



The Planning System

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This factsheet examines key elements of Tasmania's Planning System:

- [State Policies](#)
- [The Tasmanian Planning Policies](#)
- [Regional Land Use Strategies](#)
- [Planning Schemes](#)
- [Planning permits](#) (and [Part 5 agreements](#))
- [Enforcement of the Planning System](#)

State Policies

State Policies are intended to provide the policy framework for the management of the State's resources, to give effect to national and international agreements and to help ensure consistency in the content and administration of planning schemes. They must be considered in a range of resource management and planning decisions, including making planning schemes and Planning Policies.

Under the [State Policies and Projects Act 1993 \(SPPA\)](#), the government prepares draft State Policies and directs the Commission to review the draft. The Commission will release the draft policy for public comments for at least 8 weeks, during which time any person can make a representation. The Commission may hold public hearings but is not required to do so.

After considering all representations, the Commission will report to the Planning Minister and recommend approval, rejection or modification of the draft Policy. The Minister is not bound to follow the Commission's recommendation, but a State Policy cannot be made without the approval of both houses of parliament.

State Coastal Policy 1996

Sets out management objectives for the “coastal zone” – a 1km strip from the coastline – covering biodiversity, cultural values, public access, and climate adaptation.

A review of the policy was commenced in 2008, but was ultimately abandoned without amendment to the Policy.

State Policy on Water Quality Management 1997 (SPWQM)

Provides a framework for developing water quality objectives and managing point (direct) and diffuse (indirect) pollution sources affecting water quality.

The government has plans to convert this State Policy into an Environment Protection Policy (**EPP**). As at 1 March 2019, this has not happened and the SPWQM remains in force.

Read: [EDO Factsheet on Environmental Controls](#) for more information on EPPs

State Policy on Protection of Agricultural Land 2009 (PAL Policy)

Provides a framework for ensuring that high quality agricultural land is maintained and not converted to residential or other uses that would make it less viable for agricultural production.

National Environmental Protection Measures

In addition to these State Policies, the following [National Environmental Protection Measures \(NEPMs\)](#) are also taken to be State Policies:

- National Environment Protection (Used Packaging Materials) Measure;
- National Environment Protection (Ambient Air Quality) Measure;
- National Environment Protection (Movement of Controlled Waste Between States and Territories) Measure;
- National Environment Protection (National Pollutant Inventory) Measure;
- National Environment Protection (Assessment of Site Contamination) Measure;
- National Environment Protection (Diesel Vehicle Emissions) Measure; and
- National Environment Protection (Air Toxics) Measure.

The Tasmanian Planning Policies

In late 2018, amendments were made to [Land Use Planning and Approvals Act 1993 \(LUPAA\)](#) to provide for the creation a new instrument, the Tasmanian Planning Policies (**TPPs**). The TPPs will be a suite of policies covering a range of issues that benefit from a statewide approach, including:

- environmental protection;
- liveability, health and wellbeing of the community; and
- any other planning matter that could be addressed in a planning scheme or Regional Land Use Strategy (**RLUS**).

The TPPs refers to the full suite of policies, rather than individual policies. When a new policy is proposed, it will be added as an amendment to the TPPs.

The TPPs, and any subsequent amendments, are initiated by the Planning Minister and reviewed by the Planning Commission. The Planning Commission must invite public comments on the draft TPPs for at least 60 days and may hold a public hearing.

The Planning Commission will consider all representations before reporting to the Minister. The report will set out the Commission’s opinion about whether the draft TPPs are consistent with State Policies and the RMPS objectives, and recommend that the draft TPPs be adopted, modified, or rejected.

The Minister is not bound by the Commission’s recommendation, but must consult with the Commission before making any alterations and publish reasons for her or his decision. If substantial alterations are proposed, the revised draft TPPs will be re-advertised.

TPPs are additional to State Policies, RLUS, and the [State Planning Provisions](#). The TPPs must be consistent with [State Policies](#) and seek to further the Resource Management and Planning System (**RMPS**) objectives. Any future planning instruments (including the [State Planning Provisions](#) and [Local Provisions Schedules](#)) must take account of the TPPs.

