



Parliament of Tasmania

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

Members of the Committee

Mr Greg Hall (Chair)
Mrs Tania Rattray-Wagner

Mr Paul Harriss
Mrs Sue Smith

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Executive Summary

Tasmania's planning system has for some time been the subject of dissatisfaction among stakeholders. The ongoing reviews of State policies, as well as a number of controversial development proposals in recent years, have focused attention on the planning system. The Committee received a large volume of evidence from community members, councils, industry associations and government, representing a broad range of views.

Tasmania has experienced buoyant development over recent years with significant subdivision and land sales. While Tasmania's planning system is underpinned by sound principles there is, nonetheless, a need to improve some elements of the system in order to appropriately address future development.

In relation to the guidance provided by the *Land Use Planning and Approvals Act*, the evidence heard by the Committee established a clear need for more specific guidelines and more comprehensive planning schemes. Even those who expressed satisfaction with the guidance provided tended to qualify that satisfaction with a suggestion that the Act in its current form is too open to differing interpretations. A particular concern is the failure of the Act to provide certainty and consistency of planning schemes.

It was clear from the evidence presented that there is a widespread lack of understanding of the role of the Resource Planning and Development Commission (RPDC). The role and procedure of the RPDC were raised in various contexts relating to all three terms of reference under which the Committee is operating. It is clear that there are a number of procedural issues in relation to the RPDC, the resolution of which would virtually eradicate problems in the relationships between communities, councils and the RPDC.

Local council members are elected generally from a background with little or no experience in planning. Given that they make the major decisions in local planning authorities, some level of compulsory training in understanding and working with planning schemes and related issues is recommended by the Committee.

It appeared to the Committee that Tasmania's planning system is not operating as it was designed to. Initially intended to follow the Oregon model, with a raft of community-driven State policies governing the planning system, the current system lacks the State policies and as a result has been governed by ad hoc arrangements and inconsistent planning schemes, with resulting difficulties for developers, councils, other community members and the RPDC alike.

Problems of inconsistency were a common theme throughout the submissions from different stakeholders and it became clear to the Committee that the

development of further State policies would go a significant way towards providing consistent planning schemes and interpretations across the state.

The State Policy on the Protection of Agricultural Land emerged as a particular concern of a number of witnesses, particularly from the North-West Coast. Numerous submissions were received in relation to this policy; although many were accounts of individual dealings with various councils, they established a clear problem of inconsistency in the application of the policy. In order to avoid such problems, the Committee recommends that future State policies be written in clear language. The Committee also strongly supports the State Government's review of this Policy.

Resourcing emerged as a crucial issue. There is a national and international shortage of qualified planning staff and the resultant difficulties are certainly being felt within the Tasmanian planning system. It is important firstly that steps are taken to redress this shortage and secondly that the resources within the state are used effectively.

The Committee received little evidence relating directly to the role, procedures and practices of State Agencies. What was received tended to express a sentiment that the State Agencies need to do more and the establishment of a department of state planning is seen as a necessary step. This would provide information and advice to planning authorities and particularly important would be a capability for such a department to provide a whole-of-government view on planning issues. Furthermore, such a 'one-stop shop' for planning issues would be a more effective use of scarce planning resources.

Throughout the submissions and hearings the same issues continued to arise. Inconsistency and procedural issues relating to the RPDC were constant themes and the Committee believes that these problems can be adequately addressed within the current legislative framework.

17 October 2006

**Greg Hall MLC
Chairman**

Recommendations

The Committee recommends that :

State Government

1. A properly resourced department of state planning be established and maintained in order to provide councils with independent advice and assistance in preparing planning schemes and planning scheme amendments.
2. A template planning ordinance be adopted to provide greater consistency between planning schemes.
3. The current suite of State policies be expanded and that all State policies be written in clearer, less ambiguous terms, to enable consistent interpretation by all planning authorities.
4. Planning schemes include an overlay of the provisions of other Acts affecting land use planning for uses such as forestry, mining and marine farming.
5. Legislation be amended mandating concise impact statements to accompany applications for planning scheme amendments.
6. Section 44 of the *Land Use Planning and Approvals Act 1993* should be amended making it mandatory for planning schemes to be reviewed at least every five years.
7. State agencies be required to take a greater role in the preparation of planning schemes and planning scheme amendments.
8. The properly resourced department of state planning contain a centralised electronic database of planning scheme maps.
9. Amongst initiatives undertaken by the State Government to address the shortage of qualified planners, consideration be given to encouraging para-planners.

State and Local Government

10. The State Government and the Local Government Association of Tasmania, through the Premier's Local Government Council, formulate a process for regional planning.
11. Education in the area of planning be made mandatory for all elected members of councils within a prescribed time.

RPDC

12. The function of RPDC be limited to ensuring that proper process has been followed and State policies adhered to in the preparation of planning schemes and planning scheme amendments.
13. Consideration be given to the chair of all RPDC hearings being a person with legal expertise. A minimum of three commissioners should sit at all hearings of the Commission.
14. Provision be made for directions hearings and mediation in the approval of planning schemes and planning scheme amendments.
15. The RPDC be required to make a decision in relation to the approval of a planning scheme or a planning scheme amendment within a time limit consistent with those applying to other planning processes.

State and Local Government and the RPDC

16. Legislation be amended to provide for an appeal process to the RMPAT for all disagreements between councils and the RPDC in the preparation, assessment and approval of planning schemes and planning scheme amendments.
17. Stakeholders take steps to address the shortage of qualified planners by offering incentives such as scholarships.

1.1 APPOINTMENT AND TERMS OF REFERENCE

On Tuesday, 11 October 2005 the Legislative Council resolved that a Select Committee of Inquiry be appointed “to inquire into and report upon Planning Schemes and Planning Scheme Amendments, with particular reference to —

- (1) the extent to which the requirements of the Land Use Planning and Approvals Act provide guidance in the preparation, assessment and approval;
- (2) the relationships between the community, councils and the Resource Planning and Development Commission (RPDC) in the preparation, assessment and approval; and
- (3) the role, procedures and practices of State agencies in the preparation, assessment and approval.

The Committee was disbanded on 17 February for the State Election held on 18 March and re-established on 30 May 2006.

The Committee comprised four Members of the Legislative Council – Mr Hall (Chair), Mr Harriss, Mrs Rattray-Wagner and Mrs Smith.

1.2 THE REASON FOR ESTABLISHING THE COMMITTEE

The Committee was established as a result of the representations, both written and oral, in relation to planning schemes and planning scheme amendments. The issues raised involved the relationships between the community, councils and the Resource Planning and Development Commission in the preparation, assessment and approval and also the role of State agencies in the process.

The Hon Greg Hall MLC, in moving to establish the Committee, emphasised the importance of up-to-date planning schemes throughout the State and the need for them to comply with State policies.

“Such an approach is necessary to provide consistency for developers, fairness for property owners and security for both developers and property owners, whether they be existing landowners enjoying existing use rights or new property owners wishing to gain the optimum use or value from their land”.¹

¹ Hon Greg Hall MLC, *Hansard*, 7 November 2005, p. 34.

He also gave an example of some of the community concerns that had been raised :

"The recent process of approving a new planning scheme in Kentish has led to considerable public outcry about the process of adopting new schemes, the lack of guidelines in many areas and the disregard of local input ..."².

Mr Hall went on to say :

"...Neither the Act nor the commission provide really clear guidelines on the preparation and approval of planning schemes and planning scheme amendments. In particular there is a lack of information as to the role of the commission in providing advice and guidance as to the incorporation of State policies into planning schemes and the capacity or otherwise for local government to respond to delegate reports to the commission".³

In support of the establishment of the Committee, the Hon. Sue Smith MLC highlighted the importance of planning schemes :

"... Planning is about people and it is about their livelihoods, it is about their quality of life and their living in communities".⁴

The Committee was therefore established with these comments in mind and to provide clarification regarding the preparation, assessment and approval of planning schemes and planning scheme amendments.

1.3 PROCEEDINGS

The Committee called for evidence in advertisements placed in the three regional daily newspapers and The Tasmanian Country. In addition invitations were sent to key stakeholder groups.

Sixty six written submissions were received and verbal evidence was given by fifty eight witnesses in Tasmania. The Committee also recalled the State Government representatives to provide additional evidence.

The Committee met on sixteen occasions. The Minutes of such meetings are set out in Attachment 4.

The witnesses are listed in Attachment 1. Documents received into evidence are listed in Attachment 3.

² Ibid.

³ Ibid.

⁴ Hon Sue Smith MLC, *Hansard*, 7 November 2005, p. 44.

1.4 ACKNOWLEDGEMENTS

The Committee acknowledges and thanks all those who contributed to this report and particularly those individuals and organisations who provided both written and verbal evidence.

The Committee acknowledges the assistance given by Mr Geoff Squibb and gives special thanks to the Clerk of Committees, Mrs Sue McLeod and her Executive Assistant, Miss Julie Thompson, whose dedication and ability to assist the Committee in organising its tasks were invaluable.

Land Use Planning and Approvals Act **Chapter 2**

- (1) **The extent to which the requirements of the *Land Use Planning and Approvals Act* provide guidance in the preparation, assessment and approval.**

The Committee received varying responses to this term of reference. Some evidence indicated planning staff and/or planning authorities (councils) were satisfied with the guidance provided, however there were a greater number of submissions highlighting shortcomings and suggesting improvements.

Mr Steve Gray, Executive Director, Burnie City Council in a written submission expressed satisfaction with the level of guidance provided :

“These provisions are generally clear and enable understanding of the components and processes ...Council considers many of the alleged problems attributed to the statutory process derive not from the requirements of the Act itself but from the interpretations placed upon them”.⁵

Mr Duncan Payton, Senior Town Planner, Northern Midlands Council told the Committee :

“We are quite happy with the direction that is provided within the Act itself with regard to the preparation of planning schemes. I think that that is reasonably descriptive and provides ample scope for the drafters of a planning scheme to know where they are going”.⁶

Mr Greg Alomes, General Manager, Kingborough Council also expressed general acceptance of the guidance provided by the Act :

“The Kingborough Council supports the basic principles and framework provided by LUPAA especially the underlying principle that local government has a central role in the preparation and administration of Planning Schemes and initiation of amendments”.⁷

However, the Kingborough Council also stated that :

“It is important to communicate the RPDC’s unwritten planning principles that have evolved in its practice of reviewing and

⁵ Burnie City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 6.

⁶ Payton, Duncan, Senior Town Planner, Northern Midlands Council, Transcript of Evidence, 16 February 2006, p. 19.

⁷ Kingborough Council, Submission to the Legislative Council Select Committee on Planning Schemes, p. 1.

approving Schemes – effectively in the form of ‘case law’⁸.

The need for these unwritten principles to be clearly communicated to the public and councils was a key concern of the Kingborough Council.

Despite the satisfaction expressed by the foregoing witnesses in relation to the level of guidance provided by the Act, a considerable amount of dissatisfaction was submitted by a wide range of witnesses representing councils both large and small, rural and urban as well as representatives of professional and business organisations and the legal profession.

This dissatisfaction results largely from a view that the LUPAA is too open to interpretation, as well as a perception that it does not deal adequately with strategic or regional planning. Mr Allan Garcia, CEO of the Local Government Association of Tasmania, suggests that:

“The act is quite clear on what you have to do...what it does not do is give you a whole lot of information about how to go about the process.”⁹

Mr Clive Bridges, Dorset Council, Manager – Development and Environment submitted :

“Council’s Planner considers that the LUPAA provides adequate legal/statutory guidelines for the preparation of Planning Scheme Amendments and a new draft planning scheme. There are however, several shortcomings with LUPAA in regard to providing guidance in achieving several elements of the Resource Management and Planning System. In particular there are no guidelines for strategic planning, whole of government approach to planning or provisions for regional planning, other than the requirement to take into account regional issues in the preparation of a new planning scheme”.¹⁰

Mayor Ian Braid, Kentish Council stated in his written submission :

“It is acknowledged that LUPAA is generally very detailed and prescriptive, and provides considerable guidance and prescription as to how planning schemes and amendments are to be prepared, assessed and approved.

The hearing of representations conducted in April 2005 met all the requirements under LUPAA but was far from an effective communication mechanism within the overall process”.¹¹

⁸ Kingborough Council, op.cit., p. 4.

⁹ Garcia, Allan, Transcript of Evidence, 4 July 2005, p. 10.

¹⁰ Dorset Council, Submission to the Legislative Council Select Committee on Planning Schemes, 28 November 2005, p. 2.

¹¹ Kentish Council, Submission to the Legislative Council Select Committee on Planning Schemes, 5 December 2005, pp. 2-3.

Mr Ross Lovell, Manager – Integrated Assessment, Clarence City Council believes that, “What the Act does not do well is to provide clear direction as to how a scheme or amendment must be assessed by the RPDC”.¹²

Mr David Sales, General Manager, Devonport City Council called for a review against a set of planning principles :

“Whilst LUPAA sets out requirements relating to strategic planning, these are not considered adequate. A review needs to be done against a set of principles that recognise the particular role planning schedules play in urban and rural land management”.¹³

Two experienced practitioners highlighted the vagueness of the LUPA Act. Mr Shaun McElwaine, a Barrister and Solicitor, said :

“...You are asked to inquire as to the extent to which LUPAA provides guidance in the preparation of planning schemes. They provide very little. I think one of the major problems is that the objectives of LUPAA are just so broadly expressed that they mean all things to all persons and they don't really assist in providing certainty.”¹⁴

Mr Malcolm Lester, Managing Director, Lester Franks Survey and Geographic Pty Ltd made a similar submission :

“LUPAA provides very limited guidance in the preparation, assessment and approval of planning schemes. What little there is, is vague and too open to subjective interpretation.”¹⁵

Mr Michael Purves, Senior Planner, Circular Head Council was more specific :

“Sections 20-22 of the Act [see Appendix ‘D’] have no guidance on how they should be implemented and are often overlooked in favour of specific requirements of various specific government policies at the broad level, and planning scheme provisions at the detailed level. The level between, that actually provides guidance to the implementation of detailed planning provisions, is lacking and there appears to be no intent to require it from the State Government.”¹⁶

Mr Shaun McElwaine also had problems with section 20 of the Act :

¹² Clarence City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 29 November 2005, p. 1.

¹³ Devonport City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 9 December 2005, p. 3.

¹⁴ McElwaine, Shaun, Transcript of Evidence, 17 February 2006, p. 10.

¹⁵ Lester Franks Survey and Geographic Pty Ltd, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 4.

¹⁶ Circular Head Council, Submission to the Legislative Council Select Committee on Planning Schemes, 12 December 2005, p. 1.

“...Once you say, ‘You have to get the consent of the RPDC’, where is the mechanism for that? There is no guidance as to what form of application, how the RPDC has to consider it, within what time frame, what happens if you do not like the decision of the RPDC – there is no right of appeal from that – so suddenly you are not within a planning system, you are thrown out to the side.”¹⁷

Mr Stan Ogden, Planning Consultant for the Devonport City Council also spoke about the lack of consistency with these sections of the Act :

“Section 21(1)(a) of the Act...talks about consistency with adjoining planning schemes and yet the adjoining planning scheme may well be a very old scheme ...The generalised requirements in Schedule 1 are quite often considered too broad.”¹⁸

Mr Shaun McElwaine also had concerns with sections 41A and B and section 51 of the LUPAA:

“Can we talk about the impossible twins, sections 41A and B and 51(3)(b) of LUPAA...I can’t see any logical justification for those provisions and they should be removed. It should be...that once the amendment takes effect then you make a decision by reference to it, not before”.¹⁹

Mr Peter Tucker, President of the Tasmanian Division of the Planning Institute of Australia, referred to the lack of guidelines and assessment criteria also when discussing Schedule 1 of the LUPA Act :

“The whole underpinning of the ... Resource Management Planning System, swings on Schedule 1 of the Land Use Planning and Approvals Act to do with, basically sustainable development. But there is nothing that puts criteria around that, that measures that ... when there are no guidelines or no assessment criteria, then it is going to be very hard to get consistency”.²⁰

Mr Brian Sampson representing the Council of Hobart Progress Association expressed similar concerns :

“The Commission themselves seem to me to be weak on Schedule 1, ...It is the most fundamental schedule in the Act because it is only in Schedule 1 that the Act states its purpose or what the objectives of the Act are. ...You can’t have an Act that you want to be complied with unless it’s pretty clear what it says”.²¹

¹⁷ Shaun McElwaine, op. cit., p. 13.

