

Ramsay, John

From: Ramsay, John
Sent: Tuesday, 22 March 2022 11:46 AM
To: Smith, Ross
Subject: RE: State of the Environment Report

Thanks Ross.

I agree with your approach.

Having a decision on the way forward prior to Estimates is important. I guess the meetings need to be initiated by you, and I will fit in as required.

By separate email, I will send you a chronology of the Commission involvement in recent years. I prepared it for the Minister's Office in Sept last year.

I will also send you the Options Paper that the Commission had prepared. It indicates that there are contemporary ways in which to address the SoE issue.

John

From: Smith, Ross <Ross.Smith@justice.tas.gov.au>
Sent: Tuesday, 22 March 2022 8:12 AM
To: Ramsay, John <John.Ramsay@planning.tas.gov.au>
Subject: RE: State of the Environment Report

I have an awareness of it and also have read the Ryan and Lawrie Review.

It's an odd state of affairs allround (the existence of the provision in the SPP Act, the choice not to observe the provision for over a decade etc).

My last info was there was some thoughts at the DPAC end to abolish it altogether, but I've heard nothing since.

I agree it needs changing and I reckon it will be highly unlikely that support could be gained to abolish it. In fact I think that, done well, it could be a useful pillar for determining and monitoring the impact of key policies.

How about the following approach:

- Convene a meeting with the relevant DPAC folk in the first instance to talk about our intention and aim to reach a consensus on how we address. I propose that you and I get our heads together beforehand to work out a battleplan.
- Raise with the Minister at our next meeting and, hopefully, gain support to progress a solution – potentially involving a proposal to Government from the IDC etc that you mention below –with for example DPAC, DPIPWE, State Growth and Treasury (because of their new renewables function).

This could potentially allow for an announced Ministerial intention by Estimates – including intention for legislative amendment.

What do you think?

R

From: Ramsay, John <John.Ramsay@planning.tas.gov.au>
Sent: Monday, 21 March 2022 12:46 PM
To: Smith, Ross <Ross.Smith@justice.tas.gov.au>
Subject: State of the Environment Report

Ross,

Not sure if you have a background to this issue, but an SoE Report is the responsibility of the Commission under the State Policies and Projects Act.

A couple of years ago under a previous Executive Commissioner, the Commission initiated a process to recommence discharging its SoE responsibilities.

A report is required every five years, and the last published report was in 2009.

The reasons for failure to produce a report, are somewhat elusive.

The cost of producing such report and the requirement for the Commission to focus its available resources on planning reform have been advanced.

Whatever the rationale, when the Commission initiated some action on SoE a couple of year back, the outcome of that action was a recommendation to the Minister that the Commission no longer be responsible for SoE.

Shortly after that, the review of the Commission was undertaken, and it also recommended that SoE not be part of the Commission responsibilities.

That recommendation and the rest of the Review recommendations have not to my knowledge been resolved.

The failure to produce an SoE was the subject of questioning in the Legislative Council at the last Budget Estimates. When I was asked if the Commission was working on the matter, I advised that we were not. We don't have resources for such work.

There has been a suggestion that some IDC would examine this and provide advice to the Government on how the SoE function is to be discharged into the future, if indeed SoE is to be retained.

If there is to be a change, to relieve the Commission of this responsibility, section 29 of the State Policies and Projects Act will have to be amended.

I have no doubt that this issue will be raised in Budget Estimates again this year, and the Minister will need to provide a response about the Governments intentions.

If asked in Budget Estimates, I am not in a position to advise any differently to what I stated last year.

Are you able to advise of whether the policy deliberations on this matter have got to since last year?

If I can assist in any way in progressing and resolving this issue, please let me know.

John

John Ramsay

Executive Commissioner | Tasmanian Planning Commission

Department of Justice

61656828 | John.Ramsay@planning.tas.gov.au

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be fully
vaccinated



wear masks
when needed



symptoms?
get tested



stay home
if sick



use
check in TAS



stay
up to date



keep
hands clean



keep your
distance

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Ramsay, John

From: Ramsay, John
Sent: Tuesday, 22 March 2022 11:50 AM
To: Smith, Ross
Subject: SoE Chronology 18/19 and State of the Environment (SoE) Reporting – Options Paper
Attachments: 4.3 - State of the Environment (SoE) Reporting – Options Paper.PDF

Ross,

As per previous email. Background info.

John

Commission's consideration of the SoE issue in 2018/2019.

7 May 2018 Commission Meeting

- Commission received a paper and advice from the Executive Commissioner on a 2018 Update Review of the review of SoE of 2013
- Commission committed to producing the next SoE as soon as practicable
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20 October 2019

- Terms of Reference 1(d) for a Review of the Commission was'examine..... The structure of the Commission and its functions and powers under the Act to ensure that (d) Its functions are not undermined by the demands of historically designated roles under other legislation that might be better reallocated to another agency or body, in particular the State of the Environment Reporting function.

October 2020 Review Report

- “Remove from the Act the TPC’s role to prepare the State of the Environment Report. The Tasmanian Government should confirm the intended purpose of the SoE and assign responsibility for its preparation based on this.”(page 11 & pp 42-44)

Ramsay, John

From: Smith, Ross
Sent: Tuesday, 22 March 2022 12:23 PM
To: Ramsay, John
Subject: RE: State of the Environment Report

Totally agree. I'll set them up

From: Ramsay, John <John.Ramsay@planning.tas.gov.au>
Sent: Tuesday, 22 March 2022 11:46 AM
To: Smith, Ross <Ross.Smith@justice.tas.gov.au>
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R

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John

John Ramsay

Executive Commissioner | Tasmanian Planning Commission

Department of Justice

61656828 | John.Ramsay@planning.tas.gov.au

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Department of Justice 

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-  symptoms? get tested
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-  use Check in TAS
-  stay up to date
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-  keep your distance

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Ramsay, John

From: Ramsay, John
Sent: Tuesday, 7 June 2022 3:11 PM
To: Phillip Pennisi
Subject: RE: HPE CM: State of the Environment Reporting

Dear Phillip,

My apologies for the delay in responding to your email.

A review in relation to the ongoing responsibility for State of the Environment reporting has recommended that it no longer be the responsibility of the Tasmanian Planning Commission.

The Department of Premier and Cabinet is currently leading an assessment of the State of Environment reporting function and where it may be best progressed in the State Government.

Regards,

John Ramsay
Executive Commissioner

From: Phillip Pennisi <ppennisi@ccc.tas.gov.au>
Sent: Monday, 6 June 2022 3:29 PM
To: TPC Enquiry <tpc@planning.tas.gov.au>
Subject: RE: HPE CM: State of the Environment Reporting

Hello,

As per my previous email could I please get an indication of where SOE reporting sits with respect to state government level.

I can be contacted via email or on 6217 9578

Regards,



Phillip Pennisi

Technical Officer | Clarence City Council

a 38 Bligh Street | PO Box 96 Rosny Park TAS 7018
p 03 6217 9791
e ppennisi@ccc.tas.gov.au | **w** www.ccc.tas.gov.au

From: TPC Enquiry <tpc@planning.tas.gov.au>
Sent: Tuesday, 17 May 2022 8:54 AM
To: Phillip Pennisi <ppennisi@ccc.tas.gov.au>
Subject: RE: HPE CM: State of the Environment Reporting

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TASMANIAN PLANNING COMMISSION

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From: Phillip Pennisi <ppennisi@ccc.tas.gov.au>
Sent: Tuesday, 17 May 2022 8:47 AM
To: TPC Enquiry <tpc@planning.tas.gov.au>
Subject: HPE CM: State of the Environment Reporting

Hello,

I'm just enquiring about State of the Environment reporting. At Clarence Council we are looking to produce a local SOE, however we cannot find any information available as to how this process may be undertaken.

We were just wondering if this process has been halted at state or local government level pending review. If not we would be interested to know what the role of your department is in this reporting process, as we are eager to explore the options in producing our own report.

I can be contacted via email or on 6217 9578.

Regards,



Phillip Pennisi

Technical Officer | Clarence City Council

a 38 Bligh Street | PO Box 96 Rosny Park TAS 7018

p 03 6217 9791

e ppennisi@ccc.tas.gov.au | **w** www.ccc.tas.gov.au

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Ramsay, John

From: Risby, Brian
Sent: Monday, 20 September 2021 9:56 AM
To: Palmer, David (DPaC); Ramsay, John
Subject: RE: Leg Co Estimates

Morning All,

I'm not sure what the answers provided covered but I think the history with SOE is actually more complicated than we have explained so far.

The TPC engaged Becky Smith as a Project Officer for SOE some years ago (not sure when) – and then she was transferred to the PPU to carry on work on the preferred form of SOE reports. So I think the narrative is something like this:

- Around 2017-8 Becky Smith was engaged by the TPC to start work on the SOE?
- She produced advice that the way these Reports are prepared has changed
- Then the TPC Review started so the Terms of Reference included the issue of who should produce the SOE.

Not sure how much of this we want to communicate – but it does show the TPC started to do some work...



Brian Risby | Director

Planning Policy Unit
Department of Justice

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w www.planningreform.tas.gov.au

Level 4b, 144 Macquarie Street, Hobart, TAS 7001 | PO Box 825, Hobart, TAS 7001

From: Palmer, David <David.Palmer@dpac.tas.gov.au>
Sent: Monday, 20 September 2021 9:37 AM
To: Ramsay, John <John.Ramsay@planning.tas.gov.au>
Cc: Webster, Ginna <Ginna.Webster@justice.tas.gov.au>; Risby, Brian <Brian.Risby@justice.tas.gov.au>
Subject: Leg Co Estimates

Hi John,

Just a heads up that the Leg Co have not closed off on the TPC and we will have to head back in.

I am not sure of day or time as yet, but it could be tomorrow afternoon.

The questions that have been identified are exactly the same as what we took on notice and have already responded to, so I am not sure whether Bastian just didn't like the answers.

Cheers

David

Output Group 4 – Regulatory and Other Services

4.2 Tasmanian Planning Commission

1. Have there been formal requests by the TPC for extensions regarding the statutory requirements of releasing a state of the environment report every 5 years? (BS)
2. Has the Minister received a request from the TPC seeking additional funds to prepare the State of the Environment Report? (BS)
3. When did work on the State of the Environment report cease? (BS)

Adviser	Email	Office	Mobile

David Palmer

Planning Adviser
Office of the Hon Roger Jaensch MP

Minister for State Growth
Minister for Environment
Minister for Climate Change
Minister for Local Government and Planning
Minister for Aboriginal Affairs
Minister for Heritage

Level 9, Executive Building
15 Murray Street
HOBART TAS 7000

Phone: 6165 7777

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From: Ramsay, John <John.Ramsay@planning.tas.gov.au>
Sent: Monday, 13 September 2021 12:41 PM
To: Palmer, David (DPaC) <David.Palmer@dpac.tas.gov.au>; Linton, Trent <Trent.Linton@justice.tas.gov.au>
Subject: RE: QoN - Leg Co

David,

I do think that the questions posed and simple answers to those questions will not reflect the Commission's consideration of the SoE issue in recent years. ✓

I think that the answers to the questions should be considered in the context of the Commission's actions in recent years. ✓

As a result I have prepared the chronology below which details the Commission's consideration of the SoE issue in 2018/2019.

7 May 2018 Commission Meeting

- Commission received a paper and advice from the Executive Commissioner on a 2018 Update Review of the review of SoE of 2013
- Commission committed to producing the next SoE as soon as practicable
- agreed that the Executive Commissioner prepare a work program and budget to produce the next SoE Report

15 October 2018

- Rebecca Smith was specifically engaged by the Commission undertake work on the SoE.

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October 2020 Review Report

- “Remove from the Act the TPC’s role to prepare the State of the Environment Report. The Tasmanian Government should confirm the intended purpose of the SoE and assign responsibility for its preparation based on this.”(page 11 & pp 42-44)

In response to the questions, in the time available, it is simply not possible to provide specific answers and I’m not sure that I could, even if there was additional time. ✓

Question 1 – I am not aware whether have been formal requests for extension of time. The most recent advice to the Minister is outlined in the above chronology.

