Rosalie Woodruff MP
Member for Franklin

Franklin Electorate office
7 Franklin Wharf, Hobart TAS 7000

Phone: (03) 6212 2228
tasmps.greens.org.au

17 May 2016

Tasmanian Planning Commission
GPO Box 1691,
Hobart Tas 7001
Submitted to: tpc@planning.tas.gov.au

Submission – Draft State Planning Provisions of the Tasmanian Planning Scheme

The Tasmanian Greens believe the Draft State Planning Provisions (SPPs) fail to prioritise the interests of the community, and the protection of the environment, first. Instead, they have been incorrectly weighted to favour development interests.

In 1993 the Tasmanian Government introduced the Resource Management and Planning System (RMPS) framework legislation. The component Acts developed from this were:

- Environmental Management and Pollution Control Act 1994 (EMPCA)
- State Policy and Projects Act
- Land Use Planning and Approvals Act, and the
- Resource Management and Planning Appeals Tribunal Act 1993.

These elements of the RMPS are linked through common objectives, listed as a Schedule in each relevant Act. We believe that the SPPs contravene the objectives of the *Land Use Planning and Approvals Act 1993*, in particular –

1. The objectives of the resource management and planning system of Tasmania are:
   (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;
   (b) to provide for the fair, orderly and sustainable use and development of air, land and water;
   (c) to encourage public involvement in resource management and planning;
   (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.

The process

Consultation Period

The two months allowed for this consultation process was manifestly inadequate. Most community groups only meet monthly, and there was no time for detailed conversations about a 430 page document. The potential impacts are huge, the planning jargon is complex, and it has been untenable for most people to prepare comprehensive submissions within a 60 day period. And there has not been time for proper consultation between councils and communities.

Natural justice, and a good outcome, requires that far more time be given to assessing the extensive changes these SPPs usher in. Given one of the stated aims of the Government is to deliver a fairer planning process, we recommend:

- → Establish a Working Group of experienced planners from as many municipalities as wish to be involved.
- → Assess the impacts of individual SPPs against the Schedule 1 Objectives.
- → Establish SPPs that satisfy the requirements of all Councils.
- → Release a final SPP document for a further, and longer, round of public consultation (at least four months).
- → Task the Tasmanian Planning Commission with holding public hearings so that representors can raise their concerns about the State Planning Provisions.

Interim-planning scheme work

We note the Government's desire to simplify approval processes across Tasmania, with the stated aim of improving the timeliness, ease and cost of developments. However, the case has never been made that the approvals process in Tasmania takes longer than in other Australian jurisdictions (with data consistently demonstrating that we are one of the fastest performing states in this regard).

There has been enormous work done by council planning staff and communities during the past five years on the Interim Planning Schemes. The planning schemes of 29 councils have been merged into 3 regions (north, north-west and south). In that process, substantial good will and productive complementarity has been achieved.

We believe that most residents would have assumed the work of the last five years on the Interim Planning Schemes would be translated across to form the substance of the SPPs – and hence not considered further comment during this process was warranted. However this has not occurred, and the SPPs are significantly different to the Interim Planning Schemes in important respects. This is an appalling waste of the time and resources that have been expended over the past half decade.

We are aware that many council planning officers have pointed to a raft of issues that need to be fixed, with broad congruity in the concerns they have raised. If these concerns are not addressed in revised SPPs following this consultation, then councils and the community have every right to be cynical that this is merely a rubber-stamping exercise.

No right to know or to oppose

The SPPs ensure a much wider range of development decisions will be "permitted" instead of "discretionary" than exist under the Interim Planning Schemes. The ability for councils to refuse or amend applications in these circumstances is removed. Third parties (neighbours or other community members) cannot comment on – or appeal against – these proposals. Councils are no longer able to negotiate on clear controversial issues, such as building heights. Nor can they reasonably recommend amendments to negotiate neighbour disputes.

This approach suits developers, but it's not a cost Tasmanians have been honestly asked to weigh up: development vs community amenity and environmental conservation.

Threats to environmental conservation

The cumulative effects of human settlements and our resource use on the environment that sustains us are now widely accepted as being at a tipping point. The global climate system and the rate of species loss have very recently shifted from a slow and potentially manageable rate of change into a seemingly unmanageable one. Scientific evidence accumulates daily about the increasing warming of the planet, and that impact this is having on the plants, animals and ecosystems that have depended on traditional climate conditions for survival.

