



Dr Rosalie Woodruff  
Tasmanian Greens Member for Franklin

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Planning Policy Unit  
Department of Justice  
GPO BOX 825  
Hobart, TAS, 7001  
Via: [planning.unit@justice.tas.gov.au](mailto:planning.unit@justice.tas.gov.au)

To whom it may concern,

The Tasmanian Greens are strong supporters of a robust planning system that protects community interests and ensures the public right to have a say. The Tasmanian Planning Commission (the Commission) is a fundamental pillar of the planning system, and its independence is essential for its effective operation.

With these principles in mind, we have a number of recommendations for the Terms of Reference for the review of the Tasmanian Planning Commission.

### **Review Process**

1. First and foremost, we have a comment in relation to the review process and community consultation. It appears the intention is to seek public comment on the Terms of Reference, produce a report, and for that report to go to the Minister for progression.

**Recommendation:** We urge the reviewers to first seek public input on their draft report, before a final report is provided to the Minister.

### **Functions and Powers of the Tasmanian Planning Commission**

2. We are concerned with some of the vagueness in the first of the Terms of References, as well as the breadth of subjects covered by it.



3. We are mindful the top-listed reason provided for the Minister to call this review related to the *"administrative changes to the Commission's role in policy making"*. Despite that, only 1(d) in the Terms of Reference addresses the subject of policy making, and quite vaguely: ". . . *the demands of historically designated roles under other legislation that might be better reallocated to another agency or body, in particular the State of Environment Reporting function"*. We consider 1(d) should be replaced with a new section that has further elaboration, taking account of the following:

- The central role of the Commission as an independent and expert authority in the development of planning policy has become increasingly sidelined over the last five years. Recently, several Tasmanian Planning Policies were developed within the Department's Planning Policy Unit, but have yet to be provided to the Commission for it to undertake its legislated rigorous and independent assessment of the issues. It appears the Commission is increasingly being consulted after-the-fact by government on planning policy, instead of being allowed to function as per the *Tasmanian Planning Commission Act 1997*.

Section 6 (1A) of the Act empowers the Commission: ". . .

*(c) to plan for the coordinated provision of transport, and of infrastructure, for land development; . . .*

*(e) to review, and advise the Minister in respect of, State and regional strategic land use planning matters."*

We are concerned the integrity and capacity of the Commission to continue to perform its functions of future planning policy has not been explicitly required in this Review.

- The Greens have long been concerned with the lack of State of Environment (SOE) Reporting in Tasmania that is legislated to be prepared every four years. As the last SOE was prepared in 2009, Tasmania now has two overdue reports. We believe the responsibility for the management of these reports, fundamental as they are to the well-being of our State, must be undertaken by an independent statutory body not subject to ministerial direction.

As it is stands, the Environmental Protection Authority in Tasmania does not have independence from the Minister. As such, we believe any consideration of removing responsibilities from the Commission, including the SOE reporting, needs to consider whether there is any other body empowered to adequately and independently undertake the task. We are not aware of any body that

appropriately fits these criteria, but would welcome an assessment by the reviewer of the options.

- We also consider the review of the Commission should not only consider functions that may be appropriate to move elsewhere, but also functions that might be desirable for the Commission to take over.

**Recommendation:** that Term of Reference 1(d) be removed, and an additional Term of Reference be established –

- 1A. The current responsibilities of the Commission, including:
  - a. Whether or not the Commission should take on further responsibilities, including preparation of key planning documents such as Regional Land Use Strategies;
  - b. Whether or not the Commission has responsibilities under other legislation that might be better reallocated to another agency or body with statutory independence from the Minister, and whether or not such a body exists or should be established to undertake this work.

#### **Section 7A and Schedule 3A of the *Tasmanian Planning Commission Act 1997***

4. The Commission as it currently stands is a hybrid of an independent body and a body subject to the direction of the Minister. Section 7A of the *Tasmanian Planning Commission Act 1997* provides that the Commission must comply with a Ministerial Statement of Expectation, however schedule 3A lists powers to which a statement of expectation cannot relate.

**Recommendation:** The review of powers and functions of the Commission should consider whether it is desirable for additional functions to be listed in schedule 3A of the *Tasmanian Planning Commission Act 1997*.

5. We believe stronger offences for interference with the function of the Commission are required in the Act.

For example, section 23 of the *Commissioner for Children and Young People Act 2016* has the following offence –

“A person must not obstruct, or hinder, a person who is performing a function, or exercising a power, under this Act.

**Penalty:** Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.”

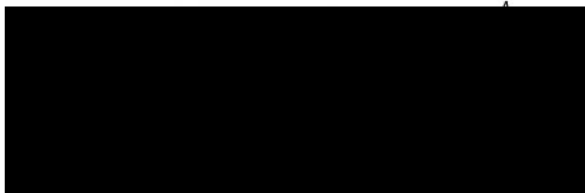
By contrast, section 17A of the *Tasmanian Planning Commission Act 1997* only provides for obstruction or influence of a hearing, with a maximum penalty of 20 penalty units or 6 months imprisonment.

**Recommendation:** that the following Term of Reference be established for the review –

5. The adequacy of current provisions safeguarding the independence of the Commission, ensuring that they:
  - a. Provide for all functions and powers to be exempt under Schedule 3A of *the Act* unless there is a compelling and reasonable case for Ministerial direction to be allowed;
  - b. Provide for sufficiently broad offences, with sufficient penalties, to prevent inappropriate influence or obstruction of the Commission's functions and powers.

We would be happy to elaborate on any of these matters, should the reviewers require.

Sincerely,



**Dr Rosalie Woodruff MP**

Tasmanian Greens Planning spokesperson