Tasmanian Planning Policies and miscellaneous legislative amendments: OVERVIEW

## Overview

The *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018* (Amendment Act) makes provision in the *Land Use Planning and Approvals Act 1993* (LUPAA) to establish a mechanism to prepare, make, amend, implement and review Tasmanian Planning Policies (TPPs).

The Amendment Act also makes a number of miscellaneous amendments to LUPAA and the *Tasmanian Planning Commission Act 1997* (TPC Act) that are administrative in nature.

In 2017, the Tasmanian Government prepared the draft Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017 (draft TPP Bill), which proposed amendments to LUPAA to provide for the making and implementing of the TPPs.

Then in 2018, the Tasmanian Government prepared the draft Land Use Planning and Approvals (Miscellaneous Amendments) Bill 2018 (draft LUPA Miscellaneous Amendments Bill), which proposed a number of miscellaneous amendments to LUPAA and the TPC Act aimed at streamlining the Local Provisions Schedule (LPS) assessment process and improving the functionality of LUPAA and the TPC Act.

The Amendment Act combines the legislative amendments contained in the draft TPP Bill and draft LUPA Miscellaneous Amendments Bill.

This series of three fact sheets focus on the amendments to LUPAA that establish the mechanism for preparing, making, amending, implementing and reviewing the TPPs (see Fact Sheet TPPs 1, Fact Sheet TPPs 2 and Fact Sheet TPPs 3).

Details on the miscellaneous legislative amendments to LUPAA and the TPC Act can be found in an additional fact sheet on the Tasmanian Planning Reform website under the webpage titled: Miscellaneous Amendments to the *Land Use Planning and Approvals* Act 1993 and the *Tasmanian Planning Commission Act 1997* (see Fact Sheet MA 1).

## What are the legislative changes?

*Tasmanian Planning Policies*

The Amendment Act provides for the making of TPPs that are to be part of an integrated system of planning instruments contained in LUPAA, which in turn is a part of the Resource Management and Planning System (RMPS).

The Amendment Act makes provision for:

* establishing a mechanism in LUPAA to create the draft TPPs including their content, preparation and public exhibition;
* establishing a process for the Tasmanian Planning Commission (the Commission) to consider representations on the draft TPPs;
* providing the framework for the Commission’s report on the draft of the TPPs;
* providing for the making and amending of the TPPs; and
* establishing the arrangements required for the implementation and regular review of the TPPs.

The TPPs will provide direction on matters of state interest within Tasmania’s land use planning system.

In this context, the TPPs will incorporate planning outcomes from State Policies and the RMPS objectives (set out in Schedule 1 of LUPAA) into integrated land use policy statements.

The TPPs will specifically further the Part 2(b) objective set out in Schedule 1 of LUPAA that seeks ‘*to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land*’. The creation of the TPPs will then further the other Objectives set out in Schedule 1 of LUPAA.

The Amendment Act specifies that the TPPs are to set out the aims, or principles, to be achieved or applied by the regional land use strategies, as well as the State Planning Provisions (SPPs) and Local Provisions Schedules (LPSs) of the Tasmanian Planning Scheme.

The TPPs may relate to:

* the sustainable use, development, protection or conservation of land;
* environmental protection;
* the liveability, health and wellbeing of the community; and
* any other matter that may be included in a planning scheme or a regional land use strategy.

The TPPs also need to meet the ‘TPP criteria’ where they must:

* seek to further the Part 1 and Part 2 objectives set out in Schedule 1 of LUPAA, which includes promoting sustainable development; providing for fair, orderly and sustainable use and development; encouraging public involvement in resource management and planning; facilitating economic development; and promoting the sharing of responsibility for resource management and planning; and
* be consistent with any relevant State Policy, which includes the State Coastal Policy 1996, State Policy on the Protection of Agricultural Land 2009, State Policy on Water Quality Management 1997 and the National Environment Protection Measures.