¹⁸ Ogden, Stan, Planning Consultant, Devonport City Council, Transcript of Evidence, 6 June 2006, p. 37.

¹⁹ McElwaine, Shaun, op. cit., pp. 19-20.

²⁰ Tucker, Peter, President, Planning Institute of Australia (Tasmanian Division), Transcript of Evidence, 14 June 2006, p. 21.

²¹ Sampson, Brian, Delegated Representative, Council of Hobart Progress Association, Transcript of Evidence, 13 June 2006, p. 31.

The Australian Institute of Building Surveyors - Tasmania submitted that further inconsistencies occur due to the overlap of the planning process and the Building Act. Mr Ross Murphy told the Committee :

“... there is some overlap between the planning process and the provisions of the Building Act and we believe there is some capacity to synchronise those a bit better and to reduce the regulatory burden on the developers and property owners in general”.²²

He was supported by Mr Steve Bramich, President, Australian Institute of Building Surveyors – Tasmania :

“... further consideration needs to be given to ensuring that there is consistency between building and planning approvals and that the efforts of people seeking to undertake building needs are not frustrated by overlapping and potentially conflicting approval processes”.²³

Ms Judy Alexander, Senior Forest Planner – Management, Forestry Tasmania put the view that “it would be good to see the planning schemes recognise the forest practices system and the code”.²⁴ The Department of Primary Industry, Water and Environment’s Better Planning Outcomes Discussion Paper also suggested introducing a requirement for draft marine farm development plans and amendments to also be assessed by the RPDC.

There is some sympathy for the inclusion of overlays in planning schemes, to provide in the one document planning provisions of other Acts of Parliament.

Many councils, particularly on the North-West Coast, were concerned not only about the lack of guidance but also about the confusion caused by different interpretations of policy and planning schemes.

Mayor Mike Downie, Central Coast Council summed up that frustration by saying :

“We, as a council, from time to time have certainly had concerns that the legislative and operational framework of the land use planning in Tasmania is not necessarily delivering the best outcomes to the communities”.²⁵

Mr Stuart Wardlaw, Executive Director, Property Council Of Australia (Tasmania) expressed a similar view :

²² Murphy, Ross, Australian Institute of Building Surveyors – Tasmania, Transcript of Evidence, 16 February 2006, p. 1.

²³ Australian Institute of Building Surveyors – Tasmania, Submission to the Legislative Council Select Committee on Planning Schemes, 25 November 2005.

²⁴ Alexander, Judy, Senior Forest Planner – Management, Forestry Tasmania, Transcript of Evidence, 13 June 2006, p. 44.

²⁵ Downie, Mayor Mike, Central Coast Council, Transcript of Evidence, 16 February 2006, p. 32.

“Certainty and consistency are critical in the planning system. Acceptable solutions and the like have not worked and in fact created more problems than they have resolved. This principle should be abolished and schemes revert to clear and unambiguous use classifications and developmental standards”.²⁶

Mr Peter Tucker had similar concerns :

“The Schedule 1 objectives of LUPAA generate many unknowns such as the issues that need to be addressed, how far these issues should be taken and whether objectives should be implemented through a wide range of mechanisms, not just planning schemes. There is a lot of uncertainty at present as there is no direction from the State Government on these matters which would then enable action by the Councils and the RPDC”.²⁷

State Policies

Interpretation of the State Coastal Policy and the State Policy on the Protection of Agricultural Land were common causes for concern expressed by many witnesses and especially property owners on the North-West coast who gave evidence. Mr Andrew MacGregor put the view :

“They are only a guide for the formulation of planning schemes. They should not be used for decision making in the planning process”.²⁸

Mr Peter Fischer, State Planning Adviser made the following comments :

“What we would like to do...is introduce additional State policies... [and] clarify what a State policy should be. We think it should be succinct high-level statement of policy – fairly simple and short so that we don’t have copious pages, detail and description. It should set the agenda. We would also like to allow local responses to meet the policy requirements. The State Policy and Projects Act, as it currently stands, is effectively a one-size-fits-all. So the policy is written, you then have to impose it. It is imposed on local government and there is no variation as such. What also is missing from the system is the right of representation of individuals in relation to a council’s response to State policy, and we would like to change that...”

The other thing with State policy is that it relies on planning schemes more than any other instrument for its implementation.

²⁶ Property Council of Australia (Tasmania), Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 3.

²⁷ Planning Institute of Australia (Tasmanian Division), Submission to the Legislative Council Select Committee on Planning Schemes, 6 December 2005, p. 2.

²⁸ MacGregor, Andrew, Land Surveyor and Town Planner, East Coast Surveying, Transcript of Evidence, 17 February 2006, p. 44.

...the majority of the land in Tasmania is privately owned and the planning system has control over that land. So, essentially, to bring forward the objectives of the policy we need to make sure that planning schemes are up to speed with the intent of that policy".²⁹

Former State Planning Minister Mr John Cleary said :

"The difficulty I see is that unless State policies and planning schemes are fully prescriptive then they are open to different interpretation. ...Again, different people saw the policy in different ways."³⁰

The need for more State Policies, in conjunction with a perceived need for regional and strategic planning, was a theme in many submissions. The Oregon model is an example of how to use such policies effectively as part of a planning system. When creating the RMPS, Oregon and its system of 19 statewide planning goals was used as a model :

"The whole RPS was based on having a raft of State policies - that was where the policy framework and some of the strategy framework was supposed to arise from that was fundamental in the introduction of the legislation. It never happened. It was based on the Oregon model and it never came to pass. Instead what happened was that there were lots of little jurisdictions created."³¹

Oregon's system, implemented in the mid 1970s :

"...was intended to direct different types of development to appropriate areas - discouraging urban sprawl, conserving the state's natural resources, providing predictability in land-use regulation, and streamlining the permit process for new development. It...struck a carefully architected balance between statewide planning goals and local responsibility for land-use plans. It also consciously attempted to balance the interests of environmental and business groups."³²

In operational terms it is apparent that the differences between the Tasmanian RMPS and the Oregon system are minimal, except for the lack of State Policies in the Tasmanian system :

"Oregon's planning system is predicated on conformance with the nineteen statewide planning goals. Requirements for meeting these goals are elaborated in applicable state statutes and administrative rules, and must be embodied in local comprehensive plans

²⁹ Fischer, Peter, State Planning Adviser, Department of Primary Industries, Water and Environment, Transcript of Evidence, 2 December 2005, p. 5.

³⁰ Cleary, John, Transcript of Evidence, 16 June 2006, p. 15.

³¹ Ogden, Stan, Devonport City Council, Transcript of Evidence, 6 June 2006, p.

³² Ames, Stephen C, <http://www.asu.edu/caed/proceedings97/ames.html>

adopted by each county and city. Each of these local plans must be acknowledged by the state Land Conservation and Development Commission (LCDC) as in fact conforming to the goals, statutes, and rules.”³³

A key feature of the ‘Oregon model’ is community involvement and ‘visioning’. The best local example of the Oregon model process is the Tasmania Together initiative.³⁴ This model of consultation and long-term planning could be adapted to State Policies and hence could result, albeit at the end of a process which would no doubt be costly and difficult, in a broader suite of State Policies with a high degree of community ownership and acceptance.

There are substantial difficulties in getting communities involved in the preparation, assessment and approval of planning schemes and significant effort and resources would be required to effectively implement the Oregon model. It is unlikely that councils by themselves have the resources to engage in the kind of community consultation that the model requires, so the participation of State Government would be crucial to the success of such a venture. The existing RMPS provides a ready framework for such involvement, in the form of State Policies.

Strategic Planning

Another approach to gaining consistency suggested in a number of submissions was the link between planning schemes and council’s strategic plans. Mr Malcolm Lester was of the opinion that :

“The Act at the moment says that when councillors develop a planning scheme one of the matters that it should take into account is the strategic plan. It very rarely happens”.³⁵

The Minister for Environment and Planning’s Submission referred to the Better Planning Outcomes Paper and the need to ensure that planning schemes have a sound strategic basis :

“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”.³⁶

As a means of having planning authorities give planning scheme amendments greater consideration and guidance for future directions a number of submissions suggested a need for impact statements. Mr Ian Abernethy in the Launceston City Council’s Submission wrote :

³³ http://egov.oregon.gov/Aviation/docs/resources/CHAPTER_ONE.pdf.

³⁴ McCall, Tony,

<http://www.questia.com/PM.qst;jsessionid=G62JTJWsch5n1jqV2Qjb3C85d5hZ011vNCXrg9cRVFqvH2GTGfDv!-1535404367?a=o&d=5001860037>

³⁵ Lester, Malcolm, Managing Director, Lester Franks Survey and Geographic Pty Ltd, Transcript of Evidence, 16 February 2006, p. 11.

³⁶ State Government, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005, p. 3

“I would draw the Committee’s attention to the Victorian system whereby each request for an amendment must be accompanied by a statement as to how the proposal will impact on relevant state legislation, state and regional policies and policies underlining the relevant planning scheme”.³⁷

Ms Eva Ruzicka agreed, “We need to institute meaningful public consultation processes as the norm in plain English. We need to mandate impact statements as part of scheme amendments”.³⁸

Regional Planning

Several submissions promoted the concept of regional planning. Mr Peter Tucker told the Committee that he “Would like to see things like transport, infrastructure planning and economic and social planning”.³⁹

Mr Greg Alomes advised the Committee :

“There is some excellent work done in south-east Queensland where they have pulled together statutory planning with infrastructure planning and that has been a very successful and reputable exercise”.⁴⁰

The regional plan divides south-east Queensland (SEQ) into five regional land use categories, with regulatory provisions to support the various land use controls in each area. State and local governments are required to take account of the regional plan when reviewing development applications and preparing or amending planning schemes and related policies or codes.

“The SEQ Regional Plan places an emphasis on building strong and well-serviced communities across the region, each with distinct local character and identity. Structure plans will be developed for major new Greenfield sites to facilitate sustainable, well-serviced communities, incorporating local employment opportunities and a range and mix of housing type. Integrating land use and transport through transit oriented development and mixed-use development will help maximise the use of public transport”.⁴¹

“The Infrastructure Plan identifies the proposed investigations, as well as the planning, design and construction necessary over the next 20 years in order to implement the SEQ Regional Plan. It covers investment in transport and freight, water, energy, information and communication technology and social and other

³⁷ Launceston City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 10 November 2005, p. 1.

³⁸ Ruzicka, Eva, Transcript of Evidence, 14 June 2006, p. 6.

³⁹ Tucker, Peter, President, Planning Institute of Australia (Tasmanian Division), Transcript of Evidence, 14 June 2006, p. 27.

⁴⁰ Alomes, Greg, General Manager, Kingborough Council, Transcript of Evidence, 14 June 2006, p. 35.

⁴¹ Queensland Government, Building a better future for South East Queensland – A guide to the SEQ Regional Plan and SEQ Infrastructure Plan, http://www.oum.qld.gov/docs/pdf/SEQRP_guide.pdf

community infrastructure".⁴²

Mr Stuart Wardlaw suggested that :

"Regional planning should be mandated and include :

- a) economic and development strategy
- b) adoption of an urban footprint for Hobart
- c) demographic analysis and modelling for the region
- d) settlements policy
- e) integrated conservation planning and management
- f) transport planning
- g) management of utility services
- h) infrastructure plans
- i) resource allocation
- j) liveability planning principle."⁴³

Mr Julian Green also supported the concept of regional planning :

"...It is important because in greater Hobart, Hobart, Glenorchy, Kingborough, Clarence, Sorell all have their own separate strategic plans... Where is the overall cohesion for that? ...There are implications for the road infrastructure, Tasman Bridge, all big issues, water supply and it must be addressed if you want to avoid ad hoc incremental development, living development. If the situation is to stay as it is, do not have regional planning, do not have a strategic plan for the State as regard land-use matters and you will get more of what you have got now.

...It makes the job difficult for the commission when you are faced with an issue which has knock-on effects for adjoining municipalities and you ask parties what the regional implications of this are? You ask, 'how is this to be addressed on a regional basis?' and the looks are blank. They are blank because there is nothing there. It is a tragedy for the process. In Victoria and New South Wales, if you ask for the regional implications of a development you get it".⁴⁴

The concept of a single planning scheme or at least common ordinances, zoning and terminology was also well supported. Mr Andrew MacGregor stated, when referring to the cost each year for councils going to the RPDC with individual schemes, individual ordinances and individual amendments :

"My view of it would be that they would come up with the ordinance and a list of different zones but where the council still keep control

⁴² Queensland Government – South East Queensland Infrastructure Plan and Program 2006, <http://www.oum.qld.gov.au?id=315>

⁴³ Property Council of Australia (Tasmania), Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 2.

⁴⁴ Green, Julian, Transcript of Evidence, 4 July 2006, p.65.

is each council area would be responsible for determining what zones go on what land and that would still be the authority who will determine what is approved and what is not approved in their municipal area".⁴⁵

Mr Allan Garcia expressed the view that the Local Government Association of Tasmania "is all for regional planning and wants it to happen sooner rather than later,"⁴⁶ and that a regional planning process should involve the State government and private parties as well as local government.

There was also a consistent call from those giving evidence to link the planning schemes with council strategic plans. Mr Ian Abernethy submitted :

"I think there is merit in linking the strategic plan to the planning scheme and I believe the strategic plan should involve lots of consultation and the general views of the community you represent."⁴⁷

Mandatory Review of Planning Schemes

A number of submissions referred to the need to review planning schemes, some even suggesting mandatory reviews on a regular basis. Mr Peter Tucker clearly expressed a preference.

"The other thing with this particular criterion is the timeliness and the way that local government update their schemes. At the moment some of the schemes are ancient; they really go back to the sixties. They have been altered and amended over that time usually by development-driven amendments to planning schemes but local government should be required to update their schemes every five years".⁴⁸

Mr Peter Fischer advised the Committee that :

"The steering committee is recommending a five-year review of planning schemes. That sort of coincides with the five-year review of the council strategic planning process as well. If you are looking at the overall strategic plan of the area, which may have implications for the planning scheme and the planning of the area generally, it would be logical if those two processes happened at the same time. That is why they are recommending five years".⁴⁹

Currently the LUPA Act 1993 only requires a planning authority to keep its

⁴⁵ MacGregor, Andrew, Land Surveyor and Town Planner, East Coast Surveying, Transcript of Evidence, 17 February 2006, p. 40.

⁴⁶ Garcia, Allan, Transcript of Evidence, 4 July 2005, p. 20.

⁴⁷ Abernethy, Ian, Group Manager Sustainability, Launceston City Council, Transcript of Evidence, 17 February 2006, p. 40.

⁴⁸ Tucker, Peter, Transcript of Evidence, 14 June 2006, p. 23.

⁴⁹ Fischer, Peter, Transcript of Evidence, 2 December 2005, p. 11.

planning scheme under regular and periodic review for the purpose of ensuring the objectives set out in Schedule 1 are achieved.⁵⁰ New South Wales has a similar provision in its *Planning and Environment Act 1987*. Other states range from three years in South Australia and Victoria, through to five years in Western Australia and up to eight years in Queensland.