Question 2 – I am not aware whether any Minister received a request seeking additional funds to prepare SoE. However in his Budget Evidence of June 2016, the then Executive Commissioner indicated that the Commission did not have financial capacity to do SoE. In the context of the May 2019 Minute to the Minister the Commission similarly advised that “ it cannot finance production of the report.”

Question 3 – If the question relates to actual production of text for an SoE Report, I cannot find an answer to that question. From a Commission Issues Paper of November 2012, it would appear that at that time, the options available to produce an SoE, its scope and frequency and how to make such a report useful to government and other stakeholders, were all under consideration. In the time available I haven’t been able to locate the outcome from the Options Paper (it would appear that there was a review in 2013), but in light of the 2018 – 2020 chronology outlined above, I think that the assumption should be, there has not been further specific work to produce a report. ✓

John

From: Palmer, David <David.Palmer@dpac.tas.gov.au>

Sent: Monday, 13 September 2021 9:26 AM

To: Linton, Trent <Trent.Linton@justice.tas.gov.au>; Ramsay, John <John.Ramsay@planning.tas.gov.au>

Subject: RE: QoN - Leg Co

Hi Trent and John

We have now been sent a formal Question on Notice from the Leg Co (below).

I know that the answer to question 1 and 2 is going to be ‘no’, but can I get a one or two line answer to the third question (even if it’s an unknown, no formal record type thing).

I do have a vague memory that Greg employed someone to do some work on the State of the Environment report, maybe around 2017-18, but that it all kind of fizzled out.

Sorry for the rush, but I will need a response by lunchtime today.

Thanks heaps

David

Output Group 4 - Regulatory and Other Services

4.2 Tasmanian Planning Commission

1. Have there been formal requests by the TPC for extensions regarding the statutory requirements of releasing a state of the environment report every 5 years?
2. Has the Minister received a request from the TPC seeking additional funds to prepare the State of the Environment Report?
3. When did work on the State of the Environment report cease?

From: Linton, Trent <Trent.Linton@justice.tas.gov.au>
Sent: Thursday, 9 September 2021 1:42 PM
To: Palmer, David <David.Palmer@dpac.tas.gov.au>
Cc: Crowder, Kerrie (DoJ) <Kerrie.Crowder@justice.tas.gov.au>
Subject: QoN - Leg Co

Hi David

Re: Has the Minister received a request for funds from the TPC or any additional funds to work on the SoE Report?

I've confirmed with Finance that there has been no request for additional funds to work on the SoE report.

There was another question about when work on the report ceased but that's probably answered by the above.

Cheers
Trent



Trent Linton

Ministerial Liaison Officer

Department of Justice

(03) 6165 4922 | trent.linton@justice.tas.gov.au

www.justice.tas.gov.au

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3.0 STARRED ITEMS

3.1* Status report on planning scheme amendments as at 26 June 2019

Noted by Commissioners

3.2* Schedule of delegated decisions

Noted by Commissioners

3.3* Schedule of matters approved or confirmed under delegation

Noted by Commissioners

3.4 Resolution to approve recommendations in starred items

The Commission resolved to approve the recommendations in the starred items.

4.0 COMMISSIONERS IN COMMITTEE

4.1 Action List

2018-09 Action 4.4 – Judicial Review – UTAS update

The Acting Executive Commissioner advised that the case had been heard and a decision has yet to be issued.

2019-01 and 2019-04 Action 4.2 – State of the Environment Report

The Acting Executive Commissioner advised that the minute is still with Secretary, Department of Justice.

Noted by Commissioners

4.2 Meeting with the Secretary and Appointment of Executive Commissioner

The Secretary joined the meeting at 11.00am and stated that she was pleased to have this opportunity to meet the Commission to assist with better understanding relationships with the Department while recognising the Commission's independent role. She said that she had been impressed with the positive working relationship that exists.

She informed the Commission that:

- the appointment of a new Executive Commissioner is progressing and will be advertised soon;

- the Minister is very keen to finalise the assessment of LPSs during his term of office, acknowledging the pressure this places on the Commission and staff;
- the Minister would like regular reporting on the LPSs from the Executive Commissioner, perhaps as part of a monthly review meeting;
- the previous LPS State Steering Committee (charged with overseeing the acceleration project) has almost completed its task and a revised Terms of Reference is being prepared with the intention of providing a forum to discuss any issues for assessments of LPSs - the Executive Commissioner be invited to be a member of the Steering Committee;
- the revised Statement of Expectations is with the Minister to be signed; and
- the Minister is considering the Minute from the Commission about the review of the State of the Environment Report including this might be part of a broader Commission review, noting that the Minister thinks it is inappropriate to progress a broader review while the LPSs are being assessed.

4.3 Draft Policy – Commissioner and delegate submissions to, and appearances before Commission assessments and reviews

The Commission considered the report and draft policy prepared by the Acting Executive Commissioner.

Commissioner Gregg advised that the previous Executive Commissioner had assured her that any conflicts could be managed by taking a risk based approach.

Commissioner Tiernan was concerned that the reported SG advice appeared to be contradictory and that he would prefer the advice could be received in writing.

Commissioner Ramsay indicated that he supported the policy with some minor editorial changes.

Commissioner Stretton expressed a desire to further consider the matter and to have the opportunity to provide input on how the conflicts could be alternatively managed.

Deputy Executive Commissioner Hogue drew attention to a relevant decision by the Resource Management and Planning Appeal Tribunal from 2000.

The Commission resolved to defer endorsement of the policy until a future meeting of the Commission and for:

- (a) the Executive Commissioner to circulate the relevant Resource Management and Planning Appeal Tribunal decision from 2000 to Commissioners;
- (b) the Executive Commissioner to obtain Solicitor General's advice in writing as outlined in the meeting paper; and
- (c) Commissioners to provide any comments on the draft policy to the Executive Commissioner by 26 July 2019.

No further update as at 3 June 2019

2019-01 and 2019-04 Action 4.2 – State of the Environment Report

Minute is still with Secretary, Department of Justice

2019-02 Action 4.3 – Draft Governance Arrangements

Completed

2019-02 Action 6.1 – Executive Commissioner Role

Completed

2019-03 2.1 – Translation of zoning

Acting Executive Commissioner Fischer and Deputy Executive Commissioner Hogue met with the Minister on 6 May 2019. The Minister is not keen to introduce specific legislation for this matter. However, there is a possibility to add it to other legislation being introduced to parliament later this year.

2019-04 4.3 – Ending of Part 5 Agreement

Completed

2019-04 4.4 – TPC Code of Conduct for Executive Commissioner, Commissioners and Delegates

Completed

Noted by Commissioners

5.0 FOR DECISION

5.1 Commissioners in Committee

The Commission reviewed the items considered by Commissioners-in-Committee for possible external publication.

The Commission resolved to approve external publication of Items 2.1, 2.2 and 2.3

6. OTHER BUSINESS

Commissioner Howlett requested that Update of LPSs be added to Agenda as a Standing Item.

Commissioners Ramsay and Howlett will provide an update on the Meander Valley LPS at the next Commission meeting.

Deputy Executive Commissioner Hogue advised that the Commission has recently received draft LPSs from Circular Head, Burnie, Flinders and Hobart. She also advised that Clarence, Glamorgan Spring Bay, Southern Midlands and Central Coast draft LPSs are close to being exhibited. To date the Commission has received 10 LPSs.

Noted by Commissioners

Meeting closed: 10:30am

Next meeting: Monday, 1 July 2019



APPROVED / NOT APPROVED / NOTED

SIGNED:

DATE:

Critical Date:

Minute to the Minister for Planning

State of the Environment Report Review

Minister's notation:

RECOMMENDATION:

That you:

1. **Note** that the Commission has a statutory obligation to produce a State of the Environment (SoE) Report and a Report has not been able to be produced since 2009;
2. **Note** that the Commission has insufficient resources to produce a report capable of meeting the requirements of the *State Policies and Projects Act 1993*;
3. **Approve** a review of SoE reporting in Tasmania specifically addressing:
 - o which agency should be the responsible, and
 - o the content of the report;
4. **Agree** that the Department of Justice (DoJ) undertake the review and that a representative of the Tasmanian Planning Commission (TPC) be included in the Governance arrangements for the review; and
5. **Note** that a briefing from the Acting Executive Commissioner of the TPC will follow the presentation of this Minute.

KEY ISSUES:

1. The TPC is in a quandary.
2. The TPC **must** produce a SoE report¹.
3. The TPC cannot produce the SoE report because it:
 - a) cannot finance production of the report; and
 - b) it is now the wrong agency to have responsibility for the report.
4. Supplementary to this is the fact that there have been significant developments in SoE reporting since the production of the last Tasmanian SoE report in 2009.
5. A solution to this quandary is to review the jurisdiction and practices of Tasmanian SoE reporting and the legislation which requires the production of the SoE report.
6. The review has the potential to be of great benefit to both the State, the community and the public sector.
7. The review would consider such issues as:
 - a) best practice in current SoE reporting nationally and internationally;
 - b) the utility of SoE reporting to Tasmania;
 - c) comparative institutional or governance models for delivering SoE reports; and
 - d) comparative legislative models for delivering SoE reports.
8. DoJ will manage the review, utilising the resource of an Officer seconded from the TPC.

BACKGROUND:

The TPC must produce a SoE report.

The Tasmanian Planning Commission has a statutory mandate to produce a SoE report every 5 years.

The fact that a report has not been produced for 10 years is not a sanction to continue to do nothing. This:

- is contrary to the principles of good government and public law values;
- has potential political ramifications; including pressure from the Opposition, the Greens, partisan stakeholder groups and/or the media; and

¹ Part 4 *State Policies and Projects Act 1993*. The report must be produced every 5 years. There has been no report for 10 years.

- potentially subjects the TPC, and therefore the Government, to the consequences and complications that would arise from an application for a writ of mandamus.

The TPC cannot produce the SoE report because:

- it cannot finance production of the report.

The total cost of producing the 2009 SoE report was in excess of \$1 million over 5 years. With CPI this figure would now be in excess of \$1.25 million. This would amount to an additional \$250,000 per year for the budget when the Commission is also seeking additional funding for assessment of draft Local Provisions Schedules.

The TPC's financial resources are wholly committed to its core functions of assessing and reporting on statutory planning amendments. This situation is compounded by the TPC's current role in delivering the Government's planning reforms.

The TPC is the wrong agency to have carriage of the report.

There are two reasons for this predicament:

- I. SoE reporting in Tasmania was established² to:
 - provide an assessment of environmental condition;
 - provide a means by which the effectiveness of actions taken to protect the environment could be evaluated;
 - report environmental progress on a State, regional or catchment basis;
 - identify environmental issues that would require policy, planning, management or resource allocation decisions;
 - provide an active management tool by which resources could be allocated on the basis of priority, or can be redirected to minimise adverse environmental effects; and
 - supplement any national report which may be produced.

These objectives were consistent with, and applicable to, the functions of the authority then responsible for producing the SoE report - the Sustainable Development Advisory Council (SDAC)³.

The objectives are no longer applicable to the remit and functions of the TPC. The TPC performs a range of statutory and advisory functions for the use of land, including the assessment of planning schemes and planning scheme amendments.

² Second Reading Speech, State Policies and Projects Bill 1993

³ The SDAC produced the first SoE report in 1997. The next report, published in 2003, was produced by the Resource Planning and Development Commission (RPDC). Like the SDAC the RPDC had a broader remit than the TPC. It included a policy role in the promotion and facilitation of the sustainable development of Tasmania's natural and physical resources and the maintenance of ecological processes and genetic diversity.