More than ever, Tasmanians need a planning scheme that enshrines our desire to maintain the beauty and productivity of our natural environment. We need planning provisions that strongly – and proactively – protects them.

However, the draft SPPs fundamentally weaken our ability to look after natural values. We recommend:

- → The SPPs need to outline how the objectives of the Resource Management and Planning System will be achieved
- → Specific sustainable development objectives be created for the SPPs.

Development in national parks, reserves and other public land

In the Environmental Management Zone of the SPPs, most developments in national parks, reserves and other public land will be "permitted", without council or public comment, or the right to refuse them.

Instead of being assessed under the *Land Use Planning Approvals Act* assessments will devolve to the Reserve Activity Assessment process. However, the criteria used for that decision-making and the process itself, are not covered under law, do not proscribe public involvement, and do not allow for appeal.

The explicit removal of parks and reserves from LUPAA is highly controversial. It removes the protection of that legal framework from decisions about proposed uses and development. The types of development that will be allowable include tourist operations, visitor accommodation and pleasure boat facilities.

The stated purpose of the Environmental Management Zone is "to provide for the protection, conservation and management of areas with significant ecological, scientific, cultural or aesthetic value . . ." (23.1.1).

- → Given the fragile nature of reserve areas, previous Resource Management and Planning Appeal Tribunal decisions, the passionate regard in which these places are held by Tasmanians, and the lack of opportunity for public consultation and appeal, there should be no "permitted" use classes within this Zone.
- → Use and development on reserved land should be discretionary, should be consistent with the management objectives of any relevant management plan, the LUPAA and the municipality, and should be able to be refused or appealed.

Land clearing and species loss

More than 640 plants and animals are listed as threatened in Tasmania. There is less habitat left to them, and a greater need to protect what's left. Urban sprawl and active land clearing are dominant reasons for the extinction of animals and plants. Our incredible animal and birdlife are part of our natural heritage, and of national significance. Birds need food and nests to survive, and although planting trees for the future is important, a tree planted today is likely to take more than a decade to become a viable food source. Attempts to replant lost habitat will be too late to save many threatened populations of plants and animals, so we need to protect existing habitat.

The transition from the Biodiversity Code to the proposed Natural Assets Code completely contradicts our contemporary understanding of ecological processes. It enshrines development based on a "block by block" assessment of the existence of narrowly defined priority vegetation (limited to threatened flora and fauna, and threatened ecological communities). This is totally inadequate, but it suits developers who would not be required to modify their proposals to suit external factors. We recommend:

- → Rename the Natural Assets Code the Biodiversity Code, to reflect its key purpose.

The Natural Assets Code (C7) permits a far greater expansion of unregulated land clearing than occurred within the existing Biodiversity Code. There is no requirement for considering threatened species or cumulative vegetation loss and habitat fragmentation. The previously named Biodiversity Code did not allow for any exemptions.

The number and type of exemptions proposed within the Natural Assets Code make it impossible to satisfy Schedule 1 of the Objectives of LUPAA: i.e. the maintenance of ecological processes and genetic diversity, and the overall protection of the environment.

We should be strengthening what we know plant and animal communities need to survive: landscape connectivity. We need to support the seasonal migration of animals, and allow the dispersal of plants so that they can adapt to climate change and keep up genetic variation. We recommend:

- → C7.4, which lists allowable exemptions, should be removed from the Natural Assets Code**.**
- → C7.2, which lists developments that are covered under the Code, should be expanded to include all C7.4 activities, and Development Standards (C7.6) created for them.
- → The default map for priority vegetation should be based on rigorous assessments, habitat connectivity and ecosystem processes, such as the *Wild Island* overlay map.

The six-fold increase in permitted land clearing (from <500m^2 to <3,000m^2) in the Rural Living Zone (C7.6.2 A1(d)) is completely unacceptable in the context of previous comments. It is inconsistent with our obligations under other environmental laws (i.e. the *Environment Protection Biodiversity and Conservation Act* and the *Threatened Species Protection Act*). We recommend:

- → C7.6.2 A1(d) should be deleted.
- → Performance criteria for discretionary situations should be developed, and include measures to ensure that the conservation status of priority vegetation in the vicinity of the development site are not compromised, and that habitat corridors (local, national and international) are maintained.

The effect of developments on and around waterways and consequent changed patterns of water flow can have drastic impacts on vegetation survival. We recommend:

- → Within C7.6.1, delete Part (b) and add "Class 4 watercourse" to Part (a) to ensure that all levels of watercourse are protected.