Read: EDO Factsheet on [The Resource Management and Planning System](#) for more information on the RMPS objectives

The Minister is required to “keep the TPPs under regular and periodic review”. At least once every 5 years, the Minister must conduct, or direct the Commission to conduct, a review of the TPPs and their implementation and table the review in parliament.

Visit: [The Tasmanian Government’s Tasmanian Planning Policies](#) page for information on the process for making and amending the TPPs.

Regional Land Use Strategies

Regional Land Use Strategies (**RLUS**) were introduced in 2010 to provide more strategic and consistent planning between councils within regional areas.

RLUS are generally developed through consultation between the regional councils and submitted to the Planning Minister. Before declaring a RLUS (or an amendment to a RLUS), the Planning Minister must consult with the Planning Commission and relevant state agencies, and be satisfied that the proposed RLUS furthers the RMPS objectives and is consistent with [State Policies](#) and the [Tasmanian Planning Policies](#). The Minister must review each RLUS regularly.

Read: EDO Factsheet on **The Resource Management and Planning System** for more information on the RMPS objectives

Regional land use strategies have been declared for each of the three regions:

- Cradle Coast;
- Southern Tasmania, and;
- Northern Tasmania.

These Strategies identify key resource issues and management objectives in the region, identify appropriate urban growth boundaries and key constraints and opportunities for regional development.

Regard must be had to the RLUS when amending planning schemes and Local Provisions Schedules, or considering the guidelines for assessment of a project of regional significance.

Visit: [The Tasmanian Government's Regional Land Use Strategies](#) page for information on the process for making and amending the TPPs.

Planning Schemes

Tasmania is currently transitioning to a statewide planning system. The system will be managed under a Tasmanian Planning Scheme, comprised of two components:

- [State Planning Provisions](#) setting out a uniform set of zones, use and development standards, and codes; and
- [Local Provisions Schedules](#) setting out how those zones and codes will apply to a local area (based on maps and overlays), and any specified variations or departures from the standard provisions justified by local circumstances.

In February 2017, the Planning Minister declared the State Planning Provisions (**SPPs**). However, the SPPs will not take effect in any municipal area until Local Provisions Schedules (**LPSs**) have been declared for that municipal area.

As at 1 March 2019, no LPS have been declared and the Tasmanian Planning Scheme has yet to take effect.

Until the Tasmanian Planning Scheme takes effect, planning assessments are made against the planning scheme for each relevant municipality. Most current planning schemes adopted by local councils (with the exception of Flinders Island and Sullivans Cove) are called 'interim planning schemes', however they operate as a planning scheme for the purposes of the [LUPAA](#).

Visit: [The Tasmanian Government's State Planning Provisions page for a series of factsheets on SPPs.](#)

Why are Planning Schemes important?

Planning schemes regulate the use, development, protection or conservation of land throughout Tasmania. Planning schemes set policy objectives, regulate use or development, designate land for public purposes, set requirements for infrastructure provision and provide for the lawful continuation of existing uses.

Planning schemes regulate through zoning controls, a table of uses designed to separate incompatible uses, and development controls on subdivision, density, parking, the use of flood prone and unstable land, height and overshadowing, landscaping and the preservation of natural and cultural heritage.

New (or amended) planning schemes must:

- seek to further the RMPS objectives and also the specific objectives in Schedule 1 of [LUPAA](#)
- be consistent with State Policies and Tasmanian Planning Policies
- as far as practicable, be consistent with the applicable RLUS
- have regard to any relevant strategic plan for a local council area

- as far as practicable, be consistent and coordinated with any LPSs applying in adjacent areas

The planning scheme is binding on all members of the community, State Government agencies and public authorities (unless specifically excepted). Every council has a duty to observe and enforce its planning scheme(s) (see sections 48, 63 and 63A of [LUPAA](#)).

Visit: [iPlan](#) or the office of the relevant council to view planning schemes.

