



We wish to make a representation on the above review.

Our organisation is a not for profit community group focused on the protection, maintenance and ecological restoration of native ecosystems. We have a long history of involvement in land use planning via the TPC and RMPAT in order to further the objectives of our organisation. Our view is that the review should be scrapped immediately as the purpose of this process is to further weaken the role of the Tasmanian Planning Commission in order to favour the vested interests and agendas of industry and property development lobbyists.

Background

Before discussing the review we wish to comment on land use planning history in Tasmania over the past 25 years. Firstly it needs to be acknowledged that Tasmanian Governments during the 1990's introduced a number of enlightened planning policies and laws including the State Coastal Policy, The Threatened Species Protection Act, the Land Use and Planning Act as well as the creation of the Resource Planning and Development Commission and the Resource Management and Planning Appeal Tribunal.

As these laws and institutions became functional it became clear that despite some deficiencies (ie exemption of Forestry and Aquaculture from LUPA) that they would necessarily provide stronger regulation and controls on land use activities such as commercial and resource development in line with sustainable development objectives (as per Schedule 1 LUPA) and the Precautionary Principle. It was also evident that the new laws and independent institutions would provide greater opportunities for the community to participate in land use decision making processes.

In response to this various industries including real estate, tourism, aquaculture, agriculture, mining, forestry etc started agitating for "planning reform" on the basis of too much "red tape" inhibiting industry/developers agendas.

Around 2010 a more formal and organised campaign to weaken planning laws was led by Mary Massina (Property Council), Stuart Clues (Housing Industry Association) and Michael Kerschbaum (Master Builders Association). Regular appearances in the media were accompanied by alarmist statements claiming

that the Tasmanian planning system was “a horror smash”, that a “Statewide Scheme” was required and that it was too hard to get approvals for development. The reality was that very few developments were appealed against successfully in RMPAT or the TPC and that governments were undertaking incremental weakening of planning laws over time to appease property development and industry interests. This was and continues to be typified by the ever increasing number of land uses which over time have become partially or fully exempt from planning laws.

The 2014 State election saw the Liberal Government win office and they soon appointed Mary Massina to head up the Planning Reform Taskforce and later in 2017 CEO of the Macquarie Point Development Corporation. Stuart Clues is now the Red Tape Reduction Coordinator in the Office of the Co Ordinator General while Michael Kerschbaum is a Senior Advisor in the Department of State Growth. The appointment of Massina, Clues and Kerschbaum are just one example of why a fully independent Tasmanian Planning Commission is essential in order to provide a clear separation of powers to avoid interference from vested interests and Governments who may collude with such interests against the public interest. One of the most common forms of corruption in Australia is in the area of planning and property development. A properly resourced, fully independent and empowered Tasmanian Planning Commission along with an effective Anti Corruption Commission is key to avoiding the insidious spread of corruption in the property development sector.

The Tasmanian Planning Commission. Role, Powers, Resourcing.

As discussed above there has been incremental diminishment of the TPC position as independent planning authority over recent years. Some of the direct or indirect examples of this include:

- Increased opportunities for the Minister to intervene in or ignore TPC decisions and advice
- The proposed changes under the Major Projects Act to replace the TPC with “development assessment panels”

- The lack of timely publication of State of Environment reports including also proposed changes under the Major Projects Act to remove the TPC from its responsibility to oversee the State of Environment process
- The recently introduced Housing Land Supply Bill which allows rezoning of land for “affordable housing” to bypass the TPC process
- The increasing number of “Master Plans” (ie WHA and Freycinet Master Plans and proposed Bay of Fires Master Plan) which are documents with significant land use planning implications (including for Protected Areas such as National Parks) but are not assessed by the TPC
- Regional Land Use Strategies where much of the process was overseen by private entities instead of the TPC. For example the Northern Regional Land Use Strategy was coordinated by Northern Tasmania Development (NTD) a private pro development consortium with a clear conflict of interest when it comes to overseeing a land use planning strategy.
- Municipal Land Use Strategies and Structure Plans which are produced by Local Government and private consultants with no involvement from the TPC and as such not subject to a rigorous, open, transparent and independent evaluation process.
- The Planning Reform Taskforce which was headed up by former Property Council CEO Mary Massina
- Roles the TPC formerly undertook in processes such as Public Land Use Inquiries and Marine Protected Areas Inquiry which no longer seem to feature in their activities
- Public Hearings no longer being mandatory in some cases
- The increasing number of permitted uses and land use exemptions (full or partial) * which make it impossible for the TPC to ensure there is cross tenure integrated land use planning in Tasmania based on sustainable development principles