Appendix 1 illustrates the relationship of the TPPs to other decision-making instruments within Tasmania’s land use planning system.

*Miscellaneous legislative amendments to LUPAA and the TPC Act*

The Amendment Act makes a number of miscellaneous legislative amendments to LUPAA and the TPC Act (see Fact Sheet MA 1).

The miscellaneous legislative amendments:

* ensure that when the Minister for Planning (the Minister) declares or reviews a regional land use strategy, it must:
  + further the objectives set out in Schedule 1 of LUPAA;
  + be consistent with each State Policy; and
  + be consistent with the TPPs.
* streamline the LPS assessment process by providing mechanisms that allow planning authorities and the Commission to more quickly determine that a draft LPS meets the ‘LPS criteria’ set out in section 34 of LUPAA;
* provide the Commission with the ability to issue an ‘LPS criteria outstanding issues notice’ to expedite the public exhibition of a draft LPS, as long as the matters that are detailed in the notice are addressed later;
* remove an unnecessary administrative step in the draft LPS assessment process that will allow the Commission to place a draft LPS on public exhibition more efficiently;
* provide for the efficient alignment of the SPPs with a planning directive that has been approved after the SPPs were ‘made’ on 22 February 2017;
* specify that a planning authority must notify State agencies or State authorities before exhibiting a draft amendment of an LPS or a draft amendment of an existing planning scheme; and
* allow the Commission to correct a decision made by the Commission that contains a ‘minor’ clerical mistake or ‘error’ arising from an accidental slip or omission in a final decision.

## Why are the legislative changes for making TPPs required?

The TPPs will fill a critical gap in Tasmania’s land use planning system, helping to shape what we want Tasmania to look like into the future. In this context, they will fill a long-standing lack of policy context for the land use planning system, and include matters that reflect sound planning principles that are consistent with current Government policy and programs.

The miscellaneous legislative amendments to LUPAA and the TPC Act will provide critical direction to the Minister when he or she is declaring or reviewing a regional land use strategy, and will improve the functionality of processes under LUPAA and the TPC Act.

## What consultation has there been?

*Tasmanian Planning Policies*

The legislative provisions of the Amendment Act that relate to the making of the TPPs were developed in consultation with the State Policies Interdepartmental Committee (SPIDC) and key State Government agencies.

The SPIDC prepared a number of ‘indicative’ or ‘demonstration’ TPPs and an accompanying explanatory document.

These legislative provisions were subject to both targeted and community consultation processes that closed in May 2017.

During these consultations, the ‘indicative’ or ‘demonstration’ TPPs and accompanying explanatory document were released along with the draft legislation. The ‘indicative’ or ‘demonstration’ TPPs were included in the consultation package to broadly show the types of policies that might be developed in the future and what form these policies may take.

Now that the legislative mechanism has been made under LUPAA to create the draft TPPs, their formal preparation can now occur.

*Miscellaneous legislative amendments to LUPAA and the TPC Act*

The miscellaneous legislative amendments to LUPAA at section 5A that relate to the regional land use strategies were included and consulted on in the draft TPP Bill.

The legislative provisions of the Amendment Act that relate to the administrative changes to LUPAA and the TPC Act (contained in draft LUPA Miscellaneous Amendments Bill) were subject to targeted stakeholder consultation that closed in September 2018.

## Where do I find the Amendment Act?

The *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018* (Amendment Act) received Royal Assent on 17 December 2018.

A copy of the Amendment Act, LUPAA and the TPC Act are available on the Tasmanian Legislation Online website at: https://www.legislation.tas.gov.au/.

## Enquiries

Any enquiries can be directed to the Planning Policy Unit within the Department of Justice at [Planning.Unit@justice.tas.gov.au](mailto:Planning.Unit@justice.tas.gov.au) or by telephoning (03) 6166 1429.

21 December 2018

## Appendix 1: The relationship of Tasmanian Planning Policies to other instruments within Tasmania’s land use planning system