Planning Directives

Until the Tasmanian Planning Scheme takes effect, consistency between planning schemes on key issues is achieved by requiring all schemes to implement the following Planning Directives:

- [Planning Directive No. 1 – The Format and Structure of Planning Schemes](#)
- [Planning Directive No. 4.1 – Standards for Residential Development in the General Residential Zone](#)
- [Planning Directive No. 5.1 – Bushfire-Prone Areas Code](#)
- [Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes](#)
- [Planning Directive No. 7 – Permits for Temporary Housing](#)

The Tasmanian Planning Commission has also published a number of [information sheets](#), [practice notes](#), and [Guidelines](#) to assist planning authorities to prepare consistent and rigorous planning instruments.

Can I have a say in the planning scheme?

If a planning scheme allows a development, there is little you can do to stop it. That's why it is important to have a say in the preparation (or amendment) of planning schemes, rather than waiting to comment on a particular development proposal (see below). A good planning scheme can avoid a lot of problems.

Draft LPS will be released for public comment for 60 days. During this period, any person may make a representation.

Visit: [The Tasmanian Planning Commission website](#) or the office of the relevant council to view and comment on planning schemes available for exhibition.

After the public comment period, the planning authority must prepare a report summarising all the comments and any proposed changes to the LPS to respond to issues raised. The report will be published and provided to the Commission.

The Commission will hold hearings and invite any person who made a representation to appear. You are not required to appear at the hearing, but it can be a good opportunity to explain any concerns you have about the proposed LPS, any impacts on your local area and any amendments you can suggest.

Following the public hearings, the Commission will decide whether to approve, refuse or modify the LPS. Once an LPS is approved for a municipality, the State Planning Provisions will take effect in that municipality.

Planning scheme amendments

Interim planning schemes

A planning authority can initiate an amendment of a planning scheme, or be directed to make amendments by the Minister / Planning Commission.

Any person can also apply to amend a planning scheme (such as the zone applying to their property or the height limit in a particular zone). Where the amendment relates to specific land, the landowner must consent to the application. The planning authority can ask the applicant for more information about their proposed amendment and why they think it's needed.

The planning authority must decide whether to progress the proposed amendment within 42 days. If the planning authority refuses to progress a proposed amendment, the person who made the request may have the Planning Commission review the decision. The Commission may affirm the planning authority's decision or direct the planning authority to reconsider. Where a planning authority (or the Planning Commission) refuses a request to amend a planning scheme, the person cannot apply for a similar amendment for 2 years.

Whether initiated by the planning authority, directed by the Commission, or progressed at the request of a member of the public, a draft amendment will be advertised and public comment invited for at least 28 days. The only exception is where the Planning Commission decides to exempt the amendment from advertising because it is a minor amendment (e.g correcting an error, clarifying a poorly drafted provision, implementing a Planning Directive requirement) and the public interest will not be prejudiced by not advertising.

Any person can make a submission during the comment period.

Following the end of the comment period, the planning authority will prepare a report ("a s.39 report") summarising and responding to comments. The Commission will consider the s 39 report and *must* hold public hearings (unless all representations support an amendment or representors don't want to attend a hearing).

After considering a draft amendment (including any modifications), issues raised in representations and the report of the planning authority, the Planning Commission can approve the amendment. There is no right of appeal against the Commission's decision.

State Planning Provisions

The SPPs must be reviewed at least every 5 years, and as soon as practicable after the Tasmanian Planning Policies are made or amended. The Minister can also propose amendments to the SPPs at any time.

Draft amendments will be released for public comment for at least 42 days. The only exception is where the Planning Commission recommends that advertising is unnecessary because the amendment is urgent or minor (e.g. correcting an error, clarifying a poorly drafted provision, implementing a State Policy) *and* the public interest will not be prejudiced by not advertising. If advertised, any person may make a representation during the public comment period.

