

## DRAFT SECOND READING SPEECH

HON ROGER JAENSCH MP

### *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Bill 2018*

*\*check Hansard for delivery\**

Madam Speaker, I move that the Bill be read a second time.

This Bill makes a number of amendments to the *Land Use Planning and Approvals Act 1993* to establish a mechanism to make and amend a suite of Tasmanian Planning Policies, which will provide strategic direction on matters of state interest within Tasmania's Resource Management and Planning System – which is also known as the RMPS.

The Bill also makes a number of administrative changes to the *Land Use Planning and Approvals Act 1993* and the *Tasmanian Planning Commission Act 1997* to streamline the Local Provisions Schedules assessment process; improve the functionality of these two Acts; and further align the two Acts with the Government's current planning reform agenda.

Local planning authorities are currently preparing their Local Provisions Schedules, which will determine how and where the State Planning Provisions – which were 'made' on 22 February 2017 – apply in each municipal area. They will contain the zone maps and overlay maps for each municipal area along with a description of places where the statewide codes apply. The administrative amendments included in this Bill will speed up the delivery of the Tasmanian Planning Scheme at the local level.

The provisions of the Bill that relate to the making of the Tasmanian Planning Policies were released on 10 April 2017 for a five week period of targeted stakeholder consultation, and then publicly released on 24 April 2017 for a three week period of general community consultation.

The provisions of the Bill that relate to the administrative changes to the *Land Use Planning and Approvals Act 1993* and the *Tasmanian Planning Commission Act 1997* were released on 7 September 2018 for a three week period of targeted stakeholder consultation.

#### ***The Tasmanian Planning Policies***

Madam Speaker, the development of new Tasmanian Planning Policies (the Policies) will provide the overarching direction to Tasmania's land use planning system to support Tasmania's sustainable economic growth, protect the values that make Tasmania unique and plan for the future needs of the Tasmanian community. This will be the first time that Tasmania's planning system has the high-level, integrated vision and direction it needs.

Along with the Tasmanian Planning Scheme, Tasmanian Planning Policies are another first for this Government and Tasmania. They will fill a long-awaited and critical gap in Tasmania's Resource Management and Planning System.

The new Policies will cover a range of planning matters including, but not limited to - economic development, key resources, settlement and liveable communities, transport and infrastructure, cultural heritage, natural assets, hazards and risks.

They will draw on existing policies and strategic plans, expert advice and state-wide consultation and will be assessed by the independent Tasmanian Planning Commission with a public exhibition and submissions process before being finalised by the Government.

The Bill requires the Tasmanian Planning Policies to further the RMPS and planning process Objectives set out in the Land Use Planning and Approvals Act through the promotion of sustainable development, sound strategic planning and social and economic wellbeing, and the protection of Tasmania's natural environment and heritage values.

The new Policies will not contain rules or criteria that apply 'directly' to the determination of individual permit applications or related matters that are routinely considered and determined by planning authorities and other bodies under the Tasmanian Planning Scheme.

Rather, they will inform and guide Tasmania's land use planning system in an overarching context and be given effect through either the Regional Land Use Strategies, the State Planning Provisions, or the Local Provisions Schedules that are currently being prepared by local planning authorities.

Each Tasmanian Planning Policy will specify the manner in which it will apply to the planning system.

The Policies will take an integrated approach to planning for well-designed settlements and liveable communities that encourage economic growth, and social wellbeing, and ensures they are supported by the effective provision of infrastructure.

An integrated approach gets the balance right, by ensuring the state grows sustainably whilst at the same time protecting our natural environment and heritage values and ensuring that environmental risks and natural hazards are appropriately managed and considered in land use planning and development assessments.

It should be noted that during the consultation process conducted last year on the draft Tasmanian Planning Policies legislation, a number of 'demonstration Policies' were released along with the draft legislation.

The issues covered in the 'demonstration Policies' dealt with a number of key matters and fundamental planning principles derived from the Part 1 and Part 2 Objectives set out in

Schedule 1 of the Land Use Planning and Approvals Act. The strategic issues broadly covered in the 'demonstration Policies' have been missing from our land use planning system for a long time.