Relevantly, the TPC has produced only one SoE report, in 2009. In a subsequent review of the report it was found to be⁴:

- Unconnected and of little or no utility to policy or government decision making;
 - A questionable use of the human and financial resources of, primarily government, data holders; and
 - An out-of-date collation of information that is available, in more and better detail, elsewhere.
2. There are three institutional models, nationally and internationally, for delivering SoE reports. The TPC fits none of these. These models are:
- a. SoE reporting is conducted within an executive department of government, usually within an Environment Department and often by, or in collaboration, with the Environment Protection Authority, or equivalent, within that Department.
NSW, Queensland, South Australia and the Commonwealth follow this model.
 - b. The SoE reporting body is established and funded as an independent and autonomous agency set up with the express purpose of producing state of the environment reports. In this instance legislation often prescribes not only the content and/or framework of these SoE reports but also statutory requirements for:
 - i. Consultation and/or collaboration;
 - ii. Data provision by, and from, other government agencies;
 - iii. Independent scientific or expert review;
 - iv. Auditing and/or quality control functions;
 - v. Transmittal methods, including electronic; and
 - vi. Ministerial response to recommendations.*Victoria and the ACT follow this model.*
 - c. The task of SoE reporting is shared by a number of Ministries. This model often includes collaborations between government departments, government agencies and research institutes.
New Zealand follows this model.

There have been significant developments in environmental reporting since the production of the last Tasmanian SoER in 2009.

Tasmania's economic development and the effects of climate change requires government policy makers to move beyond traditional methods of environmental monitoring and reporting. The system must be re-wired to support and provide government decision makers with the tools they need to enable ecologically sustainable development.

⁴ *Review of the State of the Environment Reporting*, 25 January 2013, Tasmanian Planning Commission, (Unpublished)

The primary change to environmental reporting since 2009 is the international, and now national, use of the System of Environmental-Economic Accounting (SEEA)⁵

In 2017 the Tasmanian Minister for the Environment, the Hon. Elise Archer, MP, through the MEM (Meeting of Environment Ministers) “endorsed the objectives of a common national approach to environmental-economic accounting”⁶ and agreed that this “important work will ensure accurate and reliable information is available to governments, communities and business to better understand the condition of the environment and make better decisions”⁷.

Victoria’s 2018 SoE report was tabled in Parliament last month. The Commissioner for Environmental Sustainability, Dr Gillian Sparks, recommended a new framework for environmental reporting, based on the SEEA, be used to “better protect the state’s natural assets and the value and benefit of Victoria’s \$400 billion economy”⁸.

It could well be argued that Tasmania’s economic, social and environmental resources need the same protection.

Forwarded through Nick Evans, Deputy Secretary

Prepared by:	Becky Smith	Approved by:	Peter Fischer	Cleared by:	Nick Evans
Position:	State of the Environment Manager	Position:	Acting Executive Commissioner	Position:	Deputy Secretary
Phone:	6165 6827	Phone:	6165 6804	Phone:	6165 4943
Date:	9 April 2019	Date:	13 May 2019	Date:	May 2019

⁵ <https://seea.un.org/> accessed 5 April 2019

⁶ <http://www.environment.gov.au/system/files/pages/4f59b654-53aa-43df-b9d1-b21f9caa500c/files/mem6-agreed-statement.pdf> accessed 5 April 2019

⁷ <http://www.environment.gov.au/system/files/pages/4f59b654-53aa-43df-b9d1-b21f9caa500c/files/mem-meeting5-statement.pdf> accessed 5 April 2019

⁸ <https://www.ces.vic.gov.au/> accessed 5 April 2019

Noted by Commissioners

4.2 State of the Environment Review

Rebecca Smith joined the meeting via Skype and Acting Executive Commissioner Fischer presented the Minute to the Minister for discussion.

Commissioner Gregory said that the Recommendations and Key Issues in the Minute needs to be expanded and amended, that is, the Minister is to be requested to:

1. Note that the Commission has a statutory obligation to produce a report and a Report has not been able to be produced since 2009;
2. Note that the Commission has insufficient resources to produce a report capable of meeting the requirements of the *State Policies and Projects Act 1993*;
3. Approve a review of the State of the Environment Report for Tasmania specifically addressing:
 - a. who should be the responsible Agency, and
 - b. the content of the Report; and
4. Agree to DoJ undertaking the Review and for a member of the Commission to be included in the governance arrangements.

Ms Smith advised that the legislation is well overdue for a review given that it had been in effect for over 25 years. She also considers that the most appropriate Agency to conduct the review may not even exist at the moment.

The Commissioners resolved to endorse of the Minute to the Minister on the State of the Environment Reporting review, subject to the amendments to the recommendations suggested by Commissioner Gregory, and for the Acting Executive Commissioner to execute the changes and forward the Minute to the Minister.

4.3 Ending of Part 5 Agreement C961646 between the Brighton Council and Tarbook Pty Ltd

Acting Executive Commissioner Fischer requested Commissioners approval for the ending of this Part 5 Agreement.

The Commissioners also discussed authorising the Executive Commissioner, or Deputy Executive Commissioner, to approve future ending of Part 5 Agreements.

The Commission resolved, under section 74(3) of the Land Use Planning and Approvals Act 1993, to approve the ending of Agreement C961646 registered on 8 November 2010, between the Sorell Council and Tarbook Pty Ltd on the subject titles.

The Commission resolved to approve the recommendations in the starred items.

4.0 COMMISSIONERS IN COMMITTEE

4.1 Action List

Item 2018-04 – Action 4.3

This item was discussed under item 4.4.

Item 2018-09 – Action 4.4

Acting Executive Commissioner Fischer advised there have been no further updates.

Item 2019-01 – Action 4.4

This item was discussed under item 4.2.

Item 2019-02 – Action 4.3

This item was discussed under item 4.4.

Item 2019-02 – Action 6.1

Acting Executive Commissioner Fischer advised there have been no further updates.

Item 2019-03 – Action 2.1

The delegation for this item was under Item 2.1 of this meeting. This part of the action is now completed.

Item 2019-03 – Action 2.1

Acting Executive Commissioner Fischer gave an update regarding a letter sent to the Minister and the Minister's request for a meeting this afternoon. A copy of the letter will be sent to Commissioners for their information.

Acting Executive Commissioner Fischer also gave an update of his meeting with Brian Risby of the Planning Policy Unit regarding the need to make legislative changes to the *Land Use Planning and Approvals Act 1993* (the Act).

Item 2019-03 – Action 2.2

This item was discussed at Item 2.1 of this meeting. Action completed.

Item 2019-03 – Action 6.0

This item was discussed at Item 2.6 of this meeting. Action completed.

Meeting Paper

AGENDA ITEM: 4.3

MEETING No: 2019-04

PREPARED BY: BECKY SMITH

Subject: State of the Environment (SoE) Reporting – Options Paper

Summary: To consider the options for state of the environment reporting

Resolution: The Commission resolves to:

- a) endorse the presentation of options for state of the environment reporting to the Minister; and
- b) agree that the preferred option is for a statutory review of state of the environment reporting in Tasmania; and
- c) request the Acting Executive Commissioner to prepare a minute to the Minister advising him of the Commission's preferred option for progressing the state of the environment reporting in the State and seek his support for that option..

Background

At the TPC meeting No. 2019-01 the Commission resolved to:

- a. *"prepare an options paper to the Minister as a whole-of-government approach to address systemic issues with environmental reporting in Tasmania".*

The Options

The paper at **Attachment One** presents the background results of reviewing the options for state of the environment reporting available to the Minister. The paper includes the benefits and disadvantages of each approach.

The options are:

1. Do nothing / Delay Production

Advantages:

- There is a legislative mandate to produce a SoE report every 5 years¹. There has been no report for 10 years. This appears to have made no material difference from a governance, administrative, legal, policy or environmental perspective.
- No conflict with the TPCs human or financial resources – especially given the current planning reform program.

¹ Part 4 *State Policies and Projects Act 1993*

Disadvantages:

- Political ramifications; including pressure from the Opposition, the Greens, partisan stakeholder groups and/or the media.
- Continuing contravention of the TPC's statutory obligation to produce a report.
- Contra to the principles of good government and public law values.
- (Very) remote risk of an application for a writ of mandamus.

2. Statutory Review (RECOMMENDED OPTION)

Advantages:

- Improved environmental and governance outcomes.
- Demonstrates that the TPC is actively working to fulfil its statutory obligation.
- Requires no or nominal additional resourcing. The TPC has committed to fund a dedicated SoE reporting position until 15 October 2020. This resource could be employed to conduct the review.
- Resolves the problems identified with previous SoE reports; that they are:
 - Unconnected and of little or no utility to policy or government decision making;
 - A questionable use of the human and financial resources of (primarily government) data holders. The last report, published in 2009 and allowing for CPI inflation, cost the Tasmanian government almost one million dollars; and
 - An out-of-date collation of information that is available, in more and better detail, elsewhere.
- Statutory review would enable consideration of:
 - i. the current state of government environmental reporting in Tasmania.
 - ii. which agency is, or would be, best placed to report on the state of the environment;
 - iii. the legislated content of the report in light of current environmental and best practice reporting trends including environmental-economic accounting; and
 - iv. the utility of state of the environment reporting to Tasmania.
- Preliminary stakeholder consultation has:
 - established whole of government support for legislative review; and
 - revealed that there are broader, systemic challenges with Tasmanian environmental reporting more generally.

Stakeholders consulted:

- Private Forests Tasmania;
- Sustainable Timber Tasmania;
- Forest Practices Authority;
- Department of Primary Industries, Parks, Water and Environment;
- Department of State Growth;
- Department of Justice (Planning Policy Unit);
- Department Premier and Cabinet (Policy);
- Tasmanian Climate Change Office; and

TASMANIAN PLANNING COMMISSION

- Fire Services Tasmania.
- CSIRO, UTas, NRM South, the Tasmanian Land Conservancy, the Department of Environment and Energy (DEE), the Australian National University (ANU) and the Australian Bureau of Statistics (ABS) were also consulted in preparation of the Options Paper.

Disadvantages:

- Could be seen as a form of do-nothing or delaying with the same disadvantages (as listed (1) above).

3. Traditional / Conventional SoE Report

Advantages:

- Effecting change is difficult and challenging the status quo can lead to criticism; therefore maintaining the previous approach to SoER reporting could be seen as desirable.
- Would allow continuity in terms of methodology.

Disadvantages:

- Unconnected and of little or no utility to policy or government decision making.
- A questionable use of the human and financial resources of (primarily government) data holders.
- Expensive to produce - the last report, published in 2009 and allowing for CPI inflation, cost the Tasmanian government almost one million dollars over 5 years.
- Would contain an out-of-date collation of information that is available, in more and better detail, elsewhere.



State of the Environment Reporting in Tasmania

The Options

Background

The TPC (Meeting No. 2018-04) committed to producing the “next SoER as soon as practicable” and to the preparation of a “draft SoER work program ... for consideration by Commissioners”.

Scoping and preparation of a draft work program commenced on 15 October 2018. This work, combined with the findings of two reviews of past Tasmanian SoE Reports, revealed significant problems and challenges with the TPC producing a reiterative and standard SoE report.

These issues were presented to the Commission (Meeting No. 2019-01). The Commission “resolved to prepare an options paper to the Minister as a whole-of-government approach to address systemic issues with environmental reporting in Tasmania”.

Introduction

This paper is the result of reviewing the options for state of the environment reporting, available to the Minister. The paper includes the benefits and disadvantages of each approach.

The Options

1. Do Nothing

There is a legislative mandate to produce a state of the environment report every 5 years.¹ Despite this prescript there has been no such report since 2009.

There appears to be no evidence that the absence of a Tasmanian SoE report has made any ascertainable difference from a governance, administrative, legal, policy or environmental perspective.

The potential political ramifications of a do-nothing approach can be gleaned from the following indicia.

House of Assembly Question time records show only three references to the 10 year absence of the SoE report. One incidental comment, in November 2018, during a debate about amendments to the Brand Tasmania Bill 2018 from Greens Member Cassy O’Connor.

“In Tasmania in times past, for example, we had a state of the environment report that came out on a regular basis. I cannot remember when the last one came out. I am not putting that on you, Premier, but there should be a regular state of the environment report in Tasmania. In that state of the environment report, you would gain a pretty clear snapshot of healthy environments, risks to the marine and terrestrial environment, and steps being taken by government to manage those risks or to restore an environment. It was a very important document”².