Conclusions

1. Although some councils are satisfied with the guidance provided by LUPAA in the preparation, assessment and approval of planning schemes and planning scheme amendments, the majority of submissions expressed dissatisfaction for the following reasons :
 - a) The LUPA Act is too open to interpretation and as a result does not provide certainty and consistency;
 - b) Schedule 1 of the LUPA Act contains no guidelines or assessment criteria for determining the objectives of the resource management and planning system of Tasmania;
 - c) The LUPA Act provides for consideration of State policies. These policies are unclear and open to different interpretations; and
 - d) There is no legal requirement for the RPDC to provide guidance to Councils during the drafting process of a planning scheme or amendment.
2. Planning schemes should recognise all land use planning matters, such as the legislative provisions for forestry, mining and marine farming.
3. Concise impact statements with all applications for planning scheme amendments would assist in the assessment and approval process.
4. There is a clear need for the development of more State policies. Policies should be clear and unambiguous to enable consistent interpretation by all planning authorities.
5. Planning schemes should be kept up to date with mandatory reviews.

Recommendations

The Committee recommends that :

1. A properly resourced department of state planning be established and maintained in order to provide councils with independent advice and assistance in preparing planning schemes and planning scheme amendments.

⁵⁰ LUPA Act 1993, Section 44.

2. The current suite of State policies be expanded and that all State policies be written in clearer, less ambiguous terms, to enable consistent interpretation by all planning authorities.
3. Planning schemes include an overlay of the provisions of other Acts affecting land use planning for uses such as forestry, mining and marine farming.
4. Legislation be amended mandating concise impact statements to accompany applications for planning scheme amendments.
5. Section 44 of the *Land Use Planning and Approvals Act 1993* should be amended making it mandatory for planning schemes to be reviewed at least every five years.

Relationships between the community, councils and the Resource Planning and Development Commission

Chapter 3

(2) The relationships between the community, councils and the Resource Planning and Development Commission (RPDC) in the preparation, assessment and approval.

The Committee received a great deal of evidence relating to the relationships between the community, councils and the Resource Planning and Development Commission.

The then Minister for Environment and Planning, Hon Judy Jackson MHA, provided the following background in relation to the Government's programs that aim to assist these relationships :

“The aim of the Partnership Agreements program is to find better ways of serving Tasmanian communities by the two levels of government working together.

... The Agreements take into account consultative mechanisms at the local level. They are aimed at encouraging local input to community and economic development and promoting shared responsibilities for better-targeted service delivery”.⁵¹

The Minister believes that :

“The State's Natural Resource Management Framework will coordinate and integrate natural resource management (NRM) efforts in the State and has required the preparation of NRM Regional Strategies in three regions of the State. Regional NRM committees will facilitate the integration of NRM and planning activities and will foster linkages between Councils, State agencies, industry and the community”.⁵²

Despite the view of Government that these programs will assist the relationship, many Councils gave evidence regarding problems they have encountered in the preparation, assessment and approval of planning schemes and planning scheme amendments.

The written submission provided by the Burnie City Council states that :

“Problems arise when it is desired to achieve outcomes that are

⁵¹ State Government, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005, p. 3.

⁵² Ibid., p. 20.

inconsistent with policy and prescription or which favour singular interests over those of the whole”.⁵³

The Dorset Council agrees with these comments to some extent by stating that :

“The ambitions and expectations of councils may not always be in concert with those of the State (and sometimes the community). If local government is to better understand, accept and perform in a planning function, then it is essential that the Tasmanian planning system be given more universal prominence and be better equipped to achieve its objectives”.⁵⁴

Ms Eva Ruzicka believes that :

“What is often lacking at the start, at the coalface of Council is sound economic, environmental, social and historic evidence for the need for change and the considered impacts of change. This lack combines with a public consultation process that has little depth and or clarity”.⁵⁵

Mr Peter Fischer suggests that community consultation should occur at an earlier stage of the process, and that it currently occurs when it is almost too late to be of any effect. Community consultation on general planning scheme issues is very difficult to achieve.⁵⁶

Furthermore, Mr Allan Garcia points out that the RPDC on occasions makes decisions that go against the results of councils’ consultations with their communities. The “council expectation of its community outcomes as against what the system requires in terms of a holistic and integrated planning arrangement” means that the relationship between councils and the RPDC is “tenuous...at best”.⁵⁷

The Kentish Council’s written submission indicates that “Council recognises that planning issues are generally becoming more complex. Community expectations are high”.⁵⁸ However, the submission also states that “the RPDC needs to ensure a more inclusive and constructive communication process is achieved”.⁵⁹

During that Council’s planning scheme development :

⁵³ Burnie City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 7.

⁵⁴ Dorset Council, Submission to the Legislative Council Select Committee on Planning Schemes, p. 7.

⁵⁵ Ruzicka, Eva, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005, p. 3.

⁵⁶ Fischer, Peter, State Planning Adviser, Department of Justice, Transcript of Evidence, 4 July 2006, p. 39.

⁵⁷ Garcia, Allan, Transcript of Evidence, 4 July 2005, pp. 12-13.

⁵⁸ Kentish Council, Submission to the Legislative Council Select Committee on Planning Schemes, December 2005, p. 1.

⁵⁹ Ibid., p. 2.

“The anxiety that was created over the latter stages of the scheme’s approval was unacceptable for all concerned. Council planning staff were constantly placed in the position of not being able to make any form of professional judgement on the scheme that was being prepared or be in a position to give expected guidance to the community in planning matters under the new scheme”.⁶⁰

“Local Government needs to ensure that its working and professional relationship with the RPDC is sound to ensure outcomes are in the best long term interests of local communities”.⁶¹

Some witnesses believed that RPDC operations were the cause of relationship problems. Mr Malcolm Lester, Managing Director, Lester Franks Survey and Geographic Pty Ltd stated that :

“... there seems to be a prejudice at the RPDC that residential subdivision development is inherently unsustainable and should be prevented whenever possible.

...The most recent example of this was with the Kentish Planning Scheme 2005, where the RPDC arbitrarily changed large sections of zoning without any public consultation, and without even a recommendation from its own delegates. This sort of action leads to strong feelings of resentment in the community and the council, and brings both the RPDC and the RMPS into disrepute”.⁶²

Mr Lester also believes that “planning schemes must, as far as possible, reflect the aspirations of the community. They should never be imposed from above”.⁶³

The Kingborough Council submitted that :

“In practice, there is very little guidance, community information (and education), support and effective assistance provided to Councils and local communities by the RPDC and Government agencies in the identification, research and assessment of planning, development and related issues leading to the preparation of Planning Schemes and Amendments”.⁶⁴

Ms Eva Ruzicka outlined her experience with the preparation, assessment and approval of planning schemes, arguing that the process “...is appallingly adversarial and disregards anyone who cannot rely on professional qualifications when attempting to express an opinion either at the council or at

⁶⁰ Kentish Council, op.cit., p. 3.

⁶¹ Ibid., p. 4.

⁶² Lester, Malcolm, Managing Director, Lester Franks Survey and Geographic Pty Ltd, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 3.

⁶³ Ibid., p. 5.

⁶⁴ Kingborough Council, p. 2.

the level of the Commission".⁶⁵

Sue Lockhart's frustrations with the system are evident :

"It is almost impossible for a lay person to make themselves understood when they have to speak in technical jargon and refer to specific parts of the planning scheme by parts and numbers in order for their opinions to be given equal consideration, when they are pitted against council planners or students of planning at an advanced level".⁶⁶

The Northern Midlands Council appears to have had a good relationship with the RPDC during its planning scheme negotiations :

"Throughout the process, the RPDC provides information on procedure and takes all reasonable measures to ensure all parties are fairly dealt with and have an opportunity to be heard. Council's planning staff have easy access to RPDC staff to discuss issues and the progress of amendments".⁶⁷

This was not the experience of Mrs Geraldine and Mr Christopher Edwards who felt that the RPDC "would tell you this and then do something else"⁶⁸ in relation to procedural issues. Furthermore, Mr. Peter Fischer suggested that many individuals "felt they were disenfranchised by the process" of dealing with the RPDC.⁶⁹ It is also an issue that the planning officers of the RPDC, who advise councils, and the Commission itself often have different interpretations of the regulations,⁷⁰ which results in tension between those attempting to establish or amend planning schemes and the Commission.

The Launceston City Council believes that it is unlikely that there would be an on-going relationship between the community, councils and the Commission as any :

"...planning scheme amendment is likely to be a one-off experience. ...Relationships between Councils and the Commission would I suggest wax and wane with individual circumstances. ...Both organisations will have their own priorities, objectives and pressures that they will consider during any decision making process".⁷¹

⁶⁵ Ruzicka, Eva, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005, p. 1.

⁶⁶ Lockhart, Sue, Submission to the Legislative Council Select Committee on Planning Schemes, 1 December 2005, p. 3.

⁶⁷ Northern Midlands Council, Submission to the Legislative Council Select Committee on Planning Schemes, p. 2.

⁶⁸ Edwards, Geraldine, Transcript of Evidence, 4 July 2006, p. 8.

⁶⁹ Fischer, Peter, Transcript of Evidence, 4 July 2006, p. 32.

⁷⁰ Garcia, Allan, Transcript of Evidence, 4 July 2005, p. 14.

⁷¹ Launceston City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 10 November 2005, p. 2.

Role and Procedure of the RPDC

Concern was expressed over the role of the RPDC within the Resource Management and Planning System. The intended role of the RPDC at the time of its creation is set out in Appendix B, however a number of submissions suggested that the role needs to be further clarified.

According to the Property Council of Australia :

“(i) The RPDC should remain an independent and expert body and retain its central role in preparation and review of planning schemes.

(ii) Problems that arise with respect to relationships with RPDC often have their origins in councils not heeding the guidelines and advice of RPDC and a lack of preparedness to implement adopted policy. This issue is central to the need for separation of powers. Councils should set the policy through planning schemes, but have no role in implementation. This is where many of the relationship conflicts and inappropriate governance practices arise.

(iii) Individuals and interest groups will always have views that are inconsistent with the public interest. Conflicts arise in the course of making planning schemes, but the RPDC’s role acts as a reality check. It is at the assessment and decision making stage on applications where councils and elected members become compromised and frequently look for somewhere to cast blame”.⁷²

Mr Lester suggested an alternative process for the development of new planning schemes. In this model –

“...the State would establish State Policies to guide and constrain land use planning, as well as maintain the statutory framework within which the process operates.

Councils would determine the strategic direction for their area in consultation with their key stakeholders. The planning scheme would be an instrument to deliver this strategy.

The RPDC would check that the planning scheme has been prepared in accordance with the prescribed process and that it does not contravene any State Policy.

Decisions of the RPDC would be subject to appeal to RMPAT”.⁷³

⁷² Property Council of Australia, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 4.

⁷³ Lester, p. 6.

The Kingborough Council expressed concern over a widespread lack of understanding, amongst both Councils and the community, of the role of the RPDC which became apparent during consultation relating to the review of the planning scheme :

“The community reaction...has been overwhelmingly positive mixed with surprise at the complexity and legality of the planning system and the largely ‘hidden’ status and role of the RPDC. It has highlighted the general lack of public information provided by the RPDC to guide and assist Councillors, the community and developers alike in understanding the basic elements of the system and how they can participate effectively in Planning Scheme development and revision.”⁷⁴

A belief in the need for the provision of data, information and advice by State Agencies and the RPDC was also expressed :

“The critical phase in the preparation of Planning Schemes...is to research and assess planning issues and options to be addressed...Central to this is the availability of a broad range of critical information and professional advice on matters such as natural resources, infrastructure, services, community values...Currently, the RPDC and State agencies essentially operate at arms length and are not generally available for consultation or advice at a Council or community level in this...phase of the process.”⁷⁵

The ability of the RPDC to “impose its decisions without further Council or community consultation or apparent explanation or justification”⁷⁶ was also an issue for the Kingborough Council :

“[This] results in some questioning of the legitimacy of the RPDC and agencies and the processes involved...[which] in turn leads to disillusionment with...the planning system.”⁷⁷

The Committee received conflicting evidence regarding the relationship between the RPDC and the State Government. The Hon Ruth Forrest MLC, Member for Murchison argued “...that the attitude of RPDC is in direct contrast to the Government’s intent, that policies encourage regional communities to actively seek innovative new investments and alternative land uses”.⁷⁸

Whereas Mr Bob Graham claimed :

⁷⁴ Lester, p. 3.

¹⁰ Ibid., pp. 3-4.

⁷⁶ Ibid., p. 5.

⁷⁷ Ibid.

⁷⁸ Forrest MLC, Hon Ruth, Submission to the Legislative Council Select Committee on Planning Schemes, p. 2.

“The RPDC came into existence in the early 1990s following the passing of the new Planning Act. Right from the very outset it was never given any leadership or direction from the Government as to what it should do, how it should do its task and what was expected of it. It evolved into a de facto State planning agency”.⁷⁹

Mr Graham had further concerns that “the process for approving and/or amending planning schemes has turned into a frustrating and time consuming to and fro between councils, the community and the RPDC”.⁸⁰

A number of other witnesses also referred to the time taken for the RPDC to make a decision and the lack of time limits which apply to most stages of planning processes.

Mayor Kevin Hyland of the Wynyard/Waratah Council, said :

“Regarding the timelines of processing planning schemes amendments by the RPDC, council have experienced lengthy delays in processing scheme amendments ...We have a couple of examples, the rezoning of land at Boat Harbour initiated in May 2004 and concluded in August 2005, and rezoning land in 1 Martin Street, Wynyard, initiated in June 2005 and is yet to be concluded”.⁸¹

Mr Julian Green, Executive Commissioner of the RPDC, in response to a question from the committee stated :

“In principle I have no problem in setting a time limit ...As long as there is power to extend the time because sometimes a draft scheme or proposed amendment with a permit may go pear-shaped and you have to adjourn and let parties develop their argument further”.⁸²

The submissions suggest that the RPDC has become the central planning authority for the state, when it was intended as a regulator. Mr Julian Green points out that the RPDC is constrained by the act as to the level of assistance it can give to councils, and in relation to many planning issues there is a potential role for the department to provide that advice.⁸³ The jurisdiction of the RPDC needs to be clarified and this conflict removed from its operation.

Mr Malcolm Lester described RMPAT as “a highly respected organisation ...[that] makes good decisions,” while “[t]he Commission...is judge and jury

⁷⁹ Graham, Bob, Transcript of Evidence, 13 June 2006, p. 20.

⁸⁰ Graham, Bob, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 2.

⁸¹ Hyland, Mayor Kevin, Wynyard-Waratah Council, Transcript of Evidence, 15 February 2006, p. 40.

⁸² Green, Julian, Executive Commissioner, Resource Planning and Development Commission, Transcript of Evidence, 15 February 2006, p. 57.

⁸³ Green, Julian, Transcript of Evidence, 4 July 2006, p. 52.

and prosecutor”.⁸⁴

In his written submission Mr Lester stated :

“The role of the RPDC should be to ensure that proper process has been followed and to review the merits of the planning scheme with respect to State Policies. The interpretation of the objectives of Schedule 1 of LUPA Act should be a matter for councils. If the scheme reflects the objectives of the community as expressed by its elected council, then the RPDC should not interfere unless there is a breach of a State Policy.

...Where there is a disagreement between stakeholders, for example, the council and the RPDC or the council and community member, then that dispute would be resolved by the Resource Management and Planning Appeal Tribunal (RMPAT), an independent body with established expertise in these matters.

In summary, in this model the State would establish State Policies to guide and constrain land use planning, as well as maintain the statutory framework within which the process operates.

Councils would determine the strategic direction for their area in consultation with their key stakeholders. The planning scheme would be an instrument to deliver this strategy.

The RPDC would check that the planning scheme has been prepared in accordance with the prescribed process and that it does not contravene any State Policy”.⁸⁵

Mr Jeff Tremayne, Solicitor made similar comments:

“My suggestion is that the appeal rights be to the Planning Appeal Tribunal ...if you look at the RPDC as an advisory body that aims to get consistency amongst all the councils and how they approach subdivisions and rezoning, you will end up with a far better planning system”.⁸⁶

The Property Council however submitted that the “RPDC should remain an independent and expert body and retain its central role in preparation and review of planning schemes”.⁸⁷

Evidence was also given that the presence of legal professionals in RPDC hearings complicates proceedings and shifts their focus from substantive

⁸⁴ Lester, Malcolm, Managing Director, Lester Franks Survey and Geographic Pty Ltd, Transcript of Evidence, 16 February 2006, p. 15.

