects Bill is expected to be released for public comment shortly. The Bill would likely allow for major projects to be pulled out of the normal planning process and be assessed via a new State Government process. The new major projects assessment process might be able to call-in projects like Cambria Green, the cable car, highrise buildings and port facilities. We believe this would be a mistake. Planning processes should be followed for all projects.

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