¹ State Policies and Projects Act 1993

² <http://www.parliament.tas.gov.au/ParliamentSearch/isysquery/04520e73-15bb-454d-8305-642b5a5babe3/1/doc/> accessed 22 March 2019

ATTACHMENT ONE

The next, during the same Assembly meeting, from Greens Member Dr Rosalie Woodruff, stated that the Greens "vision" included "reinstating" the state of the environment report³.

The third comment was made by Independent Rob Valentine during a Legislative Council Meeting in October 2015⁴: "If the state Government was serious about improving the system, it would allocate resources to develop a broader sweep of state-wide policies and implement mechanisms and resources to maintain the currency of Regional Land Use Strategies and their implementation. In particular, resources should be allocated to prepare an annual state of the environment report. The last report was prepared in 2009. How do you manage something when you are not measuring it? That is to say, the effect of developments on communities and the environment and whether they are sustainable. Yet we take great liberties to promote Tasmania as clean and green, and how much longer will this be possible"?

In June 2016 Estimates Committee B the Hon. Peter Gutwein MP, Treasurer, Minister for Planning and Local Government was asked as follows⁵:

Ms WOODRUFF - *I have one last question about the State of the Environment reporting. These reports are supposed to be prepared every five years. The last one was prepared in 2009. Why wasn't one prepared in 2014 when it was due? It is now three years overdue. When will the State of the Environment reporting take place? Does the TPC have some money in its budget to do that, given all of its other duties and \$330 000 less in the coming year?*

Mr GUTWEIN - *Mr Alomes will provide some information on that matter.*

Mr ALOMES - *There are two issues we have to deal with. One was that we reviewed the SOE and how it worked and came to the conclusion a significant upgrade was needed to make it a meaningful document. That goes to the issue of data sources and whether those sources are in a position to be able to give you a proper assessment of the state of the environment. The second issue that overran us was the issue of the planning reform agenda and the resources for that. In the end we did not have the financial capacity to do it.*

Ms WOODRUFF - *When is it going to happen? It is now three years overdue.*

Mr GUTWEIN - *I must admit I have not made a decision on that.*

Ms WOODRUFF - *It is not on your radar; the environment is not there. Clearly there is no plan.*

Mr ALOMES - *I understand the politics of what you are saying. The issue is that there has been a significant change in the source of data available. Real-time information is now much more readily available but when we did the review not long after we issued the 2009 report, it was very clear that the information sources at that time were not adequate for the task set in the legislation.*

Ms WOODRUFF - *That is eight years ago now. We have it there; there is no reason not to do it, unless we do not want to know the information it contains. It really is a high priority activity.*

³ <http://www.parliament.tas.gov.au/ParliamentSearch/isysquery/04520e73-15bb-454d-8305-642b5a5babe3/2/doc/> accessed 22 March 2019

⁴ <http://www.parliament.tas.gov.au/ParliamentSearch/isysquery/2914e568-54f1-4c0a-826a-edf01ba591f4/1/doc/> accessed 25 March 2019

⁵ <http://www.parliament.tas.gov.au/ParliamentSearch/isysquery/37547d98-7028-452e-9d2c-bc7a206b24df/1/doc/> accessed 25 March 2019

ATTACHMENT ONE

CHAIR - *Our time has elapsed. Minister, I thank you and your advisers very much for attending today.*

2. Delay Production

This option would essentially see a continuation of the current situation. Arguably, and as described above, this is unlikely to make any material difference from a governance, administrative, legal, policy or environmental perspective.

The political ramifications are the same as outlined in the “do-nothing” option.

Delaying production would also negate any conflict with the human and financial resources as they pertain, and are critical, to the TPC delivering the current planning reform program.

However, further delay would also see a continuation of the TPC’s contravention of its statutory obligation. This is not good. Such action flies in the face of good government and the upholding of public law values⁶. It also increases the risk, albeit exceptionally remote, of an application for a writ of mandamus⁷.

3. Statutory Review

Reviewing the existing legislation could be seen as a form of delay.

State Policies and Projects Act 1993

PART 4 - State of the environment reporting

29. Preparation of State of the Environment Reports

(1) The Commission must, as soon as reasonably practicable after the commencement of this Act and after that commencement at intervals of 5 years, produce a consolidated State of the Environment Report relating to—

- (a) the condition of the environment; and
- (b) trends and changes in the environment; and
- (c) the achievement of resource management objectives; and
- (d) recommendations for future action to be taken in relation to the management of the environment.

(2) The Commission must—

- (a) submit a State of the Environment Report produced by it to the Minister; and
- (b) cause notice to be given, as prescribed, that the State of the Environment Report will be available to the public for inspection and purchase.

(3) The Minister must cause a State of the Environment Report to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the Report is received by the Minister.

However reviews of previous SoE reports establish that they are:

⁶ *The Scope of Judicial Review*; Report to the Attorney-General. Report no. 47 April 2006

⁷ *ibid*

ATTACHMENT ONE

- Unconnected and of little or no utility to policy or government decision making;
- A questionable use of the human and financial resources of (primarily government) data holders. The last report, published in 2009 and allowing for CPI inflation, cost the Tasmanian government almost one million dollars; and
- An out-of-date collation of information that is available, in more and better detail, elsewhere.

In addition preliminary stakeholder consultation has:

- a. established whole of government support for legislative review; and
- b. revealed that there are broader, systemic challenges with Tasmanian environmental reporting more generally - including the lack of a strategic approach to the collection and presentation of environmental data by agencies.

Stakeholders consulted:

- Private Forests Tasmania;
- Sustainable Timber Tasmania;
- Forest Practices Authority;
- Department of Primary Industries, Parks, Water and Environment;
- Department of State Growth;
- Department of Justice (Planning Policy);
- Department Premier and Cabinet (Policy);
- Tasmanian Climate Change Office; and
- Fire Services Tasmania.

CSIRO, UTas, NRM South, the Tasmanian Land Conservancy, the Department of Environment and Energy (DEE), the Australian National University (ANU) and the Australian Bureau of Statistics (ABS) were also consulted in the preparation of this proposal.

It is posited that a statutory review would consider:

- i. the current state of government environmental reporting in Tasmania
- ii. which agency is, or would be, best placed to report on the state of the environment;
- iii. the legislated content of the report in light of current environmental and best practice reporting trends; and
- iv. the utility of state of the environment reporting to Tasmania.

The option to delay production of the SoE report in favour of completing a review of the legislation has the advantages of:

- a. leading to improved environmental and governance outcomes; and
- b. demonstrating that the TPC is actively working to fulfil its statutory obligation.
Note that the TPC has committed to fund a dedicated SoE reporting position until 15 October 2020. This resource could be employed to conduct the review.

ATTACHMENT ONE

4. Traditional SoE Report

State of the Environment reporting represents a “colossal failure”.⁸ After thirty years of reporting, across all Australian States, Territories and the Commonwealth, SoE reports have contributed very little, and more probably nothing at all, to meet the vast array of expectations and interpretations placed upon them though statutory and non-statutory reporting requirements.⁹ Further, there is no appreciable evidence to suggest that SoE reporting across Australia, and including Tasmania, has contributed to environmental sustainability outcomes, or is used as a tool for making environmental management or policy decisions. It has been, to date, “an end in itself rather than a means to inform better environmental management”.¹⁰ It represents a “substantial waste of financial and organisational resources for little gain”.¹¹

There are problems and challenges inherent with state of the environment reporting in all jurisdictions.^{12,13} A summary of these challenges is presented in **Table 1** below. The summary includes comments received from the Tasmanian Department Primary Industries, Parks, Water and Environment (DPIPWE), HydroTas, Forestry Tasmania and NRM North and South. These are the primary data holders for, and potential users of, state of the environment reports. Their comments were collected in a 2012 review of state of the environment reporting in Tasmania conducted by the the TPC.

Table 1. SoE Reporting Challenges

1. The SoE report is not used by agencies for the administration of any of their functions, nor as a decision making tool.
2. The report is unconnected to policy decisions.
3. SoE reporting places financial and/or resource constraints on the operations of agencies being asked to supply not only data but often interpretation and analysis of data.
4. The SoE report is really just a collation and summary of data that’s already available elsewhere. No primary data is collected for the SoER to meet its statutory obligations; it’s resourcing is therefore questionable.
5. SoER data is spatially and temporally ad hoc. This is the case within and between each Tasmanian SoER as well as between Tasmania and the SoERs of all other jurisdictions, including the Commonwealth. Further, there is no consistency or standardisation of indicators, ecological condition measures, data presentation or frameworks between States, Territories and the Australian SoER.
In addition, among the ranks of SoE reporters, there is a growing sense of framework fatigue. Every SoE reporting cycle there’s a new framework.

⁸ Maganov, P. (2005), SoE What! Ten years of SoE reporting in Australia, presented to the Australian State of the Cities Conference, Nov 23 – 24, Brisbane, Qld.

⁹ *ibid*

¹⁰ Harding, R., Traynor, D. (2001). Informing ESD: State of the Environment Reporting” in “Processes and Institutions for Resource and Environmental Management: Australian Experiences (final report to Land & Water Australia), edited by Dovers S, and Wild River, S, CRES ANU, Canberra

¹¹ Maganov, P. (2005)

¹² John Bailey, Trish Harris & Philip Jennings (2018): State of the environment reporting in Western Australia: law, land and beyond, Australasian Journal of Environmental Management, DOI: 10.1080/14486563.2018.1486238

¹³ Maganov, P. (2008), SoE What! Ten years of SoE reporting in Australia, presented to the Australian State of the Cities Conference, Nov 23 – 24, Brisbane, Qld.

ATTACHMENT ONE

6. Compliance with the legislation is ill-defined. There are resource management objectives in Tasmanian legislation that apply to the SoER but the report does not assess the meeting of these objectives.
7. SoER processes, requirements and formats are constantly changing and differ substantially between each 5 yearly release. They are therefore inconsistent and too infrequent.
8. There is little or no scrutiny of reports. With the exception of the Australian Capital Territory's SoE report, decision makers are not required to respond to findings or recommendations.
9. SoE reporting deals with a maze of ecological variables. To really report on the indicators (and choosing them is a whole other ball game) would need a significant monitoring system. But no SoER agency monitors anything; they just report.
10. Trends in condition need to be linked to management but this is extremely difficult as there are multiple organisations providing multiple levels of management in any given area or for any given topic.
11. Traditional SoERs primarily use descriptive research methods (interspersed with graphs, maps and tables to add an air of authority) to inform the DPSIR ¹⁴ framework. These descriptive methods cannot be used to measurably correlate variables or determine and quantify cause and effect.
12. There are plethora of all-encompassing expectations and interpretations of the statutory and non-statutory reporting requirements of SoE reporting: <ol style="list-style-type: none"> a) <i>"informing on the current status of the environment...."</i> b) <i>"monitoring and reporting on changes over time of the natural and urban environments...."</i> c) <i>"accounting for the efficacy and outcomes of programs and responses to environmental issues ...",</i> d) <i>"presenting credible environmental information"</i> e) <i>"contributing to environmental decision-making"</i> f) <i>"contributing to wider strategic planning issues....."</i> g) <i>"contributing to improved environmental outcomes".¹⁵</i>

¹⁴ The Driving Forces, Pressure, State, Impact, Response (DPSIR) framework is a causal framework for describing the interactions between society and the environment. It is the most commonly adopted framework, in Australia and internationally, for reporting on environmental state and trends.

¹⁵ Maganov, P. (2008)

ATTACHMENT ONE

These are linked to the similarly all-encompassing group of ill-defined stakeholders variously including:

- Government;
- Policy makers;
- Decision makers;
- The community;
- The public;
- NGOs;
- The community sector
- Educational institutions (secondary and tertiary)

As a result, and in seeking to be everything to everyone, SoE reporting provides little to anyone.

13. The value or utility of SoE reporting can be measured by asking: “*Would the environment or government policy be any different if SoE reporting didn’t exist*”? Doubtlessly not - Tasmania hasn’t had a SoE report for 10 years and this appears to have made no discernible difference to anything. Aside from the statutory prescription to tick a box no one in Tasmania appears to have missed it.