⁸⁵ Lester, p. 5.

⁸⁶ Tremayne, Jeff, Solicitor, Transcript of Evidence, 13 June 2006, p. 14.

⁸⁷ Property Council of Australia, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 4.

planning issues to legal technicalities; although the RPDC needs to provide natural justice and procedural fairness, the legal presence should be controlled so that it does not distort the focus and purpose of RPDC hearings. Some witnesses believed that it should be a choice, not a necessity, to have legal representation.

Mrs Geraldine Edwards claimed that :

“The involvement of solicitors and barristers in planning issues would appear to put emphasis on points of law rather than points of planning and on point scoring over witnesses rather than point clarification with resultant escalation in costs”.⁸⁸

In contrast, Mr Shaun McElwaine put a strong case for lawyer input, suggesting the chairman should be a lawyer.

“...there is a very good reason why a lawyer has to be chairman, it is because these are quasi legal proceedings. Otherwise you will end with very expensive fights in the Supreme Court. If you look over the years there have been a lot of successful appeals to the Supreme Court against decisions of the RPDC because they have fundamentally misconceived things like natural justice and procedural fairness and they have misinterpreted legislation. There is a litany of cases in the Supreme Court where RPDC decisions have been overturned. My perception is that would be different if you had a chair who is a lawyer”.⁸⁹

“There are three decisions of Justice Blow in the Supreme Court. That hearing went for weeks then we had days and days worth of legal argument in the Supreme Court and Justice Blow said, ‘Sorry, the RPDC mucked up fundamentally’, and sent it all back to the RPDC and there is no provision for costs in the RPDC.

I could give you a list of cases but we could go to the Supreme Court web site and put in resource planning and development commission, they will all come up”.⁹⁰

Contradicting this claim, Mr Julian Green suggests that it is not necessary to have lawyers on the panel in order to avoid appeals on technicalities – “We do not have many appeals against us on points of law.”⁹¹

Ian Abernethy suggested “Maybe not so much as banning the use of legal experts but maybe more controlling them, maybe having stronger chairs”.⁹²

⁸⁸ Edwards, Geraldine, Transcript of Evidence, 4 July 2006, p. 5.

⁸⁹ McElwaine, Shaun, Transcript of Evidence, 17 February 2006, p.15.

⁹⁰ Ibid, p.16.

⁹¹ Green, Julian, op. cit., p. 50.

⁹² Abernethy, Ian, Group Manager Sustainability, Launceston City Council, Transcript of Evidence 17 February 2006, p. 2.

Several submissions also referred to the number of commissioners sitting at hearings. Ms Sue Lockhart wrote, "I think at least three delegates should be appointed at every hearing".⁹³ Mr Duncan Payton expressed a similar view that hearings should be conducted "... by a panel of at least three commissioners (or delegates)".⁹⁴

Mr Julian Green indicated that he usually makes the decision on the number of commissioners to hear a case depending on the complexity of the case. The Commission also formally delegates the panel "the power to hear and determine a matter or to hear only, and the final decision comes back to the Commission".⁹⁵

Some evidence suggested the opportunity for directions hearings and mediation would help achieve better and less costly outcomes.

Mr Shaun McElwaine referred to the process used in directions hearings to RMPAT:

"... you get the other side's evidence before and when you come to give evidence you just tender the written document, you might ask some supplementary questions and then you get cross examined." Whilst with the RPDC "It says nothing about distributing the material to the other parties, seven days is way too late, there are no directions about any procedural points that anyone wants to raise or any joinder of parties, there are no directions about how many experts we are going to call and whether there is going to be any unnecessary duplication".⁹⁶

Mr Anthony Spence, from Page Seager Lawyers, expressed a similar view :

"In my opinion the procedure in the Commission would be improved if directions hearings were held prior to the hearing on the merits being convened..."

... I would suggest that some form of mediation or conciliation being held in the early stages and perhaps in conjunction with the directions hearing would be beneficial in at least narrowing the issues and ensuring that where possible parties present a common approach to the Commission.

As a matter of practice I believe the Commission would operate more effectively if it followed a procedure whereby any issue that it thought was relevant to the matter before it be fairly raised before the interested parties and allow the interested parties the

⁹³ Lockhart, S, Submission to the Legislative Council Select Committee on Planning Schemes, 1 December 2005, p. 3.

⁹⁴ Northern Midlands Council, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005, p. 2.

⁹⁵ Green, Julian, op. cit., p. 48.

⁹⁶ McElwaine, Shaun, Transcript of Evidence, 17 February 2006, p.18.

opportunity of addressing by way of evidence and submission if necessary".⁹⁷

Responding to a question about the value of mediation, the Executive Commissioner, Mr Julian Green said "The Tribunal has mediation. The statutory power of the Commission to mediate would be useful."⁹⁸

Protection of Agricultural Land Policy

In several cases, evidence provided to the Committee by individuals related to housing requirements on what is classed as prime agricultural land under the State Policy contained in Appendix C. The changes made to the State Policy on the Protection of Agricultural Land in October 1999 were included to clarify,

"...that the policy does not inhibit building on prime or significant agricultural land if that building is associated with the agricultural use of the land; ...that the policy does not inhibit building on land that is not zoned for rural or agricultural use; ...that councils may identify significant agricultural land in the preparation of their planning schemes; allows existing commercial businesses to expand onto prime or significant agricultural land, if the relocation of the business is not reasonable and practicable; allows for a house to be excised from an agricultural holding if doing so promotes the agricultural use of the balance of the land, and if the balance of the land is amalgamated within an adjacent property".⁹⁹

Farmers do not have an explicit legal obligation to live on or close to land for animal welfare purposes. Section 6 of the *Animal Welfare Act 1993* states that :

"A person who has the care or charge of an animal has a duty to take all reasonable measures to ensure the welfare of the animal."

While these legal obligations do not specifically require farmers to live on or close to land for animal welfare purposes, the practical result of such a duty of care over the animals is to require a human presence close enough to the animals to ensure their welfare.

There are some circumstances in which it is unacceptable to leave animals on their own; when cows are calving, for example. Ruth Forrest MLC states :

"During calving time, it is standard practice for a farmer to check his/her cows every couple of hours...farmers have moral and legal obligations in ensuring their animals' welfare and to farm from a

⁹⁷ Spencer, Anthony, Submission to the Legislative Select Committee on Planning Schemes, 5 December 2005, p. 2.

⁹⁸ Green, Julian, Executive Commissioner, RPDC, Transcript of Evidence, 4 July 2006, p. 55.

⁹⁹ Aird, Hon Michael MLC, Hansard, Protection of Agricultural Land – Revocation of State Policy, 5 October 1999, p. 12.

distance would not allow them to fulfil these obligations.”¹⁰⁰

Many of the witnesses told stories of their problems associated with the PAL policy. Many felt there was a lack of understanding of the planning laws and of issues affecting landowners, such as animal welfare, as well as a difference in interpretation by local governments. It is evident that there are also problems in the relationships between the community, councils and the RPDC regarding the approval of local planning applications.

For example, Dene and Mary Viney argue that :

“Waratah/Wynyard has a so called ‘performance based’ planning scheme which can and has been interpreted different ways by at least three town planners. It is virtually impossible to meet the requirements of viability with the small holdings involved”.¹⁰¹

They also believe that “there is an enormous amount of variation in the interpretation of the State policy by councils across this small State”.¹⁰²

According to Derek and Noelene Gee :

“It is also apparent that each municipality has its own interpretation of the current planning schemes and that Central Coast and Circular Head municipalities are similar in their interpretation. However, 2km over the Blythe River from our property in the Burnie municipality we have been advised that it is acceptable to relocate a title boundary around an existing farmhouse in order to sell the house without the buffer zone requirement”.¹⁰³

Ms Barbara Brown also gave evidence of a Council’s inconsistent approach to planning applications.

“My application actually met with at least 50 per cent of the planning scheme requirements [and was refused]. ...In the January meeting just gone, council looked at a subdivision at Sprent, which was the excision of a house from some land and its being added on to the other. It could not meet any of the criteria of the planning scheme, was totally contrary to the PAL policy but by a majority decision the councillors passed it”.¹⁰⁴

Rights of Appeal

A number of submissions and witnesses particularly from local government

¹⁰⁰ Forrest, Ruth MLC, Submission to the Legislative Council Select Committee on Planning Schemes, 12 December 2005, p. 3.

¹⁰¹ Viney, Dene and Mary, Submission to the Legislative Council Select Committee on Planning Schemes, 28 November 2005, p. 9.

¹⁰² Ibid.

¹⁰³ Gee, Derek and Noelene, Submission to the Legislative Council Select Committee on Planning Schemes, 16 November 2005, p. 3.

¹⁰⁴ Brown, Ms Barbara, Transcript of Evidence, 15 February 2006, p 33.

suggested the need for an independent appeals tribunal, with some suggesting that the role of the existing Resource Management and Planning Appeals Tribunal, as discussed in Appendix A, could be expanded for this purpose.

The Northern Midlands suggested “The expansion of appeal or review opportunities beyond the current limitation on points of law before the Supreme Court”.¹⁰⁵

Mayor Ian Braid believes :

“There is an urgent need for an independent appeals tribunal where the final and questionable decisions made by the Commission can be tested and ruled upon”.¹⁰⁶

In contrast, Mr Julian Green stated :

“If you want to have a lengthy process, yes, have appeals...I think the system that we have now works. Not everybody likes it but we have a forum where all contested issues are dealt with...Another tier of approval or appeal is unwarranted.”¹⁰⁷

Mr Ian Abernethy even queried :

“Why do we need both the tribunal and a commission if maybe we are finding trouble resourcing and funding experts? Why not draw on one body of expertise under something like an administrative appeals tribunal?”¹⁰⁸

Resources

Resources or lack of resources especially qualified planners was a common concern in a number of submissions. Some smaller councils in particular were experiencing problems attracting qualified staff and often opted for planning consultants. Some used people who were not fully qualified. Andrew Shedden from Building Design Service, put the view that :

“I think in the hands of not-fully qualified people we’re ending up with the person saying, ‘I can’t understand it. I don’t know, therefore I’ll just have to say no’. I think we are suffering because of that as much as anything else, rather than a clash of personalities”.¹⁰⁹

¹⁰⁵ Northern Midlands Council, Submission to the Legislative Council Select Committee on Planning Schemes, p. 2.

¹⁰⁶ Braid, Mayor Ian, Kentish Council, Transcript of Evidence 16 February 2006, p. 6.

¹⁰⁷ Green, Julian, Transcript of Evidence, 4 July 2006, p. 54.

¹⁰⁸ Abernethy, Ian, Group Manager Sustainability, Launceston City Council, Transcript of Evidence 17 February 2006, p. 3.

¹⁰⁹ Shedden, Andrew, Building Design Service, Transcript of Evidence, 6 June 2006, p. 2.

Some evidence received advocated a return to a properly resourced State Planning Department which could provide guidance and assistance to councils preparing new schemes or amendments to planning schemes. Mr Allan Garcia stated :

“...When the RPDC was brought into effect, the planning division in government just went, it just disappeared and is still almost non-existent...If we are looking for a new life for this, a co-ordinating role, certainly a lot of what Better Planning Outcomes talks about is undertaking some of that. The unit that is there at present can simply not cope with everything that has to be done but certainly it could have a role to achieve that better co-ordination”.¹¹⁰

Mr Bob Graham claimed that :

“The critical weakness in the current system is that there has been an almost complete absence of political leadership by successive governments and this has allowed planning to languish ... Tasmania is the only State that does not have a properly resourced body with responsibility for ensuring that the planning system works properly. The RPDC is often seen as that agency, but that is not its role, and nor should it be”.¹¹¹

Mr Anthony Ferrier, Director of Community Planning and Development on behalf of Kingborough Council, made similar statements :

“Back in the middle nineties when that section of DELM was somewhat decimated it was commonly referred to as a black hole within the State as far as planning or strategic planning was concerned. I mean you have the RPDC there as the regulator but they are not doing the proactive planning, they are not doing the strategic planning, they are not even setting up guidelines or standards by which planning schemes can actually be developed”.¹¹²

In addition to time delays and inconsistencies, cost was also a major concern. The Committee received details of the costs involved in amending schemes, and obviously the cost of preparing a new scheme would be considerably greater. Mayor Mike Downie stated :

“At this point, since the year 2000 we as a Council Authority have spent something like \$442,663, which is an average of about \$88,501 per year, and I can give a breakdown on that”.¹¹³

¹¹⁰ Garcia, Allan, Chief Executive Officer, Local Government Association of Tasmania, Transcript of Evidence, 4 July 2006, p. 18.

¹¹¹ Graham, Bob, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 5.

¹¹² Ferrier, Andrew, Community Planning and Development, Kingborough Council, Transcript of Evidence, 14 June 2006, p. 34.

¹¹³ Downie, Mayor Mike, Central Coast Council, Transcript of Evidence, 16 February 2006, p. 34.

Mr Andrew MacGregor estimated :

“The cost to the community just for [one] amendment through the Council costs and through the RPDC is probably \$200,000. That is not even a major review of a planning scheme”.¹¹⁴

The Committee received a number of submissions containing suggestions for reducing costs. These included, for example, a single plan for the whole State, regional plans and common ordinances as well as linking planning schemes to strategic planning. The common theme was the need for consistency. Andrew MacGregor told the inquiry :

“I think that certainly a lack of consistency is the biggest problem and I think one of the reasons we have such a turnover in planning schemes is because of the incredible amount of conflict in the community. The conflict is coming about, as far as I can understand, because if a new planner comes into your community, it is a whole new planning scheme and they have to start from day one. ...I believe that with a single scheme most of the conflict would go and therefore most of the planning officers would be more happy to stay in their jobs. At present there is a conflict between them, the developers and the opponents, but they would be able to say, ‘Hang on. You have raised this issue but at appeal number such and such, here it is, this is what the tribunal has decided, so that is their interpretation’. You would get this consistency and in a very short time that consistency would, I believe, take a lot of that conflict out of the system”.¹¹⁵

Wynyard-Waratah Mayor Kevin Hyland expressed a similar view “That is the real problem that I have with the schemes right throughout the State – a lack of consistency. It just should not happen given that Tasmania is such a small state”.¹¹⁶

Conflict Between Roles

Several submissions referred to the need for a separation of powers when considering the various relationships between stakeholders. The Hon Judy Jackson MHA, the then Minister for Environment and Planning in her submission mentioned that “duality of roles is a consistent tension within Local Government”.¹¹⁷

Mr Stuart Wardlaw stated :

¹¹⁴ MacGregor, Andrew, Land Surveyor and Town Planner, East Coast Surveying, Transcript of Evidence, 17 February 2006, p. 37.

¹¹⁵ MacGregor, Andrew, Land Surveyor and Town Planner, East Coast Surveying, Transcript of Evidence, 17 February 2006, p. 47.

¹¹⁶ Hyland, Mayor Kevin, Wynyard-Waratah Council, Transcript of Evidence, 15 February 2006, p. 43.

¹¹⁷ State Government, Submission to the Legislative Council Select Committee on Planning Schemes, 23 December 2005, p. 4.

