

## **DRAFT SECOND READING SPEECH**

**HON. PETER GUTWEIN MP**

### ***Land Use Planning and Approvals Amendment (Transitional Provisions) Bill 2017***

*\*check Hansard for delivery\**

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

This Bill makes a number of amendments to Schedule 6 of the *Land Use Planning and Approvals Act 1993*.

Schedule 6 provides for a range of provisions in existing planning schemes to be transitioned across to the Local Provisions Schedules that planning authorities are required to prepare. These amendments ensure that those provisions transitioned are not only appropriate inclusions in the LPSs but can be altered as required to make them function as intended because they are not currently drafted to reflect the terminology, numbering and structure of the State Planning Provisions and the requirements for the LPSs.

The amendments also extend the scope of the transitional arrangements to cover other provisions which should also be continued into the LPSs such as urgent amendments made by the Commission to these types of provisions since the Act commenced and the listings in current heritage codes which may not be in the exact form that the State Planning Provisions require, but are worthy of continued protection.

Turning to the specific amendments in the Bill. The first amendment inserts additional words after “commencement day” in clause 8(1) in Schedule 6.

The transitional provisions inserted by the 2015 Act only allow the specific area plans, particular purpose zones and site specific qualifications that applied under a municipal planning scheme prior to commencement of the changes to the Act to be carried over and not any amendments to those that have occurred since that date.

The intention of this was to ensure that significant changes to these could not occur in a way that might undermine the settings in the State Planning Provisions. However, the effect is that even a minor amendment of them under section 30 1A of the previous provisions of *Land Use Planning and Approvals Act* (the “urgent amendment” process) could not be transitioned.

“Urgent amendments” are those that the Tasmanian Planning Commission deems necessary for a number of reasons including correcting an error, removing an anomaly, removing inconsistencies, and so forth, but only where the public interest is not prejudiced.

Because the “urgent amendments” have this corrective function, if they are not included in the transition process the same amendments will have to be made again to the same documents after transition.

The insertion of these additional words in clause 8(1) will have the effect that any “urgent amendments” to the specific area plans, particular purpose zones and site specific qualifications that have been approved since the commencement date are also saved and transitioned across to the new Scheme.

The second amendment inserts a new section 8A after clause 8 in Schedule 6. This allows some of the more substantial changes made to planning schemes since the commencement day to be included where there is a determination by the Minister that these are appropriate to transition across.

Notwithstanding the intention on limiting the introduction of Specific Area Plans and other provisions after the commencement date to ensure the integrity of the Tasmanian Planning Scheme, it is now apparent that where these have been subject to detailed consideration of their merits by the Tasmanian Planning Commission and subject to public hearings, there should be an option to transition them across, subject to a check that they are consistent with the Local Provisions Schedule criteria set out in s.32(4) of the Act.

Without this capacity, all of the SAPs, Particular Purpose Zones, and other Site Specific Qualifications would be subject to the same tests as would apply under the LPS assessment process, despite already being approved by the Commission and in operation for a period of time.

The Bill provides that these are not required to, and cannot be included, in contrast to those in place before the commencement date, which must be included, but provides the Minister with the capacity to deem that they are included where he considers that they do comply with s.32(4) of the Act.

This amendment will save the relevant local council, the Commission and many members of the public considerable time as they will not have to make submissions on and assess the merit of recently included provisions that have ostensibly already been subject to the same tests.

The third amendments are the insertion of new clauses 8B and 8C after clause 8A in Schedule 6.

Among the 2015 changes, were provisions to provide for draft amendments to a municipal planning scheme, that were in progress when a Local Provisions Schedule comes into effect, and Specific Area Plans, Particular Purpose Zones and Site Specific Qualifications that applied under a municipal planning scheme prior to commencement of the changes to the Act, to be incorporated into a draft Local Provision Schedule under the new framework.

However, while the intention of the transitional provisions was to enable these amendments and instruments to be modified to fit the structure and form required for the Local Provision Schedule, the wording of the current transitional provisions does not allow this to occur.

The problem is that some of these amendments and instruments contain terminology that relies for its meaning, or rely for their operation, on the existence of former planning schemes. Without amendment, this could result in a Local Provision Schedule containing provisions that are incomplete and incomprehensible.

Madam Speaker, the insertion of new clauses 8B and 8C will allow these amendments and instruments to be modified to fit the structure and form of a Local Provision Schedule. This capacity to modify the provisions is also extended to those provisions deemed to be acceptable to 'transition across' in accordance with the second amendment (the introduction of 8A). This might involve changes to the numbering and terminology to ensure they operate as intended.

The fourth amendment is the insertion of new clause 8D in Schedule 6.

Recent consideration by local councils as part of preparing their Local Provisions Schedules has highlighted another area where the transitional provisions require adjustment.

A number of councils have raised concerns that the finalised State Planning Provisions, based on the advice of the Commission, should require all heritage listed places to have a statement of significance to be included as part of the Local Provisions Schedule. This has unwittingly highlighted that for many properties which in some cases have been listed for heritage protection for a number of years, no statement exists and councils are concerned that the time and cost of providing these is extensive.

The Government did not intend that currently protected places under Heritage Codes should not be transitioned, but the limitation of the current transitional provisions to Specific Area Plans, Particular Purpose Zones And Site-Specific Qualifications, means that the lists or overlays attached to the codes of current interim planning schemes are not automatically included. Even though they in effect apply additional or different planning controls to a series of specific sites, they do not fit into one of these categories.

The insertion of clause 8D will require a range of 'code applying provisions' to be included in the Local Provision Schedules, unless the Minister specifies that they should not. This will provide continued automatic protection for a range of matters including heritage places, precincts, significant trees, scenic protection areas, scenic road corridors, and specific attenuation buffers around quarries and the like which have been tailored to the site and are shown on the current planning scheme maps.

The State Planning Provisions provide for all of these to be specified by the local planning authorities providing good reason to include them in the automatic transitioning process to the Local Provision Schedules where they are already included in current planning schemes, thereby saving Councils unnecessary additional work.

In all circumstances the transitional provisions allow the Commission to make the required modifications to allow them operate appropriately in the new structure, and this can extend to requiring that one of the types of particular provisions is transitioned into a different type, such as a Particular Purpose Zone being redrafted as a Specific Area Plan.

Madam Speaker, in summary the amendments will provide for:

- I. automatic transitioning of any urgent amendments made to provisions after the commencement date; the optional transitioning of provisions deemed to be consistent

with the State Planning Provisions and Local Provision Schedules requirements, but approved after the commencement date;

2. the modification of any other amendments to planning schemes which are in process at the time of the Local Provision Schedules coming into effect, so that they fit the Schedules terminology, numbering and structure;
3. the same capacity to modify the other provisions transitioned across so that they work as intended originally; and
4. the extension of the transitional provisions to the lists and overlays associated with Codes in planning schemes, where a matching code is available in the State Planning Provisions, except where the Minister deems them inappropriate for that transitioning.

Madam Speaker, I commend this Bill to the House