14. SoE reports seek to measure or assess environmental state, condition and trends, and how the outcomes are effected by management. Yet there appears to be no attempt to assess the effectiveness or outcomes of SoE reports themselves.

15. SoE reports constantly point out that there was insufficient data to report properly on x, y or z indicator. Some go so far as to make recommendations to government that more of this data needs to be collected. But why? So the SoE report can more fully populate its indicators? SoE reports fail to explain why such extra data needs to be collected; for what purpose would it be used and how would this extra data lead to improved environmental outcomes.

16. Case studies are commonly used in SoE reports, including Tasmania. They almost always depict human interest, good news stories. If the purpose of SoE reporting is to provide general information to the public this descriptive narration approach could be of value. However, and because the aim of SoE reporting is so amorphous:

- a) there is a lack of clarity and no consensus about the purpose of case studies in SoE reports; and
- b) they are often a mechanism for cloaking a lack of information or analysis.

17. SoE reports are essentially compendiums of summarised environmental information. They are analogous to encyclopaedias and year books; both of which are all but redundant. The Encyclopaedia Britannica ceased production in 2012 as did the Australian Year Book. Tasmania has not had a year book since 2000.¹⁶ Even with the

¹⁶ <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/1301.6Main+Features11967?OpenDocument>

ATTACHMENT ONE

move to wholly online SoE reporting the fundamental problems, as outlined in the points above, remain.

In addition to the problems with SoE reporting outlined in **Table 1** the TPC does not have the resources to produce a traditional or conventional SoE report. It is estimated that such a report would cost in excess of \$1 000 000. This estimate is based on the fact that the last report, published in 2009, and allowing for CPI inflation, cost close to this amount.

In other jurisdictions, nationally and internationally, SoE reports are now presented primarily or solely as digital productions. Often these versions include videos, interactive properties and infographics. These features require significant financial and technical resources to produce.

The production of an on-line report would also, potentially, require a legislative amendment given that the Commission must:

- (a) submit the SoE report to the Minister; and
- (b) make the report available to the public for inspection and purchase.

The Minister is also required to table the report in each House of Parliament.

5. SoE Report Cards or Assessment Summaries

Report cards assess and summarise the current condition of the environment, the trend or change in condition over time, as well as the reliability of the information. They comprise a short synopsis plus a graphical representation of the key results or findings of each environmental theme or topic in a given SoE report.

Report cards have broad popular appeal because information is presented in a format which is pictorial, short and easy to understand. **Figure 1** shows the report card for Australian biodiversity from the 2015 national SoE report. This report card summarises the findings of the entire biodiversity chapter in the national report. Some report cards, such as South Australia's 2018 Environmental trend and condition report card (**Figures 2**), are stand alone in that they are not linked to a more comprehensive report.

ATTACHMENT ONE

State and trends of biodiversity

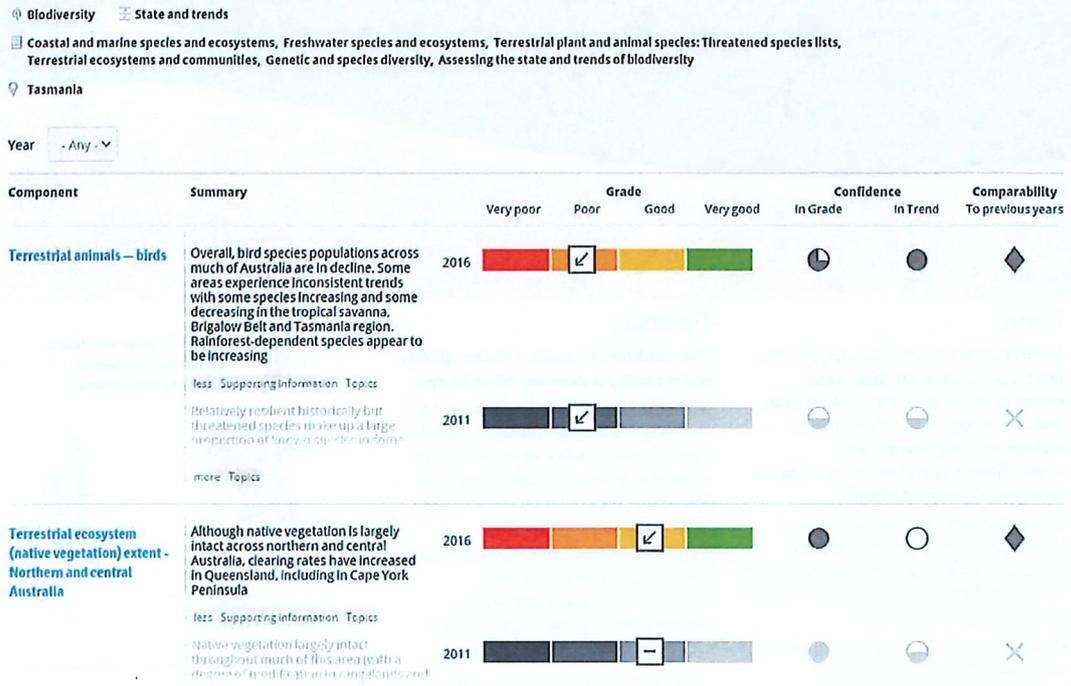


Figure 1.

Surface water

Quantity and quality

South Australia's
Environmental trend and condition report card 2018



Trend
Getting worse

Condition
Fair

Reliability
Very good

STATEWIDE

Trend

Annual streamflows (quantity) in the state's prescribed surface water resource areas over the past 30 years indicate a declining trend. Water salinity (quality) varies with streamflow, but trends are considered to be within natural ranges.

This assessment is of the quality and quantity of surface water in actively managed surface water areas (top figure). The River Murray is excluded and reported on in a separate assessment.

Over the past 30 years, declining trends in streamflow have been observed throughout the prescribed surface water areas of South Australia. In 12 of the past 15 years, streamflows across the state were less than the 30-year average (bottom figure).

Salinity typically varies annually with streamflow, and is influenced by rainfall and evaporation. The salinity trends across the prescribed areas are considered to be within the natural range.

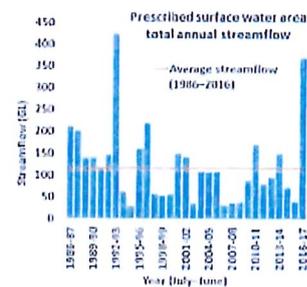
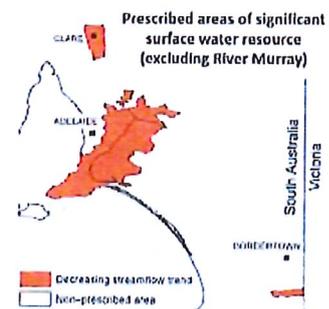
Condition

The condition of surface water quality and quantity is considered to be fair.

While the long-term streamflow trend is declining, the overall condition of surface water resources is fair. Management by water allocation plans (WAPs) seeks to ensure that the condition of our surface water resources is sustainable.

Because of variable rainfall, surface water does not always meet the full consumptive demand and may be supplemented by other water sources, such as groundwater, in dry periods.

Although streamflows are declining across most of South Australia, water quality is generally stable



Why is surface water important?

Surface water resources are fundamental for our industries, environment, health, and way of life. The main uses of surface water across the state are for domestic consumption, agriculture and industries.

Surface water is a limited resource in South Australia. Sustainable water management and planning, in terms of both quality and quantity, is vital to our long-term water security, the environment and the economy of the state.

What are the pressures?

Surface water quantity is affected by climate as well as water-use demands from industry, irrigated agriculture, stock and communities.

Climate impacts rainfall patterns and can lead to a reduction in surface water runoff to rivers and streams. Reduced availability of surface water can also have adverse impacts on water quality.

Surface water quality is affected by use, stock access, sediment and run-off.

What is being done?

Key surface water resources in South Australia are managed through WAPs under natural resources management legislation.

The quality and quantity of water resources across the state are regularly monitored and annually assessed. Science supporting WAPs is reviewed and updated as required.

Regional programs aim to reduce the impacts of land management activities on surface water quality while supporting economic productivity.

Figure 2.

Establishing a rigorous, repeatable and evidence-based methodology for assessing environmental state and trends in report cards requires high-quality science and methodological resources.

ATTACHMENT ONE

However once established the methodology is repeatable and would allow longer term environmental trends in Tasmania to be tracked.

Criticisms of report cards include that they are highly simplified summaries, making qualitative assessments, of large amounts of complex data. For a completely informed assessment, report cards should be read in conjunction with the explanatory text in the reports or underpinning information accompanying them. Arguably this undermines the utility of report cards in the first place.

Given that report cards are underpinned by the same data as SoE reports proper they can be expensive as well as technically challenging to produce¹⁷¹⁸.

6. Pilot Project – Environmental-Economic Accounting for State of the Environment reporting in a Planning Context

The strategic use of Environmental-Economic Accounting (EEA) has the potential to negate many of the problems with “traditional” state of the environment reporting (Table 1). In addition, the use of an EEA framework for SoE reporting would:

1. Revitalise the SoE reporting process in Tasmania. And, in doing so, position Tasmania, nationally, at the forefront of this field.
2. Assist Tasmanian Government planners and planning policy makers, to discharge their statutory and administrative functions.
3. Accord with the Common National Approach to Environmental-Economic Accounting¹⁹ and further Tasmania’s commitment under the Meeting of Environment Ministers (MEM) agreed statements of July 2017 and April 2018.²⁰
4. Be of measurable utility to predetermined policy and decision makers; as well as other users.
5. Provide a process solution as well as a substantive or technical solution. The statutory prescription to produce a SoE report every 5 years coheres with the statutory update of Regional Land Use Strategies, also every 5 years.²¹

The disadvantages of using this approach include the additional resourcing requirement; primarily financial, at a point where these resources are not currently available within the TPC.

The approach could also, potentially, be seen as not strictly complying with Part 4 of the *State Policies and Projects Act 1993* and may therefore need to be completed in conjunction with Option 3 (Statutory Review).

¹⁷ For example see: <https://wettropicswaterways.org.au/wp-content/uploads/2018/12/2018-Report-Card-Program-Design.pdf>; and also

¹⁸ As for 17. above: <https://wettropicswaterways.org.au/wp-content/uploads/2018/12/2018-Report-Card-Methods.pdf>

¹⁹ <https://www.environment.gov.au/system/files/resources/f36c2525-fb63-4148-8f3c-82411ab11034/files/environmental-economic-accounting-strategy.pdf>

²⁰ <http://www.environment.gov.au/about-us/mem>

²¹ s5A *Land Use Planning and Approvals Act 1993*

ATTACHMENT ONE

What is EEA and what can it do that traditional SoE Reporting cannot?

What is environmental-economic accounting?

The natural environment provides many benefits to our social and economic wellbeing. Environmental assets such as land, soil, minerals, rivers, oceans and biodiversity are used to support economic growth and improve our living standards. There is growing evidence that the health of our economic and social wellbeing is directly related to the health of our environment. Yet environmental benefits are not adequately captured with traditional measures of progress such as the gross domestic product (GDP).

Environmental-economic accounting (EEA) is a framework for capturing and organising information on the environment, its contribution to economic activity and the impact of that activity on the state of the environment in a consistent and comparable manner.

Understanding the extent and condition of environmental assets can help assess which assets are being depleted or lost, which assets are declining in condition, how to make best use of these assets and to appropriately manage the risk of environmental degradation and the impact of climate change. Recent applications have demonstrated that this information is valuable and relevant for policy-making and investment decisions. It can also be used to monitor and evaluate the effectiveness and/or compliance with existing environmental policies and regulations. Of particular interest to policy-makers is that environmental-economic accounts can capture information at industry, local or regional level and combine it with socio-economic data to help assess the broader impact of policies. This information can then be used to answer questions like which parts of the economy are becoming more or less dependent on the environment and how does economic activity affect the health of our environment.

Figure A depicts the process of EEA; from measurement of stocks of biophysical assets, to the condition of the assets relative to a point in time or to a particular use or objective, to the flows of goods and services that environmental assets provide in various landscapes or regions and finally, the estimated value of such assets and services to the community, government and businesses through market-based transactions or utilising non-market valuation techniques.