“There are two different roles there. This...is the genuine difficulty that elected members have – of being the representative of the community on the one hand and listening to minority groups, interested individuals et cetera as a member of a planning authority, which is quite a statutory role, and then not be influenced in that decision making”.¹¹⁸

In his submission he suggested “reviewing the roles of councils as planning authorities along with the introduction of model delegations could be one important step to assist in ameliorating the current situation”.¹¹⁹

Similar confusion exists with the RPDC’s role. Mr Wardlaw when responding to a question from the Committee regarding RPDC virtual veto powers said :

“That goes to the crux of a fair few problems. The first thing is that during the late 1990s and earlier this century, government moved away from having any planning body inside the public service. What planners it had it redeployed. That relied upon RPDC as the planning authority for the State. Upon reflection, that really has not worked because the RPDC is a regulator”.¹²⁰

Conclusions

1. The relationships between community, councils and the RPDC in the preparation, assessment and approval of planning schemes and planning scheme amendments have the potential to break down when the ambitions and expectations of communities and councils are overridden by State agencies or the RPDC.
2. There is a need for more inclusive and constructive communication between all stakeholders in the process of preparing, assessing and approving planning schemes and planning scheme amendments.
3. The role of the RPDC should be clarified. The RPDC should ensure that proper process has been followed and to review the merits of the planning scheme and planning scheme amendments with respect to State Policies. The adherence to the objectives of Schedule 1 of the LUPA Act should be a matter for councils.
4. There is a substantial difference in the interpretation of State policies between planning authorities. The State Policy on the Protection of Agricultural Land is being interpreted differently between councils and also by the RPDC. Evidence was given of three neighbouring municipalities with differing interpretations of this Policy.

¹¹⁸ Wardlaw, Stuart, Executive Director, Property Council of Australia (Tasmania), Transcript of Evidence, 13 June 2006, p. 2.

¹¹⁹ Property Council of Australia (Tasmania), Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 8.

¹²⁰ Wardlaw, Transcript of Evidence, p. 4.

5. Performance based planning schemes inevitably lead to different interpretation by individual planners.
6. The urgent need for greater consistency across the state is apparent. Attempts have been made, such as Planning Directive No 1, but further work is required. The development of a template planning scheme would achieve greater consistency between planning schemes.
7. Better planning outcomes will be achieved if planning schemes are linked to council strategic plans. There are benefits to be gained by coordinating statutory planning and infrastructure planning, as has occurred in other jurisdictions.
8. An integrated planning process which incorporates strategic and regional planning and takes a whole of government approach should be developed.
9. The appointment of a person with legal expertise as chair of RPDC could improve the hearing process and thus reduce the potential for cases being referred to the Supreme Court. At least three commissioners should sit at the hearings.
10. There should be provision for appeals against decisions of the RPDC. Where there is disagreement between councils and the RPDC, those appeals could be heard by RMPAT.
11. Directions hearings and mediation could improve the relationships between the community, councils and the RPDC as well as reduce time delays and costs in the approval of planning schemes and planning scheme amendments.
12. There is a shortage of qualified planners, which negatively impacts on the relationships between the community, councils and the RPDC in the preparation, assessment and approval of planning schemes and planning scheme amendments.
13. A properly resourced state planning department would help build better relationships between the community, councils and the RPDC.
14. Elected members have two roles; that as representatives of the community and the statutory role as members of a planning authority. Elected members of councils generally have little or no training in the area of planning.
15. Evidence suggests that the staff of RPDC currently operate as advisers on planning issues during the development of a planning scheme or planning scheme amendment. Conflict can arise when the formal process commences and the advice is contrary to the Commission's opinion.

16. Decisions of the RPDC should be subject to time limits similar to those applying to most other stages of planning processes.
17. Although evidence was received that reasons for the Commission's decision are not always given, the Executive Commissioner indicated that a written report is available to all parties as well as being available on the RPDC web site.

Recommendations

The Committee recommends that :

1. The function of RPDC be limited to ensuring that proper process has been followed and State policies adhered to in the preparation of planning schemes and planning scheme amendments.
2. Consideration be given to the chair of all RPDC hearings being a person with legal expertise. A minimum of three commissioners should sit at all hearings of the Commission.
3. Legislation be amended to provide for an appeal process to the RMPAT for all disagreements between councils and the RPDC in the preparation, assessment and approval of planning schemes and planning scheme amendments.
4. Provision be made for directions hearings and mediation in the approval of planning schemes and planning scheme amendments.
5. Stakeholders take steps to address the shortage of qualified planners by offering incentives such as scholarships.
6. A template planning ordinance be adopted to provide greater consistency between planning schemes.
7. Education in the area of planning be made mandatory for all elected members of councils within a prescribed time.
8. The RPDC be required to make a decision in relation to the approval of a planning scheme or a planning scheme amendment within a time limit consistent with those applying to other planning processes.
9. The State Government and the Local Government Association of Tasmania, through the Premier's Local Government Council, formulate a process for regional planning.

Role, procedures and practices of State Agencies

Chapter 4

(3) The role, procedures and practices of State agencies in the preparation, assessment and approval.

According to the State Government submission :

“Most agencies play a role in the provision of information and advice for consideration by Councils in relation to the preparation of planning schemes, strategic plans, planning scheme amendments and development applications. This advice is either part of a whole-of-government position through the Inter-Departmental Committee (IDC) on Planning or individually.

... Agencies, where possible, aim to work constructively with local government in terms of provision of advice for planning schemes and amendments in the early stages of their preparation to avoid unnecessary delays and conflict later in the process”.¹²¹

The Committee received evidence from many Councils disagreeing with this view. The Northern Midlands Council believes that, “... the greatest flaw in the system is the participation – or lack of – by State agencies”.¹²²

Although Councils follow a protocol which says they “are to engage with State agencies in the development of planning schemes,” it is difficult for them to do so effectively because they “...have great difficulty in terms of accessing what the fundamental priorities and policies of the State agencies are.”¹²³

Mr Steve Gray argues that “there is a role for state agencies in the preparation of local planning instruments ... The provision of information, advice and tools to assist effective and efficient local planning is neither consistent nor complete”.¹²⁴

The Kingborough Council believes that :

“State agencies are not available to give detailed information from their own data sources and expert advice either when Councils are drawing up a Scheme or amendments, or when expertise is needed in dealing appropriately with planning applications”.¹²⁵

¹²¹ State Government, 2 December 2005, p. 21.

¹²² Northern Midlands Council, Submission to the Legislative Council Select Committee on Planning Schemes, p. 2.

¹²³ Garcia, Allan, Transcript of Evidence, 4 July 2006, p. 16.

¹²⁴ Burnie City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005, p. 9.

¹²⁵ Kingborough Council, Submission to the Legislative Council Select Committee on Planning Schemes, 12 December 2005, p. 4.

The Devonport City Council written submission makes it clear that :

“State agencies have not delivered the policies upon which the RMPS relies. There has been ongoing concern and review in relation to this matter, which should be resolved, particularly as to whether there is a State policy vacuum in relation to planning schemes or not, and whether some clearer identification of the role of State government is required”.¹²⁶

The Meander Valley Council has similar views :

“Councils converse at a regional level as issues are often interdependent and across borders. Much of the confusion would appear to stem from inconsistency in regard to agency input on issues that are intrinsically linked”.¹²⁷

According to Mr Peter Fischer, the State Government has “the best information around, and that information should be in a form that is readily accessible to local government so they can plan better.”¹²⁸

The Government submission states that “the Department of Primary Industries, Water and Environment has recently established a planning unit within the Strategic Policy and Planning Division.”¹²⁹

The Land Use Planning Unit is to lead policy development in key strategic land use planning matters relating to the determination of planning policy and direction for the State. The Branch provides planning and policy advice to the Department, the Minister and Government (including Local Government) and provides leadership for major planning initiatives and projects.

DIER too has actively recruited staff with land use planning skills and experience in local Government processes in order to provide sound advice to local government.

...DIER is also planning to provide a consolidated set of information on planning issues to local government in relation to DIER's portfolio interests online through the IRIS website”.¹³⁰

It is hoped that the provision of information on planning issues to local government through this new process alleviates the concerns of these Councils.

¹²⁶ Devonport City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 9 December 2005, p. 4.

¹²⁷ Meander Valley Council, Submission to the Legislative Council Select Committee on Planning Schemes, 17 January 2006, p. 1.

¹²⁸ Fischer, Peter, Transcript of Evidence, 4 July 2006, p. 35.

¹²⁹ From the 5 April 2006, planning functions have been transferred to the Department of Justice.

¹³⁰ State Government, 2 December 2005, p. 22.

Conclusions

1. State agencies should, but do not, consistently play a major role in the preparation of planning schemes and planning scheme amendments. There is a role for state agencies in the preparation of planning schemes and planning scheme amendments by providing advice, data, detailed information and assistance.
2. There is a distinct need for the establishment of a central organisation within the State Government that is tasked with providing planning information to Councils. Councils need to be able to obtain an inter-agency view on planning issues and this is difficult under the current structure. The Strategic Policy and Planning Division does not seem to be functional in either the council or community arena. Although DIER has recruited staff to provide advice, there should be a one-stop shop providing inter-agency views.
3. Lack of qualified planning staff is a chronic problem across the state. There is potentially a significant role for State agencies to encourage the training of more planners and 'para-planners.'

Recommendations

The Committee recommends that :

1. State agencies be required to take a greater role in the preparation of planning schemes and planning scheme amendments.
2. The properly resourced department of state planning recommended in chapter two also contain a centralised electronic database of planning scheme maps.
3. Amongst initiatives undertaken by the State Government to address the shortage of qualified planners as recommended in chapter three, consideration be given to encouraging para-planners.

Resource Management and Planning Appeals Tribunal

The second reading of the *Resource Management and Planning Appeal Tribunal Bill 1993* provides details of how the Tribunal (RMPAT) should operate.

“...Specific provision is made for conferences to be conducted before a hearing is required, and it is the Government’s intention to establish support structures for the appeal tribunal which encourage the resolution of disputes without the need for adversarial proceedings.

The tribunal itself should operate in a way which is informal and designed to deal with the substantive issues rather than points of legal technicality. As a consequence, the tribunal is empowered to set to one side minor procedural or inconsequential difficulties, so that it can deal with the merits of a particular application.

Nonetheless, the tribunal will need to operate in a way which encourages participation, and there is an opportunity for people to be represented before the tribunal”.¹³¹

It is also made clear that the Tribunal is “...capable of dealing with all components of a development application. The nature of the body which is established and the powers conferred upon it are consistent with the need to ensure a speedy process coupled with appropriate opportunities for public involvement”.¹³²

¹³¹ Fletcher, Hon A.W., MLC, Hansard, Resource Management and Planning Appeal Tribunal Bill 1993, Second Reading, 12 August 1993, p. 112.

¹³² Ibid., p. 113.

Resource Planning and Development Commission

The RPDC has the following functions :

- to oversee the preparation and amendment of planning schemes;
- to evaluate and report to government on draft State policies;
- to carry out the integrated assessment of projects of State significance;
- to prepare five-yearly state of the environment reports; and
- to inquire into and make recommendations concerning questions in relation to the use of public lands which are referred to it by the minister.¹³³

The second reading speech for the *Resource Planning and Development Commission Act 1997* also stated that the Commission should be an independent body, which was "...essential if the operation of the resource management and planning system is to have the confidence of the community".¹³⁴

Schedule 1 of the *Resource Management and Planning Appeal Tribunal Act 1993* and the *Resource Planning and Development Commission Act 1997* states –

1. "The objectives of the resource management and planning system of Tasmania are –
 - (a) to promote the sustainable development of nature and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

2. In clause 1(a) –

"sustainable development" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which

¹³³ Fletcher, Hon A.W., MLC, Hansard, Resource Planning and Development Commission Bill 1997, Second Reading, 10 December 1997, pp. 1-2.

¹³⁴ Ibid., p. 2.

enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment”.¹³⁵

¹³⁵ *Resource Planning and Development Commission Act 1997*, pp. 8-9.

State Policy on the Protection of Agricultural Land

The State Policy on the Protection of Agricultural Land 2000 provides procedures which may impact on the preparation, assessment and approval of planning schemes and planning scheme amendments. The policy states :

1. PURPOSE

The State Policy on the Protection of Agricultural Land is to foster sustainable agricultural in Tasmania by ensuring the continued productive capacity of the State's agricultural land resource.

2. OBJECTIVES

2.1 To provide a consistent framework for planning decisions involving agricultural land by ensuring that the productive capacity of agricultural land is considered in all planning decisions.

2.2 To foster the sustainable development of agriculture in Tasmania by :

- (a) Enabling farmers to undertake agricultural activities without being unreasonably constrained by conflict with adjoining non-agricultural land users; and
- (b) Providing greater direction and certainty for landowners, developers, land managers and the community in planning decisions involving agricultural land.

3. PRINCIPLES

The following principles will guide outcomes that give effect to this Policy. No one principle should be read in isolation from the others to imply a particular action or consequence. The principles are :

1. Prime agricultural land is a resource to be protected from conversion to non-agricultural use and development.
2. Houses and other non-agricultural use and development and some intensive agricultural industries alienate prime agricultural land. A dwelling or other use or development may only be permitted on prime agricultural land where the provisions of a planning scheme have been reviewed to ensure it properly reflects the intent of the State Policy. The review is to be carried out by the planning authority, in conjunction with the Resource Planning and Development Commission.
3. Use or development of any building that is an integral part of an agricultural use on prime agricultural land will be determined to be consistent with this Policy.

4. Provision of public utilities or other infrastructure or a proposal of significant economic benefit to the region may cause prime agricultural land to be converted to non-agricultural use. Such conversion must :
 - (i) comply with the planning scheme or amendment; and
 - (ii) have the Resource Planning and Development Commission confirm there is an overriding need for a use or development for community benefit and a suitable alternative site is not available.
5. All agricultural land is a valuable resource for Tasmania. The protection of other than prime agricultural land from conversion to non-agricultural use will be determined through planning schemes.
6. Adjoining non-agricultural use and development should not unreasonably fetter agricultural uses.
7. Planning schemes will make provisions for the appropriate protection of the range of non prime agricultural lands within a specified irrigation scheme.

4. GUIDELINES

The Resource Planning and Development Commission may, with the approval of the Minister, issue guidelines consistent with the terms of this Policy and confined to assisting planning authorities in dealing with the implementation of the Policy. A planning authority must comply with any guideline that has been issued under this Policy.

5. TRANSITIONAL ARRANGEMENTS

Notwithstanding the Principles set out in clause 3 of this Policy, a planning authority has the discretion to approve, subject to appropriate land use planning considerations, an application for the construction of a house on a separate title provided that :

- a) the title was in existence at the commencement of the *Draft State Policy on the Protection of Agricultural Land 1999*; and
- b) the applicant is the same owner of the title or had entered into a legally binding contract to purchase the title prior to the commencement of the Policy; and
- c) the application for a permit is made prior to 1 January 2001.

6. AUTHORITY

This State Policy is prepared pursuant to the *State Policies and Projects Act 1993*.

7. APPLICATION

This Policy applies to all agricultural land in Tasmania.

8. DEFINITIONS

In this Policy, unless the contrary intention appears :

Agricultural land

“agricultural land” means all land that is in agricultural use or has the potential for agricultural use.

Agricultural uses

“agricultural uses” means animal and crop production and includes intensive tree farming and plantation forestry.

Land

“land” means land as defined in the *Land Use Planning and Approvals Act 1993*.

Planning scheme

“planning scheme” means any planning scheme in force under section 29 of the *Land Use Planning and Approvals Act 1993*.

Prime agricultural land

“prime agricultural land” means agricultural land classified or capable of being classified as Class 1, 2 or 3 land using the Class Definitions and methodology from the Land Capability Handbook, KE Noble 1992, Department of Primary Industry, Tasmania.

Specified irrigation schemes

South East Irrigation Scheme, Cressy-Longford Irrigation Scheme and Winnaleah Irrigation Scheme.

