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Mr Mike Blake
Government Flood Review
GPO Box 308
HOBART TAS 7001

By email: brian.edmonds@ses.tas.gov.au

Dear Mr Blake

I refer to your letter to Mr Greg Alomes, Executive Commissioner, Tasmanian Planning Commission (the Commission) dated 14 October 2016 regarding the review into the June 2016 floods.

The purpose of this letter is to submit information regarding the current planning reforms that the Government is undertaking to provide a fairer, faster, cheaper and simpler planning system for Tasmania and to provide an overview of planning's role relevant to the strategic issues identified in your letter to Mr Alomes.

As background, the first set of planning reforms were delivered in 2014 with the passage of changes to the *Land Use Planning and Approvals Act 1993* (the Act) to streamline the processes for finalising interim planning schemes and amending planning schemes, and a range of other measures to improve the planning system.

In late 2015, further amendments to the Act commenced that provide for a statewide planning scheme to be introduced, which is the Tasmanian Planning Scheme (TPS). The TPS will comprise both State Planning Provisions (SPPs), as well as 29 Local Provisions Schedules (LPSs), one for each municipality across the State. The TPS is a single statewide planning scheme which provides a set of statewide consistent planning rules and will replace all 29 interim planning schemes operating in Tasmania.

The Planning Reform Taskforce established in 2014 and reporting to the Minister for Planning and Local Government, Hon Mr Peter Gutwein, has provided advice to Government on planning reform, particularly on the delivery of the TPS. The Planning Reform Taskforce was responsible for preparing the first initial draft of the SPPs, in accordance with the Terms of Reference under section 17 of the Act, in consultation with local government and stakeholders and supported by a drafting team comprises of state and local government experts.

The Government intends to also introduce further legislative amendments to introduce Tasmanian Planning Policies (TPPs), which will be prepared to give strategic guidance to the planning system

on a range of matters, as well as the delivery of the remaining reforms for major projects including in-principle approval, Ministerial call in powers and changes relating to third party appeals.

The SPPs provide the statewide consistent set of planning rules, which include the TPS's purpose and objectives, consistent and contemporary planning definitions, exemptions, use classes, and administrative provisions such as development application requirements.

The draft SPPs includes 22 generic zones which indicate what land use and development is appropriate for each zone such as residential, business, agriculture, utilities, environmental and recreational uses. In addition, there are a suite of 15 codes which provide clear pathways for dealing with land use issues which occur across Tasmania and may apply across a range of zones, covering matters such as natural hazards, local heritage values and electricity infrastructure.

The SPPs also include the template for each council's LPS.

Councils will choose from the suite of planning rules in the SPPs to express their community's land use strategies in their LPS.

The draft SPPs may be viewed on the Commission's website at http://www.planning.tas.gov.au/planning_our_future/draft_state_planning_provisions

The draft SPPs were subject to a further period of consultation with local planning authorities, State Agencies, and the Commission, and modifications were made prior to the Minister approving them for public exhibition and assessment by the Commission.

As part of the formal statutory assessment by the Commission, the draft SPPs placed on public exhibition for 8 weeks during May and July this year. The Commission subsequently held 25 hearing days to seek further information on all representations received.

The Commission is expected to provide its report, including any recommended modifications, to the Minister on 9 December 2016. The Minister will then make a decision, in accordance with the Act. Once the SPPs are finalised and declared by the Minister, they will be provided to local councils in their role as the planning authorities to develop their own LPSs. Local councils will continue to administer all of the planning controls that apply to their local area.

The draft Riverine Inundation Hazard Code forms part of the draft SPPs, and aims to manage use and development in areas at risk from flooding associated with watercourses. The draft Code applies through areas being mapped as 'riverine inundation hazard areas' overlays, and it is up to each local planning authority to identify such areas as part of preparing their LPS.

The draft Code adopts similar concepts to the draft Coastal Inundation Hazard Code, where applicable, noting that riverine flooding has different characteristics to coastal flooding.

The draft Code applies to development, as well as use but only where a new habitable room is created within an existing building or there is a change of use that converts a non-habitable building to a habitable building.

In preparing the riverine inundation hazard area overlay map for their LPS and determining the extent of the area to be covered, each planning authority should use their own riverine inundation data or data from other sources. The draft Code will not be supported by State based mapping, provided by the State Government.

It is understood that future work may be undertaken by the Department of Premier and Cabinet (DPAC) to set the policy and prepare statewide mapping however, this is likely to take at least

another 12 to 18 months to establish the methodology. The mapping is also expected to have a significant cost due to number of watercourses that would need to be analysed and the complexities of inland flooding.

During the Commission's hearings on the draft SPPs, a number of councils raised concern about the draft Code only being applied via a mapped overlay, arguing this would place a significant cost burden on councils to map areas at potential risk (in order to have the draft Code apply to affected areas).

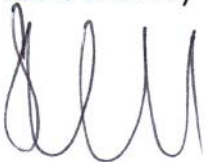
Currently, all Interim Planning Schemes that have codes relating to inland flooding provide for areas at risk to be mapped. However, these Codes also include a 'call-in' power which provides the opportunity for applications to be assessed against the Code for areas that are unmapped but may be at risk from a 1% annual exceedance probability (AEP) flood.

A similar 'call-in' approach may need to be included in the Riverine Inundation Hazard Code to ensure flooding risk is adequately addressed in the absence of any statewide mapping as a precautionary measure. The Commission may include a recommendation in its report to the Minister to consider the options for managing inland flooding in the absence of any State based mapping for the draft Code. Further advice may be provided on this issue, following the submission of the Commission's report to the Minister.

Planning has an important role in managing flood risk in terms of strategic planning of existing and future urban settlements, and the subsequent application of zoning of land in planning schemes. At a high policy level, land use planning should be aligned with the building approval system in terms of determining the acceptable or tolerable level of risk and identifying what developments or uses, and in what circumstances, should be dealt with at the planning approval stage. The Department acknowledges the need for more information at the State level on areas at risk from flooding, and the merits of integrating such information into the building and planning approval systems, and would accordingly support a statewide mapping exercise.

If you have any queries or require further information, please contact myself or Mr Brian Risby, Manager Planning Policy Unit, Department of Justice on tel. (03) 6166 1430 or email Brian.Risby@justice.tas.gov.au.

Yours sincerely



Simon Overland
Secretary

15 November 2016

cc Mr Greg Alomes, Executive Commissioner, Tasmanian Planning Commission