The System of Environmental Economic Accounts (SEEA)

In 2012 the United Nations Statistical Commission adopted the SEEA as an international statistical standard for EEA. The SEEA is an extension of the System of National Accounts (SNA) framework and considers the interaction between the economy and the environment. The SEEA provides a set of established accounting principles including definitions, standards, approaches and classifications to account for natural assets both in monetary and non-monetary (physical) terms. The SEEA consists of three parts - the Central Framework,²² Experimental Ecosystem Accounting,²³ and Extensions and Applications.²⁴

The SEEA has the advantage of integrating environmental activity with the economy through the SNA, as well as the ability to bring well-accepted national accounting concepts and methods to the field of environmental accounting.

The conceptual approach adopted in the SEEA Central Framework has a strong economic perspective that characterises the environment as either a source of natural inputs or a sink for residual (waste) as illustrated in **Figure B**. Natural inputs are flows into the economy (such as

²² <https://seea.un.org/content/seea-central-framework>

²³ https://seea.un.org/sites/seea.un.org/files/websitedocs/eea_final_en.pdf

²⁴ https://seea.un.org/sites/seea.un.org/files/ae_final_en.p

ATTACHMENT ONE

minerals, energy, water and timber), products are flows within the economy and residuals are flows from the economy to the environment (e.g. solid and liquid waste, air pollution).

The approach in the SEEA Experimental Ecosystem Accounting Framework expands these perspectives to include the biophysical, tracking changes in ecosystem assets and measuring ecosystem services. The framework allows for linking ecosystems to economic and other human activity.

Figure A: Integrating the measurement of environmental assets and valuation of their benefits. This representation of EEA does not include economic measures to protect the environment.

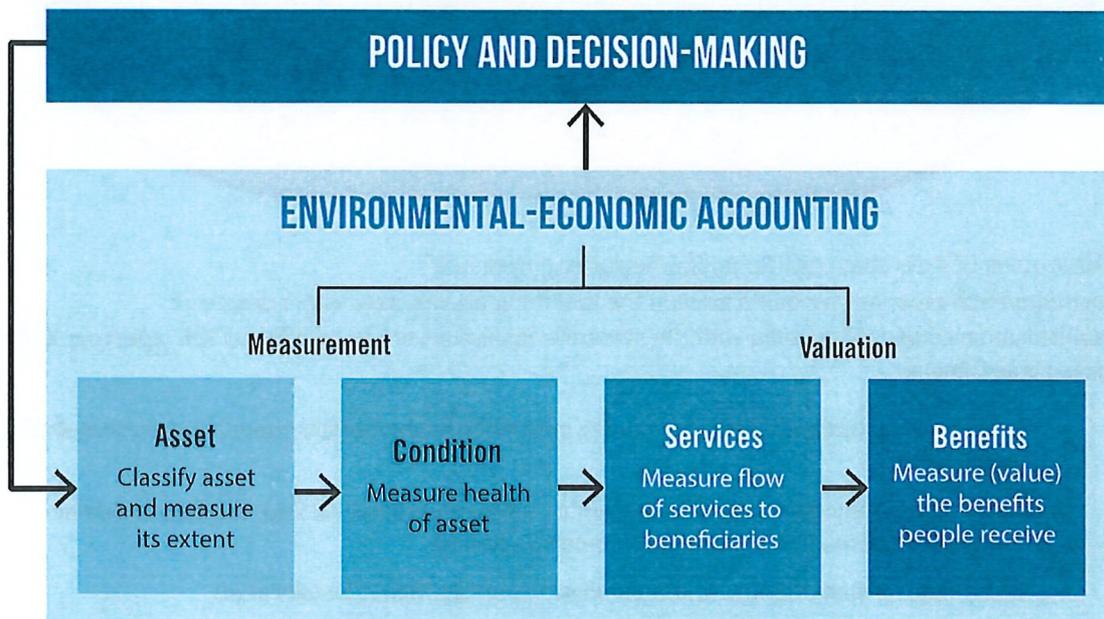
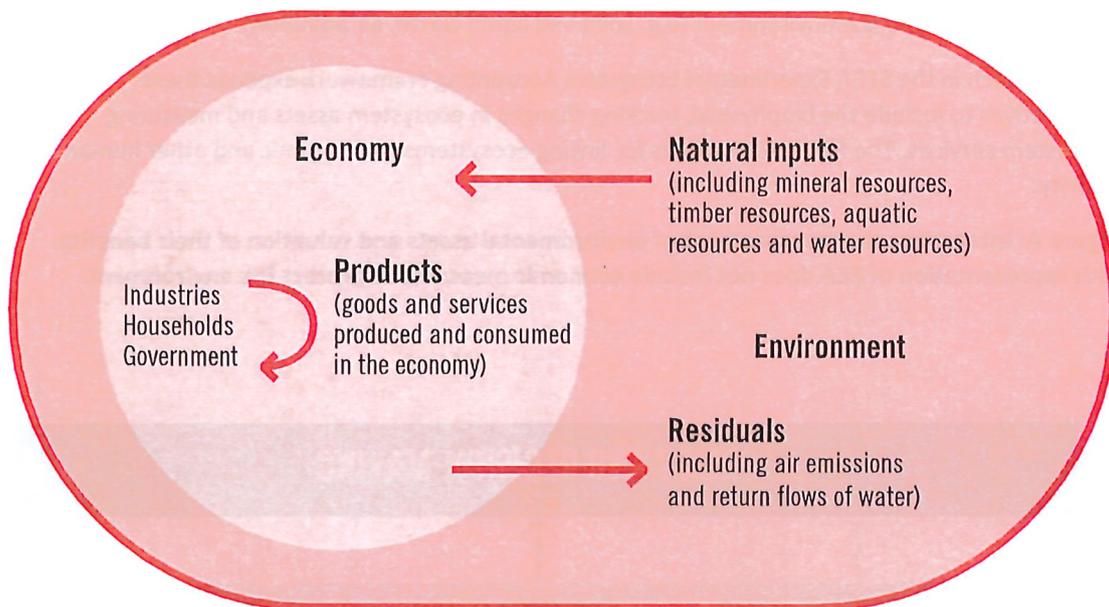


Figure B: Overview of the SEEA Central Framework

ATTACHMENT ONE



What does EEA do that traditional SoE Reporting does not?

Environmental-economic accounts provide the tool for analysing data with a degree of sophistication simply not possible with the narrative approach used by traditional SoE reporting. EEA makes it possible to:

- Determine the optimal amount of money needed to restore and/or maintain environmental condition;
- Consider explicitly the trade-offs inherent in triple bottom line decision making; including the quantification of desired environmental outcomes;
- Determine, in spatial terms, where financial resources should be allocated;
- Monitor and evaluate progress towards specific policy objectives.

Environmental-economic accounts can also be used to estimate causal relationships eg between:

- biodiversity status and budgetary expenditures,
- biodiversity status and land use intensity,
- fruit production and pollination services,
- soil biodiversity and net primary production
- land cover and carbon sequestration,
- water use efficiency and ecosystem conditions, or
- economic growth, sectoral energy use and carbon emissions

ATTACHMENT ONE

Future SoE Reports

An environmental-economic accounting framework for the next SoE Report has two primary advantages, linked to the:

1. Use of an environmental-economic accounting framework through which to interpret and analyse SoE data; and
2. Production and application of environmental-economic accounts to assist the Tasmanian government administer decision and policy making functions under the objectives of the Resource Management and Planning System (RMPS) and the *Land Use Planning and Approvals Act 1993* (LUPA Act).

Firstly, the EEA framework would ensure the temporal and spatial consistency and comparability of subsequent reports. It would also enable the indicators and data of other jurisdictions and agencies using the same SEEA methodology to be linked to and compared with Tasmania's SoE findings.

Tasmania's agreement, through the MEM, to the Common National Approach to EEA²⁵ confirms the validity of EEA to SoE reporting.

In addition the forestry sector, including the Department of State Growth, Sustainable Timber Tasmania and the Forest Practices Authority are progressing a suite of forestry accounts.

Similarly the Tasmanian Land Conservancy, Florico²⁶ and the Bruny Island Community Association are all variously working with or on EEA to monitor and manage their estates.

These agencies are all using a SEEA approach. This means the accounts would be methodologically consistent with those developed by the Tasmanian Planning Commission (TPC) for the SoE report. They would also be consistent with those created by the ABS and the Commonwealth Department of Environment and Energy among others.

Secondly, integrating the SoE Report into the Land use planning policy and strategy framework would make the report integral to the development and use of Regional Land Use Strategies. In addition the timing for the review of these strategies correlates with each new SoE report: both are due every five years. This will ensure the SoE report stays relevant and current with advances in planning policy.

²⁵ <http://www.environment.gov.au/system/files/resources/f36c2525-fb63-4148-8f3c-82411ab11034/files/environmental-economic-accounting-strategy.pdf>

²⁶ https://www.ideeagroup.com/wp-content/uploads/IDEEA_Forico-Forest-Ecosystem-Accounting-Nov-2018.pdf

ATTACHMENT TWO

Environmental-Economic Accounting Examples

Valuing the ecosystems of Victoria's Parks²⁷

In 2015 Parks Victoria and the Victorian Department of Environment, Land, Water and Planning collaborated on the Valuing Victoria's Parks project, which used the SEEA framework to report on ecosystem assets within the parks network and the flow of ecosystem services from these assets. This supported an assessment of the benefits Victoria's park ecosystems provide to the community in monetary terms.



The study quantified a range of benefits provided by Victoria's parks network, finding that:

- tourists spend \$1.4 billion per year associated with parks visits, generating \$1 billion gross value added and 14,000 jobs to the Victorian economy;
- health benefits for physically active visitors to parks are valued at around \$80-\$200 million per year from avoided disease, mortality and lost productivity;
- pollination benefits to producers and consumers of relevant agricultural products are valued at \$123-\$167 million per year;
- water supply and filtration benefits from over one million hectares of park catchments are valued at \$83 million per year;
- flood protection benefits are valued at \$46 million per year from avoided infrastructure costs.

The Valuing Victoria's Parks study was a successful demonstration of the SEEA framework and the information it can provide, and has helped inform debate about the value of parks and natural assets. The study was well received by government agencies and external stakeholders.

²⁷ <https://www.environment.vic.gov.au/accounting-for-the-environment>

ATTACHMENT TWO

*Environmental-Economic Accounting for the ACT State of the Environment Report*²⁸

In September 2017 the ACT Commissioner for Sustainability and the Environment released a suite of environmental-economic accounts produced using the SEEA framework. These accounts were developed in order to better understand the sustainability of economic growth and social wellbeing in the ACT, and reduce reliance on ad hoc studies for the Territory's *State of the Environment* reports.

The first iteration of accounts provides a proof of concept on how environmental-economic accounting can underpin future *State of the Environment* reporting and government decision making in the Territory. The proof of concept has revealed that an environmental-economic accounting approach has a key advantage over the widely used narrative approach to the DPSIR (Drivers, Pressures, State, Impacts and Responses) model, as it is able to demonstrate relationships between biophysical and socioeconomic themes and indicators through integrating economic and environmental information.

Selected indicators for the ACT

Figure 1.