Land Use Planning and Approvals Act 1993 (No. 70 of 1993)**20. What can a planning scheme provide for?**

- (1) A planning scheme for an area –
- (a) must seek to further the objectives set out in Schedule 1 within the area covered by the scheme; and
 - (b) must be prepared in accordance with State Policies made under section 11 of the *State Policies and Projects Act 1993*; and
 - (c) may make any provision which relates to the use, development, protection or conservation of any land in the area; and
 - (d) must have regard to the strategic plan of a council referred to in Division 2 of Part 7 of the *Local Government Act 1993* as adopted by the council at the time the planning scheme is prepared; and
 - (e) must have regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
- (2) Without limiting subsection (1), a planning scheme may –
- (a) set out policies and specific objectives; and
 - (b) regulate or prohibit the use or development of any land; and
 - (c) designate land as being reserved for public purposes; and
 - (d)
 - (e) set out requirements for the provision of public utility services to land; and
 - (f) require specified things to be done to the satisfaction of the Commission, relevant agency or planning authority; and
 - (g) apply, adopt or incorporate any document which relates to the use, development or protection of land; and

- (h)** provide that any use or development of land is conditional on an agreement being entered into under Part 5; and
 - (ha)** set out provisions relating to the implementation in stages of uses or developments; and
 - (i)** provide for any other matter which this Act refers to as being included in a planning scheme; and
 - (j)** provide for an application to be made to a planning authority to bring an existing use of land that does not conform to the scheme into conformity, or greater conformity, with the scheme.
- (3)** Subject to subsections (4), (5) and (6), nothing in any planning scheme is to –
- (a)** prevent the continuance of the use of any land, upon which buildings or works are not erected, for the purposes for which it was being lawfully used before the coming into operation of the scheme; or
 - (b)** prevent the use of any building which was erected before that coming into operation for any purpose for which it was lawfully being used immediately before that coming into operation, or the maintenance or repair of such a building; or
 - (c)** prevent the use of any works constructed before that coming into operation for any purpose for which they were being lawfully used immediately before that coming into operation; or
 - (d)** prevent the use of any building or works for any purpose for which it was being lawfully erected or carried out immediately before that coming into operation; or
 - (e)** require the removal or alteration of any lawfully constructed buildings or works; or
 - (f)** prevent a development, which was lawfully commenced but not completed before the coming into operation of the scheme, from being completed within –
 - (i)** 3 years of that coming into operation; or
 - (ii)** any lesser or greater period specified in respect of the completion of that development under the terms of a permit granted before the coming into operation of the scheme.
- (3A)** Subject to subsections (4) and (6), nothing in a planning scheme is to prevent the reconstruction of a building, or restoration of

works, destroyed or damaged, which was or were integral and subservient to a lawfully established existing use that does not conform to the scheme if –

- (a) the destruction or damage was not caused intentionally by the owner of that building or those works; and
 - (b) the building or works was or were lawfully established before the coming into operation of the scheme.
- (4) Subsections (3) and (3A) do not apply to a use of land–
- (a) which has stopped for a continuous period of 2 years; or
 - (b) which has stopped for 2 or more periods which together total 2 years in any period of 3 years; or
 - (c) in the case of a use which is seasonal in nature, if the use does not take place for 2 years in succession.
- (5) Subsection (3) does not apply to the extension or transfer from one part of a parcel of land to another of a use previously confined to the first-mentioned part of that parcel of land.
- (6) Subsections (3) and (3A) do not apply where a use of any land, building or work is substantially intensified.
- (7) Nothing in any planning scheme or special planning order affects –
- (a) forestry operations conducted on land declared as a private timber reserve under the Forest Practices Act 1985; or
 - (b) the undertaking of mineral exploration in accordance with an exploration licence, or retention licence, issued under the *Mineral Resources Development Act 1995*, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice; or
 - (c) fishing; or
 - (d) marine farming in State waters.
- (7A) In subsection (7)(a), "forestry operations" includes the processes and works connected with –
- (a) the establishment of forests; and
 - (b) the growing of timber; and

- (c) the harvesting of timber; and
 - (d) land clearing, land preparation, burning off, road construction and associated quarry works conducted in relation to an activity specified in paragraph (a), (b) or (c).
- (8) The coming into operation of a planning scheme or a special planning order does not legitimize a use or development which was illegal under a planning scheme or a special planning order in force immediately before that coming into operation.
- (9) A planning scheme may require a use to which subsection (3) applies to comply with a code of practice approved or ratified by Parliament under an Act.
- (10) A planning scheme is not to prohibit or require a discretionary permit for the use or development of a proclaimed wharf area for port and shipping purposes.
- (11) Subsection (7)(d) does not apply in respect of the following:
- (a) any bridge, jetty, wharf, boathouse, shed, pipeline or other structure used in connection with marine farming that is constructed wholly or in part on, or above, the high water mark;
 - (b) a use or development on any accretion from the sea.
- (12) In this section –
- "fishing"** means fishing as defined in the *Living Marine Resources Management Act 1995* and conducted in accordance with that Act;
- "marine farming"** means marine farming as defined in the *Marine Farming Planning Act 1995* and conducted in accordance with that Act and the *Living Marine Resources Management Act 1995*;
- "proclaimed wharf area"** means the area of a wharf the boundaries of which have been defined, altered or redefined under the *Marine Act 1976* before the commencement of the *Port Companies Act 1997*;
- "State waters"** means State waters as defined in the *Living Marine Resources Management Act 1995*.

21. Co-ordination of planning schemes

- (1) Subject to section 20(1), a planning scheme for an area must, as far as practicable, be consistent with and co-ordinated with the planning schemes applying to adjacent areas and must have regard for the use and development of the region as an entity in environmental, economic and social terms.
- (2) A planning scheme that includes an area referred to in section 7(d) is to be prepared in consultation with the Marine and Safety Authority established under the *Marine and Safety Authority Act 1997*.

22. Initiation of preparation of draft planning schemes

- (1) A planning authority may prepare a draft planning scheme in respect of such area as it may determine.
- (2) The Commission may, with the approval of the Minister, give a written direction to a municipality to prepare a draft planning scheme in respect of the area specified in the direction and the municipality must prepare a draft planning scheme in accordance with the direction.
- (2A) The direction referred to in subsection (2) may require a municipality to prepare a draft planning scheme jointly with one or more municipalities if the Commission considers such a requirement would promote a regional approach to planning.
- (3)
- (4)
- (5)
- (6) An area in respect of which a planning scheme is prepared may comprise –
 - (a) the whole or any part, or parts, of a municipal district of the relevant municipality; and
 - (b) the whole or any part of the area referred to in section 7(d); and
 - (c) any area in that municipal district covered by an existing planning scheme or special planning order.

List of References

Abernethy, Ian, Group Manager Sustainability, Launceston City Council, Transcript of Evidence, 17 February 2006.

Aird MLC, Hon Michael, Hansard, Protection of Agricultural Land – Revocation of State Policy, 5 October 1999.

Alexander, Judy, Senior Forest Planner – Management, Forestry Tasmania, Transcript of Evidence, 13 June 2006.

Alomes, Greg, General Manager, Kingborough Council, Transcript of Evidence, 14 June 2006.

Ames, Stephen C, <http://www.asu.edu/caed/proceedings97/ames.html>.

Australian Institute of Building Surveyors – Tasmania, Submission to the Legislative Council Select Committee on Planning Schemes, 25 November 2005.

Braid, Mayor Ian, Kentish Council, Transcript of Evidence, 16 February 2006.

Brown, Ms Barbara, Transcript of Evidence, 15 February 2006.

Burnie City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005.

Circular Head Council, Submission to the Legislative Council Select Committee on Planning Schemes, 12 December 2005.

Clarence City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 29 November 2005.

Cleary, John, Transcript of Evidence, 16 June 2006.

Devonport City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 9 December 2005.

Dorset Council, Submission to the Legislative Council Select Committee on Planning Schemes, 28 November 2005.

Downie, Mayor Mike, Central Coast Council, Transcript of Evidence, 16 February 2006.

Edwards, Geraldine, Transcript of Evidence, 4 July 2006.

Ferrier, Andrew, Community Planning and Development, Kingborough Council, Transcript of Evidence, 14 June 2006.

Fischer, Peter, State Planning Adviser, Department of Primary Industries, Water and Environment, Transcript of Evidence, 2 December 2005.

Fischer, Peter, State Planning Adviser, Department of Justice, Transcript of Evidence, 4 July 2006.

Forrest MLC, Hon Ruth, Submission to the Legislative Council Select Committee on Planning Schemes.

Garcia, Allan, Chief Executive Officer, Local Government Association of Tasmania, Transcript of Evidence, 4 July 2006.

Gee, Derek and Noelene, Submission to the Legislative Council Select Committee on Planning Schemes, 16 November 2005.

Graham, Bob, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005.

Graham, Bob, Transcript of Evidence, 13 June 2006.

Green, Julian, Executive Commissioner, Resource Planning and Development Commission, Transcript of Evidence, 15 February 2006.

Hall MLC, Hon Greg, Hansard, 7 November 2005.

Fletcher MLC, Hon A W, Hansard, Resource Management and Planning Appeal Tribunal Bill 1993, Second Reading, 12 August 1993.

Fletcher MLC, Hon A W, Hansard, Resource Planning and Development Commission Bill 1997, Second Reading, 10 December 1997.

http://egov.oregon.gov/Aviation/docs/resources/CHAPTER_ONE.pdf.

Hyland, Mayor Kevin, Wynyard-Waratah Council, Transcript of Evidence, 15 February 2006.

State Government, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005.

Kentish Council, Submission to the Legislative Council Select Committee on Planning Schemes, 5 December 2005.

Kingborough Council, Submission to the Legislative Council Select Committee on Planning Schemes.

Launceston City Council, Submission to the Legislative Council Select Committee on Planning Schemes, 10 November 2005.

Lester Franks Survey and Geographic Pty Ltd, Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005.

Lester, Malcolm, Managing Director, Lester Franks Survey and Geographic Pty Ltd, Transcript of Evidence, 16 February 2006.

Lockhart, Sue, Submission to the Legislative Council Select Committee on Planning Schemes, 1 December 2005.

MacGregor, Andrew, Land Surveyor and Town Planner, East Coast Surveying, Transcript of Evidence, 17 February 2006.

McCall, Tony,
<http://www.questia.com/PM.qst;jsessionid=G62JTJWsch5n1jqV2Qjb3C85d5hZ011vNCXrg9cRVFqvH2GTGfDv!-1535404367?a=o&d=5001860037>.

McElwaine, Shaun, Transcript of Evidence, 17 February 2006.

Meander Valley Council, Submission to the Legislative Council Select Committee on Planning Schemes, 17 January 2006.

Murphy, Ross, Australian Institute of Building Surveyors – Tasmania, Transcript of Evidence, 16 February 2006.

Northern Midlands Council, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005.

Ogden, Stan, Planning Consultant, Devonport City Council, Transcript of Evidence, 6 June 2006.

Payton, Duncan, Senior Town Planner, Northern Midlands Council, Transcript of Evidence, 16 February 2006.

Planning Institute of Australia (Tasmanian Division), Submission to the Legislative Council Select Committee on Planning Schemes, 6 December 2005.

Property Council of Australia (Tasmania), Submission to the Legislative Council Select Committee on Planning Schemes, 30 November 2005.

Queensland Government – South East Queensland Infrastructure Plan and Program 2006, <http://www.oum.qld.gov.au?id=315>.

Queensland Government, Building a better future for South East Queensland – A guide to the SEQ Regional Plan and SEQ Infrastructure Plan, http://www.oum.qld.gov/docs/pdf/SEQRP_guide.pdf.

Resource Planning and Development Commission Act 1997.

Ruzicka, Eva, Submission to the Legislative Council Select Committee on Planning Schemes, 2 December 2005.

Ruzicka, Eva, Transcript of Evidence, 14 June 2006.

Sampson, Brian, Delegated Representative, Council of Hobart Progress Association, Transcript of Evidence, 13 June 2006.

Shedden, Andrew, Building Design Service, Transcript of Evidence, 6 June 2006.

Smith MLC, Hon Sue, Hansard, 7 November 2005.

Spencer, Anthony, Page Seager Lawyers, Submission to the Legislative Select Committee on Planning Schemes, 5 December 2005

Tremayne, Jeff, Solicitor, Transcript of Evidence, 13 June 2006.

Tucker, Peter, President, Planning Institute of Australia (Tasmanian Division), Transcript of Evidence, 14 June 2006.

Viney, Dene and Mary, Submission to the Legislative Council Select Committee on Planning Schemes, 28 November 2005.

Wardlaw, Stuart, Executive Director, Property Council of Australia (Tasmania), Transcript of Evidence, 13 June 2006.

List of Witnesses Attachment 1

Australian Institute of Building Surveyors - Tasmania
Banim, Mr Declan
Bannon, Mr Geoff
Barwick, Mr Andrew
Bassett, Mr David
Blinkhorn, Mr Rodney
Bramich, Mr G
Brown, Mrs Barbara
Building Design Service
Central Coast Council
Circular Head Council
Cleary, Mr John
Council of Hobart Progress Association
Devonport City Council
Dickson, Mr Hugh
East Coast Surveying
Edwards, Mr Chris and Mrs Geraldine
Forest Industries Association of Tasmania
Forestry Tasmania
French, Mr Bill
Gill, Mr Bob and Mrs Yvonne
Graham, Mr Bob
Hiscutt, Mr Benjamin
Housing Industry Association Ltd
Hunt, Ms Dionne
Jackson, Mr Athol
Kemp, Mr Paul
Kentish Council
Kingborough Council
Knox, Mr Johnathan
Launceston City Council
Lester Franks Survey & Geographic Pty Ltd
Local Government Association of Tasmania
McElwaine, Mr Shaun
McKinnon, Mr Hugh
Meander Resource Management Group
New Town Community Association
Northern Midlands Council
Parker, Mr Wayne and Mrs Keitha
Planning Institute of Australia (Tasmanian Division)
Property Council of Australia (Tasmanian Division)
Ransley, Mr Francis
Resource Planning and Development Commission
Reuter, Mr Horst and Mrs Carmen
Ruzicka, Ms Eva
Skeggs, Mr Glenn
Smith, Mr St John and Mrs Sylvia
State Government

Sydney Subdivision Pty Ltd
Tasmanian Farmers' and Graziers' Association
Tibble, Mr Michael and Mrs Terrence
Tremayne, Mr Jeff
Viney, Mr Dene and Mrs Mary
von Bibra, Mr Colin and Mrs Joan
Walsh, Mr Kay and Mrs Shirley
Waratah-Wynyard Council
Wragg, Mr Dennis

PLUS ONE PRIVATE WITNESS

Written submissions taken into evidence Attachment 2

Australian Institute of Building Surveyors – Tasmania
 Banim, Mr Declan and Dickson, Mr Hugh
 Bassett, Mr David and Mrs Diane
 Bramich, Mr G C
 Brown, Ms Barbara
 Burnie City Council
 Carr, Mr Gregory
 Circular Head Council
 Clarence City Council
 Council of Hobart Progress Association
 Dargavel, Mr M C
 Davies, F L & S D
 Devonport City Council
 Dorset Council
 East Coast Surveying
 Elphinstone, Mr Wally and Mrs Kay
 Forest Industries Association of Tasmania
 Forestry Tasmania
 Forrest MLC, Hon Ruth
 French, Mr W A
 Gee, Mr Derek and Mrs Noelene
 Gill, Mr Bob and Mrs Yvonne
 Graham, Mr Bob
 Hiscutt, Mr Benjamin
 Housing Industry Association Ltd Tasmania
 Hunt, Ms Dionne
 Jackson, Mr Athol
 Kelly, Mr George
 Kentish Council
 Kingborough Council
 Knox, Mr Jonathan
 Latham, Mr Monte
 Launceston City Council
 Lester Franks Survey & Geographic Pty Ltd
 Lockhart, Ms S
 McGlade, Mr Mark and Mrs Paula
 McShane, Mr Don
 Meander Resource Management Group – Timber Communities Australia
 Meander Valley Council
 Neilson, R E & R M
 New Town Community Association Inc
 Northern Midlands Council
 Page Seager Lawyers
 Parker, Mr Wayne and Mrs Keitha and Bannon, Mr Geoff
 Parsons, Mr Phillip
 Partridge, Mr Ken
 Planning Institute Australia Tasmanian Division
 PRDnationwide Trevor Spinks