The Commission may hold hearings, but is not required to. Following any hearing, the Commission will make recommendations to the Minister about whether to amend the SPP as advertised, make minor amendments to the SPP or require significant modifications to be made. If significant modifications are to be made, the Commission may also recommend that the revised draft amendments be re-advertised.

The Minister is not bound by the Commission's recommendations. There is no right of appeal against the Minister's decision (other than a judicial review on technical / procedural grounds).

Local Provisions Schedule

A planning authority may prepare a draft amendment to an LPS on its own initiative, following a request from an individual, or at the direction of the Minister.

If you're requesting a zoning amendment, you must have the consent of the landowner of the affected land. If a planning authority decides not to progress the requested amendment, you cannot make a similar request for 2 years unless the Commission gives your permission.

Unless exempted because it is an urgent or minor amendment, the draft amendment will be released for public comment for at least 28 days. During this period, any person may make a representation.

After the public comment period, the planning authority must prepare a report summarising all the comments and any proposed changes to the draft amendment to respond to issues raised. The report will be published and provided to the Commission.

The Commission must hold hearings and invite any person who made a representation to appear. Following the hearings, the Commission may approve, refuse or modify the amendment. If a significant modification is proposed, the revised amendment will be readvertised. There is no right of appeal against the Commission's decision (other than a judicial review on technical / procedural grounds).

Planning Permits

You will generally need to apply for a planning permit if you want to do any of the following:

- change the use of land
- undertake a new development on land (such as building work, demolition, land clearing or earthworks)
- expand or intensify an existing development

An application for a planning permit is assessed by the planning authority to see if it complies with the relevant Planning Scheme. Depending on the location and scale of the proposed activity, the planning scheme may characterise the activity as

- exempt from requiring a permit
- permitted – the planning authority must grant a permit, but can impose conditions
- discretionary – the planning authority will seek public comments on the proposal and can grant or refuse to grant a permit
- prohibited – the planning authority must refuse to grant a permit (but may initiate an amendment to the planning scheme to allow the proposed development in future)

Part 5 Agreements

A planning permit may require the developer to enter into an agreement with the planning authority (and, potentially, other parties) – these are called “Part 5 agreements”, because the rules that govern them are found in Part 5 of [LUPAA](#).

Part 5 agreements are most commonly used for permits to subdivide land, as a way of regulating any subsequent development on the land. The agreements may include:

- conditions which prohibit, restrict or regulate use or development on the land (for example, providing that buildings must only be used for residential purposes, not tourist accommodation)
- conditions about how a use or development must be undertaken (for example, what colour future buildings must be painted, whether domestic pets will be allowed, or a requirement to install rainwater tanks on each lot)
- conditions requiring the owner to prepare a management plan for the land (particularly where an area has been set aside for public purposes or to offset loss of habitat elsewhere on the site)

Enforcement of the Planning System

Under [LUPAA](#), it is an offence to do any of the following:

- carry out a development in breach of a State Policy
- carry out a development without a planning permit, if a permit is required
- failing to comply with a condition of a planning permit
- failing to comply with any orders of the Resource Management and Planning Appeal Tribunal (**RMPAT**)

Council officers have a range of enforcement options, including show cause notices, stop work notices, infringement notices (fines), prosecution, or cancellation of permits. If you believe that someone is committing an offence, report it to Council. If no action is taken, you can make a formal report (called a 'Notice of Suspected Contravention') requesting that Council investigate.

If the Council decides not to take action, or fails to get back to you for 120 days, you may be able to commence Civil Enforcement proceedings in the RMPAT.

Visit: [RMPAT's Practice Directions page to read Practice Direction 14: Civil Enforcement](#)

Visit: [RMPAT Forms page to download relevant application and/or notice forms.](#)

What if a council breaches its own planning scheme?

Under [LUPAA](#), Councils are required to enforce their planning schemes. Not only must all Council development comply with the planning scheme, but Council also has an obligation to investigate and take reasonable steps when other people are not complying with the planning scheme (*please note, what is "reasonable" will depend on the circumstances*).

You have only two years from the date when the alleged offence was committed to take action in the RMPAT.