It is clear to us that the review is motivated primarily as an opportunity to further weaken and diminish the role of the TPC in order to reduce so called “red tape”. In other words to fast track and increase the number of approvals

for development proposals in the system by favouring the vested interests of developers over due process while bypassing or reducing the roles of Local Government and the TPC as well as decreasing community participation in the planning decision making process.

We reject this neo liberal direction (ie ongoing deregulation and privatisation) and call for not just the maintenance of the status quo but the full reinstatement of all of the TPC's former powers, roles and functions as well as an expansion of those powers, roles and functions so that it can fulfil its charter as the key institution for assessing strategic land use planning in Tasmania.

The TPC should:

- Continue to be responsible for the State of Environment report which should be delivered in a timely manner
- Be fully independent (ie no Ministerial intervention/interference)
- Carry on its current roles including Reviews of Municipal Planning Schemes and applications to rezone land. Noting that this allows the Community, Local Government and Development Proponents an opportunity to make their case in an affordable and accessible independent forum.
- Assess and run all Regional Land Use Strategy processes
- Assess all Master Plans, Land Use Strategies, Structure Plans and any other strategic planning documents that have significant land use planning implications
- Assess all projects under the Major Projects Act
- Conduct Public Land Use, Marine Protected Areas Inquiries and any other related public interest land use assessment processes
- Conduct Public Hearings for all matters that come before it.
- Be given a level of resourcing that ensures all the above can be carried out to a high standard and in a timely manner.

In addition to the above points there are two other key requirements to ensure that holistic, integrated planning based on the principles espoused in Schedule 1 of LUPA can be fully realised through the TPC process.

- All land uses in Tasmania must be subject to LUPA and the requirements of Schedule 1 (ie no exemptions). The current situation of increasing exemptions and permitted uses means that integrated planning is impossible. Planning laws can only work if all land uses are subject to those laws
- An effective Anti Corruption Commission must be established in Tasmania to ensure the highest levels of integrity are maintained in all levels of Government and in the public service. For example property development including rezoning of land is one of the most lucrative industries in Australia with over 25% of Australia's 250 wealthiest people being property developers. It is also an area because of the potential monetary gain involved that is most likely to be subject to corrupt behaviour (see Casey Council Victoria). The State Government policy of encouraging population growth and industrial tourism numbers means there will be more development pressure and as such a Anti Corruption Commission with teeth is more important than ever. The combination of having a fully independent TPC and an effective Anti Corruption Commission significantly decreases the risks of corruption in the area of land use planning such as land rezonings.

The Tasmanian Integrity Commission is not an effective anti corruption watchdog as evidenced by the Australia Institute report attached.

Yours sincerely

Todd Dudley

President

North East Bioregional Network



* One of the terms of reference reads:

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;

On this point there has been an increasing tendency in Municipal Planning Schemes for authorisations from State Agencies to come under Acceptable Solutions (rather than Performance Criteria) thus denying Local Government and the Community the right to assess and appeal against decisions made by such agencies. Agencies such as the Policy and Conservation Assessment Branch (Threatened Species Permits), Aboriginal Heritage Tasmania, Parks and Wildlife Service (via Reserve Activity Assessments, EPA (Level 2 Activities), Forest Practices Authority (Forest Practices Plans for landclearing etc) are now primarily facilitators rather than regulators of development applications via a rubber stamp conditioned approval process. In addition uses that fall outside of LUPA such as Dam approvals (DPIPWE Water Management and Assessments Branch), regulation of mine leases and mining exploration (Mineral Resources Tasmania), Fish Farms (EPA), Forestry (Private Timber Reserves and Forestry on Public Land) are similarly approved with conditions in a largely self-regulatory environment (ie MRT to our knowledge has never prosecuted anyone for breaches of mining lease conditions).

As discussed previously the amount of exempt and permitted uses in Tasmania means the Tasmanian Planning Commission cannot ensure that land use planning across the State is integrated, holistic and consistent with Schedule 1 of LUPA.