Property Council of Australia (Tasmanian Division)
 Reuter, Mr Horst and Mrs Carmen
 Roberts Real Estate Burnie
 Roberts Real Estate Wynyard
 Ruzicka, Ms Eva
 Skeggs, Mr Glenn, Skeggs, Mr Brian and Mrs Rhona and Barwick, Mr
 Andrew and Mrs Jan
 Smith, Mr St John and Mrs Sylvia
 State Government
 Stevenson, Mr Graeme
 Sydney Subdivision Pty Limited
 Thomson, Ms Judith
 Tibble, Mr Michael and Mrs Terence
 Tucker, Mr John
 Viney, Mr Dene and Mrs Mary
 von Bibra, Mr Colin and Mrs Joan
 Walsh, Mr Kay and Mrs Shirley
 Waratah-Wynyard Council
 West Tamar Council

Documents taken into Evidence

Attachment 3

Submission by the Minister for Environment and Planning – 2 December 2005

Better Planning Outcomes – Response Report – November 2005

Letter dated 23 December 2005 from Judy Jackson MHA, Minister for Environment and Planning providing the Committee with additional information requested at the hearing on 2 December 2005

Letter dated 26 December 2005 from Gregory J Carr to Mr Julian Green, Executive Commissioner, Resource Planning and Development Commission regarding Draft Clarence Planning Scheme 2002 – Carr Family Trust

Title of Land

Letter of support dated 17/8/05

Land Capability Assessment

Letter from RJ Gill

Letter dated 24 April 1991 from Crisp, Hudson and Mann

Building Approval

Development Application

Tribunal Submission

Tribunal Decision

Subdivision Application

Schedule of Easements

Correspondence re Subdivision Proposal

Certificate of Consent

Survey Proposal Plan

Central Coast Council Minutes

Newspaper clipping

LISTmap x 2

Waratah-Wynyard Council Strategic Plan

References to Resource Management and Planning Appeal Tribunal

Definition of 'extortion'

Letter dated 1 June 2005 from Ian Guest and Associates

Income v Land Prices for Robert J Gill

Resource Management and Planning Appeal Tribunal Decision

Appeal No 293/00 P

Class Definitions

Building Approval

Land Tax Assessment 2005/06

Waratah-Wynyard Council – Notice of Rates

Certificate of Title

Plan of Survey

Description of Land

Septic tank System

Plan of Proposed Dwelling – approved

Letter to Waratah-Wynyard Council – Colin and Elizabeth Kaye

Land Capability Assessment – Colin and Elizabeth Kaye

Certificate of Liabilities – Colin and Elizabeth Kaye

Letter from Waratah-Wynyard Council – Colin and Elizabeth Kaye

Additional points re submission

Zoning – H & C Reuter – 325 Lake Barrington Road

Plan of Subdivision

Proposed Subdivision 1/3

Proposed Subdivision 2/3

LISTmap

Letter to Jim Upchurch from Roberts

Email from Malcolm Lester to Kerry Boden

Map – Mountford Development Plan

Proposal to amend the Northern Midlands Planning Scheme

Submission to the Legislative Council Select Committee on Planning Schemes

Draft – A Leading Practice Model for Development Assessment in Australia – March 2005

Notes for hearing

Land Capability Assessment for DM Bassett

Letter dated 15 March 2006 to Athol Jackson from Steven Kons re properties affected by the Protection of Agricultural land policy

Letter dated 15 March 2006 to Waratah/Wynyard Councillors from Bryan Green regarding a letter of support for 301 Pages Road – Development Application

Third page of a letter from Kevin Hyland, Mayor regarding state policy on agricultural land

Email dated 19 May 2006 to all Councils from Iris Goetzki attaching a media

release by Minister Kons – Councils warned on planning decisions

Letter dated 16 December 2005 to Mr Paul Kemp from Bryan Green re land off Stowport Road

“Aldermen rail against State rural land policy”, The Advocate, Wednesday, May 17, 2006

Letter dated 16 November 2005 to Mr Bryan Green MHA from the Burnie City Council re land off Stowport Road – Mr Paul Kemp

Letter dated 23 September 2005 to Mr Paul Kemp from Burnie City Council re land off Stowport Road

Submission to Legislative Council Select Committee on Planning Schemes, dated 5 June 2006

Certificate of Title – land at Stowport

Letter dated 10 August 2005 from Davey and Maynard, Agricultural and Resource Management Consulting to Mr Paul Kemp re Land Capability Assessment – Stowport Road, Stowport

Housing Industry Association – Tasmania Member Survey 2006

Notes – Planning System

Record of History of RZ05/04 Rezoning Applications in respect of CT135401 Folios 2 and 3 – Geraldine L Edwards

Response to Legislative Council Select Committee on Planning Schemes – July 2006

Local Government KPIs – 04/05 – Planning and Development

LEGISLATIVE COUNCIL SELECT COMMITTEE**PLANNING SCHEMES****MINUTES****THURSDAY, 13 OCTOBER 2005**

The Committee met at 10.02 o'clock am in Committee Room No. 3, Parliament House, Hobart.

Members Present Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Order of Parliament :

The Order of the Parliament appointing the Committee dated 12 October 2005, having been circulated, was taken as read.

Election of the Chair :

Mr Hall was elected Chair and took the Chair.

Business :***Resolved :***

- (a) That witnesses be heard under Statutory Declaration.
- (b) That evidence be recorded verbatim unless otherwise ordered by the Committee.
- (c) That advertisements be inserted in the public notice section of the three daily Tasmanian newspapers on Saturday, 22 October and the Tasmanian Country and Tourism Council newsletter and that receipt of written submissions be conditioned for closure on Friday, 2 December 2005. A copy of the advertisement is attached.
- (d) That the Secretary send invitations to make submissions to :

Minister for Environment and Planning
Minister for Infrastructure, Energy and Resources
All Local Councils
Local Government Association of Tasmania
Tasmanian Farmers and Graziers' Association
Property Council of Tasmania

Leah Morris (former Commissioner RPDC)
 Don Armstrong – solicitor
 Sean McElwain – solicitor
 Stephen Escourt – solicitor
 Anthony Spence – solicitor
 Brian Stace – solicitor
 Anglican Parish Council – Devonport
 Housing Industry Association
 Surveyors' Institute
 Engineers' Institute
 Local Government Managers – Paul West President
 Master Builders' Association
 Forestry Tasmania
 Private Forests Tasmania
 Forest Industries Association
 Sullivans Cove Association
 Tasmanian Heritage Council

Future Program :

The Committee discussed its future program and agreed to request the Department to give evidence in relation to the Better Planning paper in December. It was also agreed that further hearings take place in February 2006.

Other Business :

The Committee discussed the appointment of a Technical/Research Officer to assist the Committee. It was agreed that this matter be considered further in December.

Resolved, That the Parliamentary Research Service be requested to provide a background on planning schemes in other states and New Zealand by 2 December 2005.

At 10.34 o'clock am the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

FRIDAY, 2 DECEMBER 2005

The Committee met at 9.55 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-

Wagner.

Confirmation of Minutes :

The Minutes of the meeting held on Thursday, 13 October 2005 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received -

- Letter dated 2 November 2005 from the Sullivans Cove Waterfront Authority advising that the Authority does not have anything to contribute to the Committee.
- Letter dated 3 November 2005 from the Clarence City Council advising that the Council would be providing a written and verbal submission.
- Letter dated 3 November 2005 from the Tasman Council advising that the Council would be providing a written submission.

Submissions and Requests to give Verbal Evidence :

Resolved, That the following Submissions and Requests be tabled -

- (1) Kentish Council
- (2) Shaun McElwaine
- (3) Launceston City Council
- (4) Chris Edwards
- (5) Athol C. Jackson
- (6) DR & NL Gee
- (7) RJ & YM Gill
- (8) Ken Partridge
- (9) D & M Viney
- (10) K & S Walsh
- (11) Dorset Council
- (12) John Tucker
- (13) Philip Parsons
- (14) George Kelly
- (15) Trevor Spinks
- (16) Malcolm Lester
- (17) MJ Latham
- (18) Waratah-Wynyard Council
- (19) Paula and Mark McGlade
- (20) GC Bramich
- (21) MC Dargavel
- (22) Andrew MacGregor
- (23) Building Design Service
- (24) Glenn Skeggs, Brian & Rhona Skeggs and Andrew and Jan Barwick
- (25) Australian Institute of Building Surveyors
- (26) St John Smith

- (27) Don McShane
- (28) Barbara Brown
- (29) Hugh McKinnon
- (30) Clarence City Council
- (31) RJ Graham
- (32) Central Coast Council
- (33) Council of Hobart Progress Association
- (34) New Town Community Association Inc
- (35) FL & SD Davies

The Committee suspended at 9.57 o'clock am.

The Committee resumed at 10.00 o'clock am.

Public Hearing :

MR KIM EVANS AND MR PETER FISCHER on behalf of the Department for Planning and Environment were called, made the statutory declaration and were examined.

Documents Tabled :

- Submission by the Minister for Environment and Planning – 2 December 2005
- Better Planning Outcomes – Response Report – November 2005

The witnesses withdrew.

Future Program :

The Committee discussed its future program and agreed to hold public hearings in the week commencing Monday, 20 February 2006 with 30 minutes allocated for individuals and 45 minutes for organisations.

Other Business :

The Committee again discussed the appointment of a Technical/Research Officer to assist the Committee.

Resolved, That the President's approval be sought to appoint Mr Geoff Squibb as a Research/Technical Officer to assist the Committee.

The Committee discussed the RPDC's role in the inquiry as raised by *Mr Harriss*.

At 11.20 o'clock am the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES**WEDNESDAY, 15 FEBRUARY 2006**

The Committee met at 8.45 o'clock am in Council Chamber, Waratah-Wynyard Council, 21 Saunders Street, Wynyard

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Mr Squibb was present.

Confirmation of Minutes :

The Minutes of the meeting held on Friday, 2 December 2005 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received -

- Letter dated 30 November 2005 from Brian Edwards, President of The Institute of Public Works Engineering Australia (Tasmanian Division) thanking the Committee for inviting IPWEA to participate.
- Letter dated 9 December 2005 from Don Wing MLC, President of the Legislative Council advising of approval for Mr Geoff Squibb's appointment of Research/Technical Officer to the Committee.

Submissions and Requests to give Verbal Evidence :

Resolved, That the following Submissions and Requests be tabled -

- (36) State Government
- (37) Roberts Real Estate Burnie
- (38) Roberts Real Estate Wynyard
- (39) Ms Dionne Hunt
- (40) Property Council of Australia (Tasmania)
- (41) JND Consultancy Services
- (42) Burnie City Council
- (43) Alderman Eva Ruzicka
- (44) Forest Industries Association of Tasmania
- (45) Ronald & Rita Nelson
- (46) Jonathan Knox
- (47) Joan and Colin von Bibra
- (48) Mr Bill French
- (49) Northern Midlands Council
- (50) West Tamar Council
- (51) Ms S Lockhart
- (52) Page Seager Lawyers

- (53) PlanningInstitute Australia (Tasmanian Division)
- (54) Meander Resource Management Group - TIMBER
COMMUNITES AUSTRALIA
- (55) Rodney Blinkhorn
- (56) Devonport City Council
- (57) Housing Industry Association Ltd
- (58) Kingborough Council
- (59) Ruth Forrest MLC
- (60) Circular Head Council
- (61) Benjamin and Leonie Hiscutt
- (62) Forestry Tasmania
- (63) Michael and Terrence Tibble
- (64) Judith Thomson
- (65) Gregory Carr
- (66) Carmen and Horst Reuter
- (67) Sydney Subdivision Pty Limited
- (68) David and Diane Bassett
- (69) Meander Valley Council

Documents :

Resolved, That the following documents be received -

- Letter dated 23 December 2005 from Judy Jackson MHA, Minister for Environment and Planning providing the Committee with additional information requested at the hearing on 2 December 2005.
- Letter dated 26 December 2005 from Gregory J Carr to Mr Julian Green, Executive Commissioner, Resource Planning and Development Commission regarding Draft Clarence Planning Scheme 2002 – Carr Family Trust.

The Committee suspended at 8.52 o'clock am.

The Committee resumed at 9.00 o'clock am.

Public Hearings :

MS DIONNE HUNT was called, made the statutory declaration and was examined.

The witness withdrew.

MR DENE AND MRS MARY VINEY were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 9.32 o'clock am.

The Committee resumed at 9.35 o'clock am.

MR ATHOL JACKSON was called, made the statutory declaration and was

examined.

The witness withdrew.

MR ST JOHN AND MRS SYLVIA SMITH were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR KAY AND MRS SHIRLEY WALSH were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 10.30 o'clock am.
The Committee resumed at 11.00 o'clock am.

MR DENNIS WRAGG was called, made the statutory declaration and was examined.

The witness withdrew.

MRS BARBARA BROWN was called, made the statutory declaration and was examined.

The witness withdrew.

MAYOR HYLAND AND MR JOHN STRETTON, on behalf of the Waratah-Wynyard Council were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 12.38 o'clock pm.
The Committee resumed at 2.00 o'clock pm.

MR MICHAEL PURVES, on behalf of Circular Head Council was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 2.45 o'clock pm.
The Committee resumed at 3.15 o'clock pm.

MR BILL FRENCH was called, made the statutory declaration and was examined.

The witness withdrew.

MR BENJAMIN HISCUTT was called, made the statutory declaration and was

examined.

The witness withdrew.

MR G BRAMICH was called, made the statutory declaration and was examined.

The witness withdrew.

MR BOB AND YVONNE GILL were called, made the statutory declaration and were examined.

The witnesses withdrew.

Papers Tabled :

- Title of land (39)
- Letter of support dated 17/8/05 (39)
- Land Capability Assessment (39)
- Letter from RJ Gill (39)
- Letter dated 24 April 1991 from Crisp, Hudson and Mann (39)
- Building Approval (39)
- Development Application (5)
- Tribunal Submission (26)
- Tribunal Decision (26)
- Subdivision Application (28)
- Schedule of Easements (28)
- Correspondence re Subdivision Proposal (28)
- Certificate of Consent (28)
- Survey Proposal Plan (28)
- Central Coast Council Minutes (28)
- Newspaper clipping (28)
- LISTmap x 2 (28)
- Waratah-Wynyard Council Strategic Plan (18)
- References to Resource Management and Planning Appeal Tribunal (7)
- Definition of 'extortion' (7)
- Letter dated 1 June 2005 from Ian Guest and Associates (7)
- Income v Land Prices for Robert J Gill (7)
- Resource Management and Planning Appeal Tribunal Decision (7)
- Appeal No 293/00 P (7)
- Class Definitions (7)
- Building Approval (7)
- Land Tax Assessment 2005/06 (7)
- Waratah-Wynyard Council – Notice of Rates (7)
- Certificate of Title (7)
- Plan of Survey (7)
- Description of Land (7)
- Septic tank System (7)

- Plan of Proposed Dwelling – approved (7)

Submissions Received :

Resolved, That the following submissions be received –

- (9) Dene and Mary Viney
- (70) Graeme Stevenson
- (71) Wally and Kay Elphinstone

Documents Received :

Resolved, That the following documents be received –

- Letter to Waratah-Wynyard Council - Colin and Elizabeth Kaye
- Land Capability Assessment - Colin and Elizabeth Kaye
- Certificate of Liabilities - Colin and Elizabeth Kaye
- Letter from Waratah-Wynyard Council - Colin and Elizabeth Kaye

Business :

The Committee discussed issues to be considered for the Committee Report.

At 5.00 o'clock pm the Committee adjourned until 9.15 o'clock am on Thursday, 16 February 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

THURSDAY, 16 FEBRUARY 2006

The Committee met at 9.30 o'clock am in the Council Chamber, Kentish Council, High Street, Sheffield.

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Mr Squibb was present.

PUBLIC HEARINGS :

MR HUGH DICKSON AND MR DECLAN BANIM were called, made the statutory declaration and were examined.

The witnesses withdrew.

MAYOR IAN BRAID was called, made the statutory declaration and was examined.

