



www.friendsoftheeastcoast.org

PO Box 10
Scamander 7215
20 October 2015

The Hon. MLC
Parliament House
Hobart 7000

Dear Sir/Madam

Re: Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Bill 2015

Friends of the East Coast Inc is a volunteer organisation of local residents on the East Coast. We provide an information service via our website to the community on matters concerning state and local planning of land use and development. We have a specific focus on their impacts on the communities and the environment of the East Coast. Thus we are interested in providing to members of the Legislative Council our views on some aspects of this Bill.

Ministerial powers

One of the most significant features of this Bill is the proposed increase in powers of the responsible Minister and the corresponding decrease in power of the Planning Commission and Local Authorities. We believe this emphasis is unwise, unnecessary and unlikely to produce better planning outcomes.

In the preparation and making of the State Planning Provisions [Part 3], the Minister has ultimate control: preparing terms of reference, preparing the drafts, modifying the drafts, approving drafts for public exhibition, and final making of the Provisions. While in reality the Planning Commission may prepare the Provisions for the Minister, it is clear the intention is for the Minister to exert overall control of the whole process. We believe this gives the wrong kind of power to the Minister, and it would be more appropriate if the Planning Commission had

responsibility for these specialised functions. The role of the Minister in this matter should focus on ensuring the Planning Commission meets the Planning Objectives, [refer LUPAA Schedule 1], and the Provisions are consistent with State Policies.

In the preparation, making and review of Local Planning Schedules [Part 3A], while the Planning Commission has general oversight, the Minister can still give directions [clause 35] and gives final approval to Schedules [clause 35L]. The Minister also has power to direct a review of Schedules [35O]. In amendments to Local Planning Schedules [Part 3B], the power of the Minister is far reaching whereby the Minister can direct a local authority to amend a Schedule for any purpose “the Minister thinks fit”, [clause 40C(1)(e)]. We think this is excessive and open to possible special undisclosed arrangements with developer groups.

Protection of local planning characteristics

The Bill also raises concerns of the potential impacts on local planning. Many communities have developed local planning controls to suit their localities or regions. For instance, in the Break O’Day municipality the current planning scheme prohibits further sub-division within 1 km of the coast outside urban zones. The aim is to protect our magnificent coast from excessive and piecemeal development. With the objective to produce state uniformity in planning, we are not confident local characteristics can be retained. In clause 34(2)(g) Local Planning Schedules must be as far as practicable “consistent with and co-ordinated with” Local Planning Schedules of adjacent municipalities.

Regional Land Use Strategies

Regional land use strategies are critical components of the Planning Scheme, [clause 5A]. The Bill specifies that regional land use strategies “may incorporate or refer to any document prepared by a planning authority...” [clause 5A(5)]. It is absolutely necessary that regional land use strategies are prepared by expert statutory authorities such as the Planning Commission. Regional land use strategies should have similar status as State Policies, and often such documents prepared by local authorities are not of sufficiently high standard. We believe the Planning Commission should have responsibility to prepare regional land use strategies, and clause 8 should be amended with an additional function. With this provision regional land use strategies could undergo statutory regular review, [clause 5A(6)].

Public consultation

The term “public consultation” does not appear in the Bill. The word “consultation” appears only in 4 clauses [35F(2)(a) & (b), 40K(2)(a) & (b)], perhaps as an oversight from the draft Bill. The common terms used extensively are “public exhibition” and “exhibition”, (22 times and at least 140 times respectively).

There is a difference between the meanings of “consultation” and “exhibition”, and we strongly support the need for the general public and land owners to effectively participate in the planning process. Indeed, one of the Objectives of the Resource Management and Planning System of Tasmania is “to encourage public involvement in resource management and planning” [refer LUPAA Schedule 1: Objectives Part I 1(c)]. To that end we propose a number of minor, low cost, amendments to improve effective public involvement.

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- Draft State Planning Provisions and draft Local Planning Schedules should be made available to the public in hard copy versions so as to not discriminate against people without access to the internet and cheap printers. That is, exhibition documents should be available not only in electronic form. [refer clauses: 22, 30K, 35C, 35D, 35D, 40G, 40H, 40Z].
- Reports prepared by the Planning Commission and Planning Authorities following public exhibition of draft documents should not just remain confidential to the Planning Commission or the Minister. The public should be provided with feedback of how their submissions have been received. This would provide additional transparency to the process and confidence to participants that their concerns are treated seriously and fairly. [refer clauses: 25, 30J, 30N, 30T, 35F, 35P, 40K, 41].
- Terms of Reference for preparation of draft State Planning Schedules or amendments to Schedules should not only be announced prior to the preparation of the Schedules, but also published and made available for public feedback. [refer: clauses 17, 30C].

Need for a broader review of planning

Our submission raises only a few of the issues surrounding this Bill. No doubt others will raise additional issues. This Bill defines the framework for a new Tasmanian Planning Scheme. The “flesh” of the Scheme - the State Planning Provisions and the Local Planning Schedules – is not yet available. So there is considerable public concern about this process of planning reform by the Government. There is certainly a lack of clarity and openness about the process and it requires a considerable leap of faith that the final outcome over the next few years will be the best for Tasmania and more importantly, accepted by the community as an efficient, appropriate and fair planning system. Anything less would be a failure.

It is now well into the 21st Century and Tasmanians are increasingly well informed and becoming more involved in social and government processes. Tasmanians don't want to be told by a Minister of the day what is best for them on planning matters. They want to participate in the process. Election commitments by Governments are all very well, but the Government's stated intention to introduce further legislation on “major projects”, “ministerial call-in powers” and (the abolition of) “third-party appeals” is alarming to many people.

We urge the Legislative Council to provide leadership by undertaking a Select Committee into planning and this Bill in particular. Similar planning changes that have occurred in New South Wales and Victoria are instructive and should be looked into. Clearly it has not all been faster, cheaper and simpler.

Sincerely

Friends of the East Coast Inc.