Importantly, when developed, the new Tasmanian Planning Policies will be consistent with the Part 2 Objective that seeks to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land. The creation of the Policies in accordance with this Objective will support the other Objectives set out in Schedule 1 of LUPAA.

These 'demonstration Policies' were included in the consultation package to broadly show the types of policies that might be developed in the future and what form these policies could take.

While these 'demonstration Policies' provide a starting point for developing the new Tasmanian Planning Policies, there is no intention of introducing the 'demonstration Policies' as currently drafted into the statutory assessment process established under this Bill.

In developing the new draft Tasmanian Planning Policies, I intend to draw on existing policies and strategic plans, as well as the wealth of knowledge and expertise that resides within Government, specialist organisations, community groups and the broader community.

While it is not explicitly detailed in the Bill, I intend to consult widely on draft Tasmanian Planning Policies before they enter the Tasmanian Planning Commission's formal statutory consultation and reporting processes covered within the Bill.

I will also consult with the Tasmanian Planning Commission, planning authorities, and relevant State agencies and authorities when developing the draft Tasmanian Planning Policies. I intend to commence preparation of the draft Tasmanian Planning Policies shortly after the mechanism included in this Bill is established.

Madam Speaker, the Bill amends the *Land Use Planning and Approvals Act 1993* by:

- establishing a mechanism to create the Tasmanian Planning Policies; and
- ensuring that the Tasmanian Planning Policies further the Part 1 and Part 2 Objectives set out in Schedule 1 of the Land Use Planning and Approvals Act and are consistent with the three existing 'State Policies'.

There are currently three (3) State Policies operating in Tasmania:

- the State Policy on the Protection of Agricultural Land 2009 (referred to as the PAL Policy);
- the State Coastal Policy 1996; and
- the State Policy on Water Quality Management 1997.

The Tasmanian Planning Policies will sit beneath these State Policies in the hierarchy of statutory instruments relating to the Resource Management and Planning System.

There are also three (3) Regional Land Use Strategies in Tasmania:

- the Cradle Coast Regional Land Use Planning Framework in the north-west of Tasmania;
- the Northern Tasmania Regional Land Use Strategy; and
- the Southern Tasmania Regional Land Use Strategy.

The Bill requires:

- that the three Regional Land Use Strategies will align with the Tasmanian Planning Policies; and
- that planning controls – both in the State Planning Provisions and the Local Provisions Schedules, which together form the Tasmanian Planning Scheme – are also consistent with the Tasmanian Planning Policies.

The Bill also introduces a new Part (2A) to the Land Use Planning and Approvals Act, which makes provision for:

- the content, preparation and public exhibition of draft Tasmanian Planning Policies;
- the transparent assessment of draft Policies by the Tasmanian Planning Commission – which includes public exhibition of the draft Policies, the consideration of representations, and the framework for the Commission's report on the acceptability of the draft Policies;
- the 'making' and amending of the Policies; and
- arrangements for their regular review.

These processes make provision for the Planning Minister to prepare draft Tasmanian Planning Policies and then to request that the Tasmanian Planning Commission exhibit the draft Policies for 60 days. Anyone can make a representation to the Commission on the draft Policies or any subsequent amendments to the Policies either in writing, in an email, orally or in any other form.

After considering all representations, the Commission will provide a report to the Minister for Planning.

While not explicitly included in this Bill, the Tasmanian Planning Commission may hold hearings in relation to representations on the draft Tasmanian Planning Policies, or in relation to any subsequent amendments to the Policies, as part of its reporting processes in accordance with its powers under the Tasmanian Planning Commission Act.

As I have outlined, after considering all the representations, the Tasmanian Planning Commission must provide a report to the Minister for Planning in relation to the draft Policies. This report must:

- address the issues raised in the written representations; and
- assess the draft Policies against the 'TPP criteria' that are set out in the Bill – which includes needing to further the RMPS Objectives set out in Schedule 1 and being consistent with the State Policies;
- consider whether there are any matters of a technical nature in relation to the application of the Policies to the Tasmanian Planning Scheme or each Regional land use strategy

Analogous to the existing process for making the State Planning Provisions, the Minister must publish reasons for any modifications to the TPP's from the advertised drafts. Additionally, although not required by the Bill, the Tasmanian Planning Commission's report would typically be published regardless of whether or not the draft TPP had been modified from the draft that was advertised.