The witness withdrew.

MR HORST AND MRS CARMEN REUTER were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 10.53 o'clock am.
The Committee resumed at 11.02 o'clock am.

MR RODNEY BLINKHORN was called, made the statutory declaration and was examined.

The witness withdrew.

MR MICHAEL AND TERRENCE TIBBLE were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR WAYNE AND MRS KEITHA PARKER AND MR GEOFF BANNON were called, made the statutory declaration and were examined.
The witnesses withdrew.

The Committee suspended at 11.45 o'clock am.
The Committee resumed at 12.00 o'clock noon.

MAYOR MIKE DOWNIE, DEPUTY MAYOR BRIAN ROBERTSON AND COUNCILLOR WARREN BARKER, on behalf of the Central Coast Council were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 12.50 o'clock pm.
The Committee resumed at 3.00 o'clock pm in the Community Lounge, Longford Baptist Church, 139 Wellington Street, Longford.

PUBLIC HEARINGS :

MR STEVE BRAMICH AND MR ROSS MURPHY, on behalf of the Australian Institute of Building Surveyors, were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR MALCOLM LESTER was called, made the statutory declaration and was examined.

The witness withdrew.

MR DUNCAN PAYTON on behalf of the Northern Midlands Council was called, made the statutory declaration and was examined.

The witness withdrew.

Submissions Received :

Declan Banim
Hugh Dickson

Papers Tabled :

- Additional points re submission (66)
- Zoning – H & C Reuter – 325 Lake Barrington Road (66)
- Plan of Subdivision (32)
- Proposed Subdivision 1/3 (32)
- Proposed Subdivision 2/3 (32)
- LISTmap (32)
- Letter to Jim Upchurch from Roberts (32)
- Email from Malcolm Lester to Kerry Boden (16)

At 5.45 o'clock pm the Committee adjourned until 8.50 o'clock am on Friday, 17 February 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

FRIDAY, 17 FEBRUARY 2006

The Committee met at 9.03 o'clock am in the Community Lounge, Longford Baptist Church, 139 Wellington Street, Longford.

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Mr Squibb was present.

PUBLIC HEARINGS :

MR IAN ABERNETHY, on behalf of the Launceston City Council, was called, made the statutory declaration and was examined.

The witness withdrew.

MR SHAUN MCELWAINÉ was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 10.32 o'clock am.
The Committee resumed at 10.36 o'clock am.

MR HUGH McKINNON was called, made the statutory declaration and was examined.

The witness withdrew.

MR JOHNATHAN KNOX was called, made the statutory declaration and was examined.

The witness withdrew.

MR ANDREW MACGREGOR was called, made the statutory declaration and was examined.

The witness withdrew.

Papers Tabled :

- Map – Mountford Development Plan (29)
- Proposal to amend the Northern Midlands Planning Scheme (29)

At 12.05 o'clock pm the Committee adjourned due to the dissolution of the House of Assembly and the prorogation of the Legislative Council.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

WEDNESDAY, 31 MAY 2006

The Committee met at 10.03 o'clock am in Committee Room No. 3, Parliament House, Hobart.

Members Present : Mr Hall, Mrs Smith and Mrs Rattray-Wagner.

Order of Parliament :

The Order of the Parliament appointing the Committee dated 30 May 2006, having been circulated, was taken as read.

Election of the Chair :

Mr Hall was elected Chair and took the Chair.

Mr Harriss took his place.

Future Program :

The Committee discussed its future program and agreed to complete the public hearings on the following dates –

Tuesday, 6 June or Wednesday, 7 June – Launceston

Tuesday, 13 June at 1 pm – Hobart

Friday, 16 June at 9 am – Hobart

The Secretary was requested to advise the Department of a possible further hearing on Tuesday, 4 July at 1 pm, and also advise the RPDC of a possible hearing at 3 pm on that day.

Other Business :

The Secretary was asked to request Mr Squibb to provide details of issues to be answered by the Department and the RPDC.

At 10.30 o'clock am the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

TUESDAY, 6 JUNE 2006

The Committee met at 10.54 o'clock am in the Conference Room, 4th Floor, Henty House, One Civic Square, Launceston.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Smith* and Mrs *Rattray-Wagner*.

Mr Squibb was present.

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 31 May 2006 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received -

Letter and attachments dated 29 May 2006 from Mr Graham Nott regarding the policy for the protection of agricultural land.

Public Hearings :

MR ANDREW SHEDDEN was called, made the statutory declaration and was examined.

The witness withdrew.

MR RODNEY STAGG on behalf of the Meander Resource Management Group was called, made the statutory declaration and was examined.

The witness withdrew.

MR FRANCIS RANSLEY was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 12.50 o'clock pm.

The Committee resumed at 2.00 o'clock pm.

MR DAVID BASSETT was called, made the statutory declaration and was

examined.

The witness withdrew.

MR PAUL KEMP was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 2.43 o'clock pm
The Committee resumed at 2.58 o'clock pm

MS ANGELA CASTLES AND MR STAN OGDEN, on behalf of the Devonport City Council were called, made the statutory declaration and were examined.

The witnesses withdrew.

Tabled Documents :

- Notes for hearing (23)
- Land Capability Assessment for DM Bassett (68)
- Letter dated 15 March 2006 to Athol Jackson from Steven Kons re properties affected by the Protection of Agricultural land policy (74)
- Letter dated 15 March 2006 to Waratah/Wynyard Councillors from Bryan Green regarding a letter of support for 301 Pages Road – Development Application (74)
- Third page of a letter from Kevin Hyland, Mayor regarding state policy on agricultural land (74)
- Email dated 19 May 2006 to all Councils from Iris Goetzki attaching a media release by Minister Kons – Councils warned on planning decisions (74)
- Letter dated 16 December 2005 to Mr Paul Kemp from Bryan Green re land off Stowport Road (75)
- “Aldermen rail against State rural land policy”, The Advocate, Wednesday, May 17, 2006 (75)
- Letter dated 16 November 2005 to Mr Bryan Green MHA from the Burnie City Council re land off Stowport Road – Mr Paul Kemp (75)
- Letter dated 23 September 2005 to Mr Paul Kemp from Burnie City Council re land off Stowport Road (75)
- Submission to Legislative Council Select Committee on Planning Schemes, dated 5 June 2006 (75)
- Certificate of Title – land at Stowport (75)
- Letter dated 10 August 2005 from Davey and Maynard, Agricultural and Resource Management Consulting to Mr Paul Kemp re Land Capability Assessment – Stowport Road, Stowport (75)

At 3.55 o'clock pm the Committee adjourned until 1.00 o'clock pm on Tuesday, 13 June 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

TUESDAY, 13 JUNE 2006

The Committee met at 1.00 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 6 June 2006 were confirmed as a true and accurate record.

Election of Deputy Chair :

Resolved, That Mr Harriss be appointed Deputy Chair.

Public Hearings :

MR STUART WARDLAW, on behalf of the Property Council of Australia (Tasmanian Division) was called, made the statutory declaration and was examined.

The witness withdrew.

MR GLENN SKEGGS, MR ANDREW BARWICK AND MR JEFF TREMAYNE were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR BOB GRAHAM was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 3.15 o'clock pm.
The Committee resumed at 3.30 o'clock pm.

MR BRIAN SAMPSON, on behalf of the Council of Hobart Progress Association was called, made the statutory declaration and was examined.

MR BRIAN SAMPSON, on behalf of the New Town Community Association

was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 4.15 o'clock pm.

The Committee resumed at 4.30 o'clock pm.

DR HANS DRIELSMA AND JUDY ALEXANDER, on behalf of Forestry Tasmania were called, made the statutory declaration and were examined.

The witnesses withdrew.

Documents Tabled :

- Submission to the Legislative Council Select Committee on Planning Schemes (24)
- Draft – A Leading Practice Model for Development Assessment in Australia – March 2005 (33)

At 5.15 o'clock pm the Committee adjourned until 8.45 am on Wednesday, 14 June 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

WEDNESDAY, 14 JUNE 2006

The Committee met at 8.55 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Smith* and Mrs *Ratray-Wagner*.

Mr Squibb was present.

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 13 June 2006 were confirmed as a true and accurate record.

Public Hearings :

EVA RUZICKA was called, made the statutory declaration and was examined.

The witness withdrew.

COLIN AND JOAN VON BIBRA were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 9.55 o'clock am.

The Committee resumed at 10.02 o'clock am.

PETER TUCKER, on behalf of the Planning Institute of Australia (Tasmanian Division) was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 10.45 o'clock am.

The Committee resumed at 10.50 o'clock am.

GREG ALOMES AND TONY FERRIER, on behalf of the Kingborough Council were called, made the statutory declaration and were examined.

The witnesses withdrew.

At 11.35 o'clock am the Committee adjourned until Friday, 16 June 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

FRIDAY, 16 JUNE 2006

The Committee met at 8.53 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Hall, Mr Harriss, Mrs Smith and Mrs Rattray-Wagner.

Mr Squibb was present.

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 14 June 2006 were confirmed as a true and accurate record.

Business :

Resolved, Mr Squibb to list suggested issues for inclusion in the Committee's report.

Public Hearings :

MR STUART CLUES AND MS FIONA NIELD, on behalf of the Housing Industry Association Ltd were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR JOHN CLEARY was called, made the statutory declaration and was examined.

The witness withdrew.

Tabled Documents :

Housing Industry Association – Tasmania Member Survey 2006 (57)

Other Business :

Resolved, That the TFGA and LGAT be invited again to give evidence to the Committee.

At 10.45 o'clock am the Committee adjourned until Wednesday, 21 June 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE**PLANNING SCHEMES****MINUTES****WEDNESDAY, 21 JUNE 2006**

The Committee met at 8.55 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Smith* and Mrs *Ratray-Wagner*.

Mr Squibb was present.

Confirmation of Minutes :

The Minutes of the meeting held on Friday, 16 June 2006 were confirmed as a true and accurate record.

Business :

Resolved, That Mr Terry Edwards, Forest Industries Association of Tasmania be permitted to provide written and/or verbal evidence if requested.

The Committee suspended at 8.58 o'clock am.
The Committee resumed at 9.05 o'clock am.

Public Hearings :

MR BENJAMIN CHOW, on behalf of Sydney Subdivision Pty Ltd was called, made the statutory declaration and was examined.

The witness withdrew.

MS KATY HOBBS AND MR DARREN DAVIS, on behalf of the Forest Industries Association of Tasmania were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR GREG BRADFIELD AND MR IAN WHYTE, on behalf of the Tasmanian Farmers' and Graziers' Association were called, made the statutory declaration and were examined.

The witnesses withdrew.

At 10.55 o'clock am the Committee adjourned until 10.45 o'clock am on Tuesday, 4 July 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

TUESDAY, 4 JULY 2006

The Committee met at 10.48 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Smith* and Mrs *Rattray-Wagner*.

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 21 June 2006 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 21 June 2006 from Mr Greg Bradfield, Tasmanian Farmers and Graziers Association documenting the main points of the hearing.
- Letter dated 22 May 2006 from Coral Blenkhorn re State Protection of Agricultural Land Policy.
- Letter dated 24 June 2006 from the Blackmans Bay Progress Association Inc re planning schemes.

The Committee suspended at 10.52 o'clock am.
The Committee resumed at 11.00 o'clock am.

Public Hearings :

MR CHRIS AND MRS GERALDINE EDWARDS were called, made the statutory declaration and were examined.

The witnesses withdrew.

MR ALAN GARCIA, on behalf of the Local Government Association, was called, made the statutory declaration and was examined.

The witness withdrew.

The Committee suspended at 12.38 o'clock pm.
The Committee resumed at 1.00 o'clock pm.

Business :

The Committee discussed questions to ask the State Government officers and the RPDC.

Public Hearings :

MR PETER FISCHER AND MS LISA HUTTON, on behalf of the State Government were called, made the statutory declaration and were examined.

The witnesses withdrew.

The Committee suspended at 2.30 o'clock pm.
The Committee resumed at 3.25 o'clock pm.

MR JULIAN GREEN, on behalf of the Resource Planning and Development Commission was called, made the statutory declaration and was examined.

The witness withdrew.

Documents Tabled :

- Notes – Planning System (4)
- Record of History of RZ05/04 Rezoning Applications in respect of CT135401 Folios 2 and 3 – Geraldine L. Edwards (4)

- Response to Legislative Council Select Committee on Planning Schemes – July 2006
- Local Government KPIs – 04/05 – Planning and Development

Other Business :

Resolved, That the Chair write to the RPDC asking “Do any RPDC members act as consultants and if they do should they be allowed to make decisions on matters over which they have been paid?”

At 5.15 o'clock pm the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE**PLANNING SCHEMES****MINUTES****THURSDAY, 24 AUGUST 2006**

The Committee met at 2.08 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr Hall, Mr Harriss, Mrs Rattray-Wagner and Mrs Smith.

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 4 July 2006 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 10 July 2006 from Julian Green, Executive Commissioner, Resource Planning and Development Commission seeking further clarification in relation to the Chair's letter dated 5 July and the Chair's response dated 18 July.
- Letter dated 1 August 2006 from Julian Green, Executive Commissioner, Resource Planning and Development Commission regarding the Chair's letter dated 18 July.

Resolved, That the draft letter responding to Julian Green be approved by the Clerk prior to sending.

Report Deliberations :

The Committee considered Draft Report No. 1.

The Committee suspended at 3.28 o'clock pm.
The Committee resumed at 3.52 o'clock pm.

The Committee further considered Draft Report No. 1.

Mr Harriss withdrew at 5.30 o'clock pm.

At 6.20 o'clock pm the Committee adjourned until a date to be determined.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

MONDAY, 2 OCTOBER 2006

The Committee met at 11.20 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Rattray-Wagner* and Mrs *Smith*.

Confirmation of Minutes :

The Minutes of the meeting held on Thursday, 24 August 2006 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received and that no further correspondence be entered into –

- Letter dated 5 September 2006 from Julian Green, Executive Commissioner, Resource Planning and Development Commission replying to the Chairman's letter dated 28 August 2006.

Submissions :

Resolved, That the following submission be received –

(73) Wayne and Keitha Parker and Geoffrey Bannon

Report Deliberations :

The Committee considered Draft Report No. 2.

The Committee suspended at 1.00 o'clock pm.
The Committee resumed at 2.10 o'clock pm.

The Committee further considered Draft Report No. 2.

At 3.35 o'clock pm the Committee adjourned until 1.30 o'clock pm on Tuesday, 3 October 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

TUESDAY, 3 OCTOBER 2006

The Committee met at 1.35 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Rattray-Wagner* and Mrs *Smith*.

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 2 October 2006 were confirmed as a true and accurate record.

Report Deliberations :

The Committee considered Draft Report No. 3.

The Committee suspended at 2.02 o'clock pm.
The Committee resumed at 2.05 o'clock pm.

The Committee further considered Draft Report No. 3.

The Committee suspended at 2.30 o'clock pm.
The Committee resumed at 2.55 o'clock pm.

The Committee further considered Draft Report No. 3.

At 3.17 o'clock pm the Committee adjourned until 11.30 o'clock am on Wednesday, 4 October 2006.

LEGISLATIVE COUNCIL SELECT COMMITTEE

PLANNING SCHEMES

MINUTES

WEDNESDAY, 4 OCTOBER 2006

The Committee met at 11.32 o'clock am in Committee Room No. 2, Parliament House, Hobart.

Members Present : Mr *Hall*, Mr *Harriss*, Mrs *Rattray-Wagner* and Mrs *Smith*.

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 3 October 2006 were confirmed as a true and accurate record.

Report Deliberations :

The Committee considered the Final Draft Report, page by page.

Resolved, That the Report be agreed to with minor amendment to page 8.

Other Business :

Resolved, That –

- The Report be tabled, including a motion to debate the report at a later date, on Tuesday, 17 October 2006 in Launceston.
- Becher Townshend be requested to prepare a media release.

At 11.48 o'clock am the Committee adjourned *sine die*.