The SPPs give no ability to protect tree skylines from being eaten away by development. The requirement that buildings are not closer than 10m in elevation below a skyline in a Landscape Conservation Zone (22.4.4 A2) will do nothing to protect treed ridgetops from a jagged sawtooth appearance. For example, clearing for bushfires around buildings would require those skyline trees be removed. We recommend:

- → Change 22.4.4 A2: buildings should not be closer than 100m in elevation below a skyline.

Within the Scenic Protection Code, vegetation clearance is not exempt, and can be cleared by right under 500m^2. An area greater than 500m^2 must not have an "unreasonable visual impact on the skyline or reduce scenic values" – but "unreasonable" is not defined. All clearing within this zone should be discretionary, and be subject to assessment with respect to conservation impacts. We recommend:

- → Delete all of the exemptions listed under C8.4.1, except part (d).
- → Change C8.6.1 (A1, A2) to delete part (a) and (b) of each, and replace with "be subject to stringent assessment of conservation impacts"
- → Change C8.6.1 (P1, P2) to define "unreasonable".

The ecological values and scenic beauty of the Tasmanian coastline needs to be more strongly protected. This position is already supported by the State Coastal Policy (Clauses 2.4.1 and 2.4.2), and the SPPs need to properly reflect these intentions.

- → The reference to "ribbon development" i(Table 6.1.3) needs to be retained.
- → The following Zones should prohibit sub-divisions within 1km of the coast: Rural Living, Rural, Agriculture, Landscape Conservation, Environmental Management, Major Tourism, Recreation, Open Space and Particular Purpose.

The creation of the Major Tourism Zone is an unjustified new addition, given that councils can already create a special purpose zone for these types of developments. It creates particular conditions for large scale developments, but does not require attention to the impacts on the surrounding environment, or within the footprint of the lot itself. The reality is that many major tourism developments in Tasmania are likely to be placed in areas of great natural beauty, which are also highly sensitive to human impacts. The fact that no minimum lot size has been established for this Zone is also concerning. We recommend:

- → Delete 24.0 the Major Tourism Zone.

Threats to community living

Standardised approach

The proposed SPPs would destroy the very qualities that make our towns different. It's the heritage buildings, bush vegetation, and low-level rural landscape that people want to visit and live in. We don't want people saying this "was once a lovely place to live".

Conversely, there is a disturbing lack of centralised coordination in the way parts of the SPPs are to be developed. Local councils are to be responsible for mapping Local Heritage places, Scenic Protection Areas, Bushfire Prone Areas and Contaminated Sites within their municipality. We recommend:

→ The Tasmanian Planning Commission or other appropriate body should have responsibility for ensuring some consistency and comprehensiveness in this mapping.

"Desired Future Character Statements", which councils and communities invested a lot of time developing, have been dismissed in the SPPs. Instead, local councils have been told they may develop "Local Area Objectives" – but only in relation to discretionary uses and not in residential zones unless they are described in a Specific Area Plan. The criteria for allowable SAPs are very narrow, and leave no real prospect for communities to dictate the look and feel they want for where they live. We recommend:

→ Inserting the Desired Future Character Statement process from the Interim Planning Schemes into the SPPs, and expanding the criteria for Local Area Objectives to include "permitted" as well as "discretionary" developments and uses.

Heritage

The "one size fits all" approach to development within a zone will be a disaster for heritage areas across the state. There are more "permitted" uses that give councils no prospect of retaining existing streetscape look (except in exceptional cases). It would be tragic to see Tasmanian heritage, widely regarded as a tourist drawcard, become whittled away as has happened in Melbourne and Sydney. Heritage buildings can become facades, with the internal gutted.

Inappropriate Zoning

The removal of the Environmental Living Zone (with a 5ha lot size) has left a yawning gap in zoning options in country areas. Councils have a choice of rezoning these down to 1-2 hectares in the Rural Living Zone, or up to 50 hectares in either the Landscape Conservation Zone (house discretionary) or the Rural Zone (house permitted).

Many councils would likely convert Environmental Living Zone 'bush blocks' into the smaller Rural Living Zones, which would result in a substantial carving up of land identified as having conservation values. After bushfire hazard reduction around house sites there won't be much bush left in the area – a bad outcome.