Importantly, if the Minister does not direct the Tasmanian Planning Commission to undertake public exhibition of the draft of the Tasmanian Planning Policies, the process of making the Policies effectively stops. There is no power for me as the Minister to make the Policies without directing the Commission to undertake public exhibition and report on their assessment of the TPPs.

#### ***Administrative changes to the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Commission Act 1997***

Madam Speaker, the Bill also makes legislative changes to the Land Use Planning and Approvals Act and the Tasmanian Planning Commission Act – which are generally administrative in nature. The legislative changes to the Land Use Planning and Approvals Act will ensure that I, as Minister, will not declare a regional land use strategy unless it:

- furthers the Part 1 and Part 2 Objectives set out in Schedule 1 of the Land Use Planning and Approvals Act;
- is consistent with each State Policy; and
- is consistent with the Tasmanian Planning Policies.

As Minister, I will also be required to review all regional land use strategies as soon as practicable after making the Tasmanian Planning Policies, or any subsequent amendments to the Policies, to determine whether the strategies are consistent with the Policies, or an amendment to the Policies.

The legislative changes to the Land Use Planning and Approvals Act will also accelerate the assessment of the Local Provisions Schedules that are being prepared by local planning authorities.

The legislative changes will:

- streamline the Local Provisions Schedules assessment process by providing mechanisms that will allow planning authorities and the Tasmanian Planning Commission to determine more quickly if a draft Local Provisions Schedule meets the 'LPS criteria';
- provide the Tasmanian Planning Commission with the ability to issue an 'LPS criteria outstanding issues notice' to expedite the public exhibition of a draft Local Provisions Schedule, as long as the matters are addressed later;
- remove an unnecessary administrative step in the draft Local Provisions Schedules assessment process that will allow the Tasmanian Planning Commission to place a draft Local Provisions Schedule on public exhibition more efficiently;
- provide for the efficient alignment of the State Planning Provisions with a final planning directive that has been approved after the State Planning Provisions were 'made' on 22 February 2017; and
- ensure that 'relevant State agencies and authorities' are notified directly about proposed amendments to planning schemes before a draft amendment of a Local Provisions Schedule or a draft amendment of an existing planning scheme is publically exhibited.

The legislative changes to the Tasmanian Planning Commission Act will also allow the Tasmanian Planning Commission to correct a decision made by the Commission that contains a 'minor' clerical mistake or 'error' arising from an accidental slip or omission in a final decision.

This means that:

- any correction of a 'minor' nature will be limited to only correcting the expression of a Commission decision, and not the substance of that decision, prior to it coming into effect; and
- where a decision has taken effect and has altered the rights or obligations of a person, the Commission will not be able to make a 'minor' correction of its final decision, if the effect of the correction of the decision would alter the rights or obligations of the person or another person.

Madam Speaker, this Bill establishes the framework and processes for making a suite of strategic Tasmanian Planning Policies and for effectively embedding these Policies within Tasmania's land use planning system.

The Bill ensures that the Tasmanian Planning Policies will integrate effectively with other structural elements of Tasmania's land use planning system such as the Regional Land Use Strategies, the State Planning Provisions, and the Local Provisions Schedules.

This legislation and the subsequent establishment of the Tasmanian Planning Policies will deliver on the Government's commitment to develop a suite of policies that provide much needed strategic vision and direction to inform land use planning and development.

The legislative changes to the both the Land Use Planning and Approvals Act and the Tasmanian Planning Commission Act also deliver on the Government's commitment to introduce a Tasmanian Planning Scheme by:

- streamlining the assessment process for the Local Provisions Schedules; and
- improving the functionality of these two Acts and the land use planning system in Tasmania.

Madam Speaker, I commend this Bill to the House.