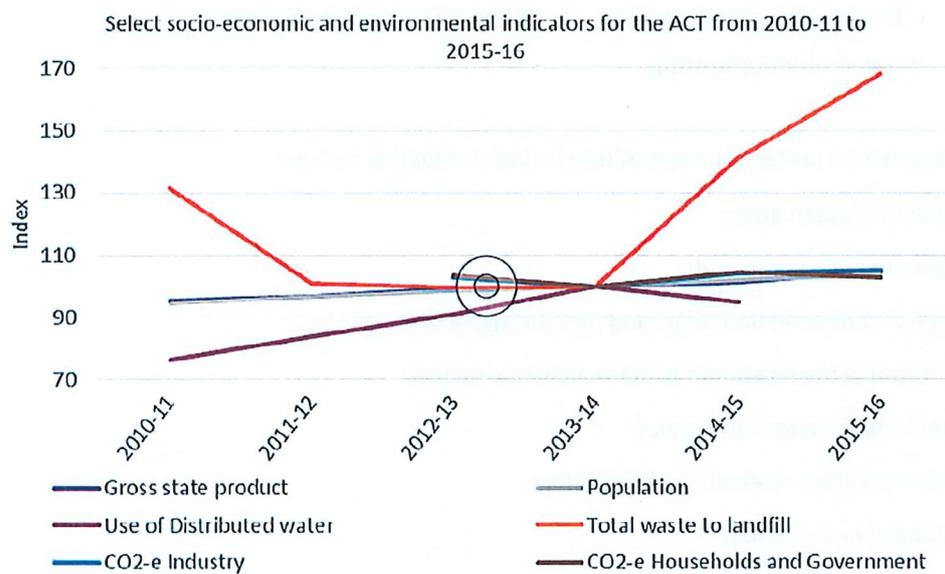
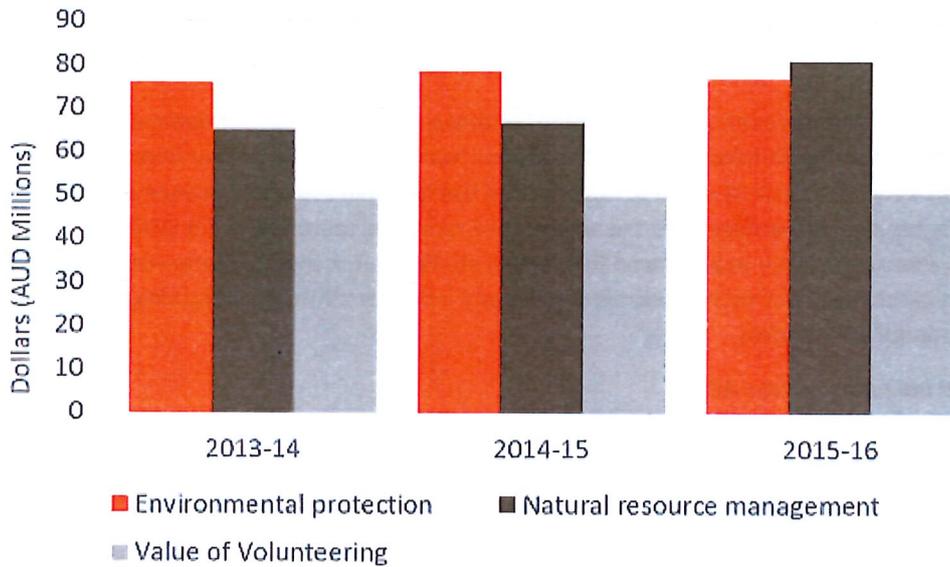


Figure 1 shows trends in resource use (water) and residuals (physical flows from the economy to the environment ie waste and CCo2 emissions) in relation to changes in Gross State Product and population growth.

²⁸ <http://www.environmentcommissioner.act.gov.au/publications/environmental-economic-accounts>

ATTACHMENT TWO

Figure 2 Environmental protection and natural resource management spending and the value of volunteering in the ACT from 2013-14 to 2015-16



In **Figure 2** Environmental protection expenditure includes activities such as:

- Protection of riparian areas;
- Solid waste management, and
- Protection and remediation of ground and surface water.

Expenditure on resource management includes activities such as:

- Catchment management and policy;
- Nature conservation research and education;
- Nature Conservation Policy;
- Sustainability and Climate Change Policy; and
- Urban Reserve and Treescape management.

In 2013-14 the ACT Government spent \$75.8m on environmental protection and \$130.1m on resource management. The following year (2014-15) environmental protection expenditure increased to \$78.5m.

For both these years expenditure on environmental protection was higher than on resource management.

In 2015-16 this trend reversed. Expenditure on resource management rose by 12% compared to 2013-14, while environmental protection expenditure was reduced by 3% in 2015-16. The increase in resource management compared with environment protection expenditure was largely due to

ATTACHMENT TWO

more funds being spent on operational activities and on-ground works within the ACT's reserved areas.

ACT volunteers working in the environment sector participate in activities including tree planting and bush regeneration, caring for injured wildlife, administration and management of environmental group activities, education, and control of invasive species.

Each year since 2013-14 the contribution of environmental volunteers has been a significant contributor to overall activity within the ACT.

In all three years, the estimated value of volunteer activity was in excess of 22% of total ACT Government expenditure on the environment (Figure 2).

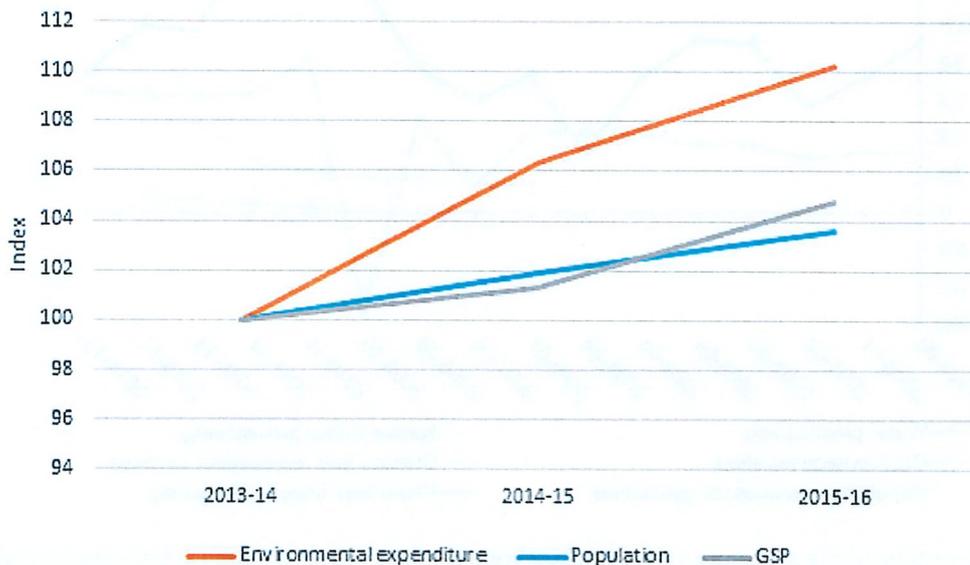
Replacement costs for these volunteers across the years 2013-2016 in terms of wages is represented below:

2013-14 would require expenditure of \$49.2m,

2014-15 would require expenditure of \$49.8m, and

2015-16 would require expenditure of \$50.5m.

Figure 3. Select socio-economic and environmental expenditure indicators for the ACT



The ACT Government's expenditure on environmental protection and resource management rose at a faster rate than both population and economic activity (Gross State Product (GSP) (Figure 3). There was a 9% increase in environmental expenditure between 2013-14 and 2015-16 while population rose by 4% and GSP rose by 5% over the same period. In 2015-16, 0.77% of total ACT GSP was spent on managing and protecting the environment. This is an increase of 4.8% since 2013-14. The ACT's expenditure on the environment is comparable to the Commonwealth's both as a portion of GDP

ATTACHMENT TWO

and in terms of percentage increases over time.⁶¹ Australia overall is ranked 36th in a list of the 40 countries assessed as underfunding biodiversity conservation.²⁹

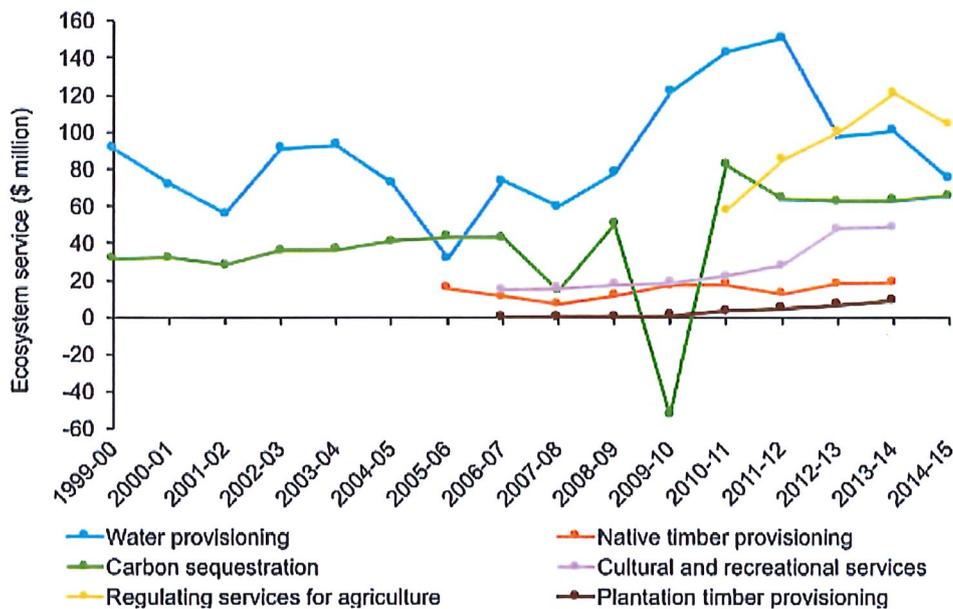
*Experimental Ecosystem Accounts for the Central Highlands of Victoria*³⁰

Public controversy arising from conflicting land use activities in the Central Highlands region is long standing. Managing the various land use activities within the region is complex and requires evaluation of trade-offs between different land uses.

This study looked at land use activities including native forest and plantation timber production, agricultural production, water supply, carbon sequestration, recreation, and biodiversity conservation. These activities are dependent on ecosystem services, and their use can be either conflicting or complementary. In particular, native timber harvesting is potentially in conflict with other land uses, such as tourism, water supply, carbon sequestration and biodiversity conservation.

Ecosystem accounting provided a means of quantitatively comparing various land use activities and trade-offs between different activities.

Figure 4. Value of ecosystem services generated in the Central Highlands study area



Changes over time in the monetary values of ecosystem services reflect changes in both stocks and prices (Figure 4). The study showed that in 2013-14 alone the annual economic value of water supply to Melbourne was \$310 million, about the same as the value of its agriculture. Its tourism was worth \$260 million – all compared to its native timber production worth \$12 million.

“But the main thing to note is the trade-off between the different uses to which land can be put. Use it to produce water supply, and it’s very valuable. Use it to produce water supply and native timber,

²⁹ Targeting global conservation funding to limit immediate biodiversity declines. Waldron, A., O. Mooers, Miller, D., Nibbelink, N., Redding, D., Kuhnc, T. Proceedings of the National Academy of Sciences of the United States of America, 2013.

³⁰ http://www.nesphreatenedspecies.edu.au/Ecosystem%20Summary%20Report_V3b_low.pdf

ATTACHMENT TWO

however, and you reduce the value of the water by far more than the wood chips and pulp are worth".³¹

*Natural Capital Planning Tool for Birmingham City Council (United Kingdom)*³²

The Natural Capital Planning Tool (NCPT) is a free site assessment tool developed specifically for the planning context. The NCPT allows the indicative but systematic assessment of the likely impact of proposed plans and developments on natural capital and the ecosystem services it provides to people such as recreational opportunities, water filtration and climate regulation. Land-use changes due to development can impact on the capacity of Green Infrastructure and Natural Capital to provide ecosystem services such as space for recreation, the mitigation of flooding events and air quality regulation as well as their associated health and wellbeing benefits.

Birmingham City Council tested the NCPT on a Masterplan (Figure 5) for a new housing development for 5,000-6,000 new homes in the north-east of Birmingham. The aim was to assess the impact of the design against the ambition to achieve overall Natural Capital net-gain over a 25 year timeline.

The NCPT outcomes for the initial outline Masterplan indicated significant losses to several ecosystem services including water quality regulation and global climate regulation (Table 1) – despite the ‘green look’ of the plan; but most significantly the loss of agricultural productivity - as expressed through harvested products.

Initial NCPT findings directly influenced the revision of the first Masterplan.