Those c concerned to avoid this amount of subdividing of rural land have two options: to rezone the Environmental Living Zone up to the Rural Zone, meaning that resource processing (such as an abattoir or a cheese factory) could be built close to existing town properties. Or they could rezone into the Landscape Conservation Zone, where houses can be built but are discretionary. We believe this is the better option, because it gives councils the opportunity to assess the impacts of building on conservation values. We recommend:

→ Rural Living Zone: the minimum lot sizes are far too small (1ha and 2ha) for the purpose of a rural landscape. They will not allow sufficient natural values to be

retained to sustain the health and amenity of this zone. Change to a minimum lot size of 5 hectares.

- → Rural Zone: the minimum lot size (40ha) is too small to prevent the fragmentation of rural land. Change 20.5.1(d) to 100 hectares.

The purpose of the Agricultural Zone is to ensure there is no loss of prime agricultural land for non-productive purposes. There is strong evidence from Tasmanian farmers about the positive role of vegetation and other environmental values in improving agricultural and livestock productivity. The opportunity for this needs to be protected. We recommend:

- → Delete 21.5.1, which allows for sub-division inthis zone.
- → Enhance the importance of protecting conservation values on agricultural land in the Zone Purpose (21.1)

The purpose of the Landscape Conservation Zone is to protect significant natural and landscape values. In this respect, we support the minimum lot size of 50 hectares. However, we do not support the confusing Performance Criteria for sub-divisions which allows for smaller areas. We recommend:

- → Delete 22.5.1 P1, the reference to an area of not less than 20 hectares.

Density

The Greens support increasing residential density in cities and towns, for the efficiency of infrastructure and service delivery, and the reduction in travel between activities. However, we also endorse the great importance of people having a say about what appropriate densification could mean in each given locale, including how to retain the lifestyle and character people care about. Increasing density is usually contentious, and from a practical and caring point of view, shutting people out of the decision-making process is short-sighted, can cause distress, and may lead to unnecessary litigation.

There is an assumption implicit in the draft SPPs that rapid infill is an unmitigated good. Although this clearly suits developers, and to a certain extent governments through revenue, there needs to be a capacity in the SPPs for the community to negotiate the impacts and losses that might result. We recommend:

- → Considering an additional category within the Residential Zone that provides for 'Medium Density' housing with minimum lot sizes of around 750m^2
- → Establish a Low Density Residential Zone where unit developments would not be allowed.

Exemptions

Although Visitor Accommodation has been listed as an Exemption in terms of permit requirements, the use of a dwelling for Visitor Accommodation has been limited to no more than 42 nights in any calendar year. This is unnecessarily restrictive and short-sighted, given

the explosion in "air bnb" style accommodation that now forms a vital part of the tourism sector. We recommend:

→ The government consult with stakeholders who run tourist airbnb accommodation to determine reasonable requirements for licensing that don't stifle the important role these businesses play for the local economy and individual household incomes.

Managing risk

Water

The removal of the Stormwater Code, and to move to devolve all stormwater assessment to the building approval process (under the Building Code of Australia) will means that councils can't consider the downstream (or upstream) effects of water from parking areas, residential units, retail, commercial or industrial developments. We know from experience across the state what failing to plan for stormwater leads to, and how expensive it ends up being for residents. Measures need to be put in place at the development stage so that costs that accrue can be attributed to the developer, rather than borne by the council and ratepayers at a later date. We recommend:

→ Include a separate Stormwater Code in the SPPs.

Bushfire Code

The SPPs do not allow for sufficiently stringent assessment of the future risks associated with building in areas vulnerable for bushfires, floods and landslips. The experience in parts of suburban Hobart (around Tolmans Hill and Waterworks Road) demonstrates that sub-divisions have been approved without sufficient overarching assessment of cumulative development impacts (such as whether access by emergency services can be achieved, the proximity to bush, or the creation of single road arteries in high risk areas). The proposed SPPs would facilitate developments that have not been sufficiently assessed for climate change conditions and putting the community safety interests first.

Summary

The Tasmanian Greens believe the State Planning Provisions need to be rewritten to:

- meet the objectives of LUPAA,
- substantially reflect the conclusions of the Interim Planning Schemes' work undertaken during the last five years by all councils and communities,
- fully assess the environmental and social impacts (immediate and long-term) of any changes between the SPPs and the Interim Planning Schemes,

- ensure that communities are given time to reflect on the proposed changes of the SPPs, and
- allow councils sufficient time to consult with their communities about these momentous changes.

We hope you incorporate these recommendations when you prepare your review.

Sincerely,

Dr Rosalie Woodruff MP
Greens Planning spokesperson