Development Impact Score	
Average Per-Hectare	
Ecosystem Service	Adjusted Scores
1. Harvested Products	-5.4
2. Biodiversity	+0.1
3. Aesthetic Values	+0.6
4. Recreation	+0.2
5. Water Quality Regulation	-0.2
6. Flood Risk Regulation	-0.1
7. Air Quality Regulation	+0.0
8. Local Climate Regulation	+0.0
9. Global Climate Regulation	-1.7
10. Soil Contamination	+0.0
Development Impact Score	-6.5

Table 1

³¹ <https://www.smh.com.au/business/the-economy/how-to-lose-water-waste-money-and-wreck-the-environment-20190305-p511ti.html>

³² <http://ncptool.com/>

ATTACHMENT TWO

Initial Masterplan in 2016



Figure 5

Meeting Paper

Agenda item:	4.4
Meeting No:	2021-05
Meeting date:	3 May 2021
Prepared by:	Sandra Hogue
CM9 reference:	DOC/21/46417

Subject: Commission Review – implementation project

Resolution: The Commission reviews and endorses the draft letter to the Deputy Secretary of the Department of Justice on the Commission Review – Implementation Project

Background

At the April 2021 meeting the Commission was provided with a letter from the Deputy Secretary, Department of Justice, advising of a 'Terms of Engagement' and clarification of how it intends to engage with the Commission for the Review of the Commission – Implementation Project.

A second letter dated 23 March was also provided in which the Deputy Secretary was seeking input on a 'verification exercise', the purpose of which is to review the assumptions underpinning the Review Report.

A response to the letter of 23 March has prepared and is attached for consideration.

Attachment

- Draft letter to Deputy Secretary, Department of Justice including attached submission

DESCRIPTION

Department of Justice
OFFICE OF THE SECRETARY

Level 14, 110 Collins Street Hobart 7000
GPO Box 825 Hobart 7001
Phone 03 6165 4943
Email secretary@justice.tas.gov.au Web www.justice.tas.gov.au



Sandra Hogue
Acting Executive Commissioner
Tasmanian Planning Commission

Attention: Peter Fischer, Senior Planning Consultant

Dear Sandra

Review of the Tasmanian Planning Commission - Implementation Project

In refer to my previous correspondence on this matter and a proposed verification exercise, the purpose of which is to review the assumptions underpinning the Review Report.

Find attached, a document which encompasses two distinct processes:

1. an appraisal by the Commission of the assumptions underpinning the Review Report; and
2. an appraisal of the practicalities involved in implementing the Review's recommendations which relate to the Commissions roles, functions and organisation.

While the second of these is somewhat contingent on the first appraisal, comments and questions relating to both have been combined to assist with bringing the Project to an earlier conclusion.

As noted previously the aim of this exercise is to ensure that any proposed changes are practical, ensure the integrity of the Commission's processes are not diminished and have merit in the Tasmanian context.

The questions are designed to elicit responses in relation to specific comments or recommendations made in the Report. However, the Commission should not feel constrained in providing comments and may wish to raise other relevant issues not canvassed in the document.

I would appreciate a response from the Commission by COB Friday 2 May 2021. However, please let me know if further time is required.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Nick Evans".

Nick Evans
Deputy Secretary - Regulation and Service Delivery

23 March 2021

cc Secretary, Department of Justice

	<p>It would appear that the Commission already provides pre-hearing documentation about hearing processes.</p> <p>Does the Commission consider that the latter recommendation, ‘more effective chairing to summarise key issues and ensure more efficient use of time to hear from representors, and limiting requests for follow-up information and hearings’, may impact negatively on the Commission performing its roles and functions in a fair, just, efficient and effective manner.</p> <p>Are there any opportunities to make hearings more effective and expeditious?</p>	
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Ensuring the Commission performs its roles and functions in an effective manner

12	<p>Use the Statement of Ministerial Expectation to provide the Chief Executive Officer with clear guidance on the Tasmanian Government’s expectations of the TPC’s workload priorities by allocating timeframes to the priorities identified in the Statement.</p> <p>The Statement is currently framed in terms of broad responsibilities and expectations, and with respect to required statutory assessments, rather than specific deliverables with achievement milestones.</p> <p>Is this recommendation practical, ie. allocating timeframes to priorities identified in the Statement? Would this potentially limit due process of and seeking to deliver fairness to all participants? It would appear that this could only be achieved if linked to resourcing?</p>	
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State of Environment Reporting

13	<p>The Review recommends the removal from the Act the Commission’s role to prepare the State of Environment Report. The Tasmanian Government should confirm the intended purpose of the SoE and assign responsibility for its preparation based on this.</p> <p>...the TPC is not the appropriate body to prepare it as it does not have adequate resources, skills, capabilities, or expertise to access and analyse relevant data.</p> <p>Does the Commission have any view on this recommendation?</p>	54
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Other Comments 14	<p>The Commission may wish to provide further comments, for example on relevant issues not raised under a particular heading – or indeed more general comments with respect to the Review commentary or recommendations.</p>	
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Please contact Rob Frew rob.frew@justice.tas.gov.au or 6166 1434 should you wish to clarify any of the above.

Attachment – Review of the Tasmanian Planning Commission – Final Report dated October 2020

TASMANIAN PLANNING COMMISSION



Our ref: DOC/21/45201
Phone: 03 6165 6822
Email: tpc@planning.tas.gov.au

6 May 2021

Nick Evans
Deputy Secretary – Regulation and Service Delivery
Department of Justice

By email: nick.evans@justice.tas.gov.au

Dear Nick,

Review of the Tasmanian Planning Commission – Implementation Project

Thank you for your letters of 15 and 23 March 2021 advising the Commission about the implementation project for the review of the Tasmanian Planning Commission (the Commission) and seeking input on a 'verification exercise' to review the assumptions underpinning the Review of the Tasmanian Planning Commission report, dated October 2020 (the Review Report).

It is understood that the Department is seeking an appraisal by the Commission of the assumptions underpinning the Review Report, and the practicalities involved in implementing the Review recommendations which relate to the Commission's roles, functions and organisation. It is assumed this forms part of 'phase 1 – validation' stated in letter dated 15 March 2021, and includes identifying any factual errors on the basis of recommendations made in the Review Report.

The Commission's appraisal and comments are provided in Attachment 1.

At the outset is important to state that there are a range of constructive recommendations from the Review Report and some of these can be implemented relatively easily.

As far as the implementation project is concerned, the Commission requests ongoing involvement in and the ability to advise on the practicality and consequences of any recommendations considered appropriate as a result of 'phase 1 – validation'.

The Commission also seeks clarity on the process from here, and whether the Commission's attached submission will be made public, noting in any event that it may be subject to the *Right to Information Act 2009*. It is noted that any information that refers to Solicitor-General advice cannot be made public without his approval.

The Commission also respectfully requests to be kept informed of any changes to the project planning and implementation timeframes for project.

If you have any questions or require clarification, please contact myself or Peter Fischer.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Hogue', with a vertical line to its left.

Sandra Hogue
Executive Commissioner

Tasmanian Planning Commission comments on Review Report - appraisal of assumptions and practicalities of recommendations

1.0 Purpose of this paper

The purpose of this paper is to respond to a letter from Mr Nick Evans, Deputy Secretary – Regulation and Service Delivery, dated 23 March 2021, seeking:

- an appraisal of the assumptions underpinning the Review of the Tasmanian Planning Commission report, dated October 2020 (the Review Report); and
- an appraisal on the practicalities involved in implementing the Review's recommendations which relate to the Commission's roles, functions and organisation.

2.0 General comments

At the outset is important to state that there are a range of constructive recommendations from the Review and some of these can be implemented relatively easily. Where relevant, details are provided in the table below.

2.1 Overview of feedback

The Commission notes the Review Report contains significant positive feedback from stakeholders who reported that the Commission is performing its roles and functions effectively and efficiently. This is confirmed in the legal advice the Commission sought from the Solicitor-General (SG), dated 14 December 2020 about conflicts of interest.

... An independent statutory planning body is seen as a crucial element of the Tasmanian Planning System to reduce the potential for undue influence by providing frank and fearless advice of planning issues and through planning decision-making at arm's length from government. Almost all stakeholders expressed significant confidence in the TPC's independence in performing its roles and functions (page 28)

...The submissions expressed strong confidence in the TPC. Submissions indicated the TPC's role as an independent statutory body that makes decisions at arm's length from government and free of political influence is highly valued (page 59)

The first three key findings in the Review Report (page 50) also confirm this:

1. The TPC is performing most of its roles and functions in an efficient, effective, fair, and just manner to the satisfaction of stakeholders.
2. The independence of the TPC is highly valued by all stakeholders and there is strong regard for the expertise and professionalism of the TPC.
3. The TPC public hearings are highly valued because they provide opportunity for people to have a say in land use planning decision-making in an informal context.

2.2 Commentary on underlying assumptions

The underlying assumptions in the Review Report are often not adequately articulated, so it is difficult to work out what they may be. Without a clear understanding of what the assumptions are, there is risk for the assumptions to be interpreted differently to what was intended by the consultants.

The Commission observes that the consultants have not closely considered, and therefore appear to not fully understood, the Commission's legislative and review functions such as the role of assessing and approving planning schemes, a form of subordinate legislation. The Review Report appears to assume the Commission largely undertakes development assessment, which at the time of preparing the Review Report was a very minor component and only by way of section 43A applications which essentially are a review of the planning authority draft permit and not an assessment from first principles.

It also appears that the consultants did not fully understand the roles of Commission delegates that are different to development assessment panels. In fact the Review Report extensively uses the term 'development assessment panel' (DAP) which is not defined. DAPs are usually formed to undertake alternative assessments to those of local councils and are generally created to assess major projects. The only way that they are constituted in Tasmania are as combined planning authorities under the *Major Infrastructure Development Approvals Act 1999* (MIDA Act) or under section 60V of the Act for major projects. The Commission has only operated as or constituted two DAPs in the last ten years and this was subsequent to the finalisation of the Review Report.

The Commission is also not clear about the author's underlying assumptions about conflict of interest and this is confirmed by the SG observations in his advice to the Commission dated 14 December 2020 at paragraphs 4-6, and in particular paragraphs 25 to 27:

25. Because the report is a policy document that does not and is not intended to address the law of administrative decision making, there is a lack of connection between a legal tests for bias and the abstract analysis of 'conflict of interest' in the report. The report assumes that conflicts inherently exist in planning systems and that they ought to be avoided at a structural level, rather than on the familiar case by case basis, which is how the law has consistently addressed the question of bias (including conflicts of interest).
26. However, I consider that the premise that planning decisions involve 'windfall gains' is misconceived. A windfall is 'an unexpected piece of good fortune'. A decision made by an independent statutory authority after a hearing, on the evidence, is not a windfall. It involves the application of legal and planning principles to the facts of the particular case.
27. It is, thus, very difficult to accept the premise that conflicts of interest arise naturally in all planning systems. They may do, but it is not because of the system. It is because, from time to time a particular decision maker has an interest in the decision. The planning system is no different from any other form of administrative decision making under a statute. The Commission is no different than a range of administrative decision makers under Tasmanian statutes, who are required to make decisions independently as a result of holding a particular office in conjunction with office, or employment under the State Also may quote Para 25

<p>Is this recommendation practical, ie. allocating timeframes to priorities identified in the Statement? Would this potentially limit due process of and seeking to deliver fairness to all participants? It would appear that this could only be achieved if linked to resourcing?</p>	<p>The Commission considers this recommendation may limit or appear to limit the independence of the Commission in its decision making role. The Ministerial statement of expectation clarifies the separation of the policy role.</p>
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State of Environment Reporting

	Report Comment	Page	Commission Comments
13	<p>The Review recommends the removal from the Act the Commission's role to prepare the State of Environment Report. The Tasmanian Government should confirm the intended purpose of the SoE and assign responsibility for its preparation based on this.</p> <p>...the TPC is not the appropriate body to prepare it as it does not have adequate resources, skills, capabilities, or expertise to access and analyse relevant data.</p> <p>Does the Commission have any view on this recommendation?</p>	54	<p>The Commission agrees with the Review's recommendation that it is not the appropriate body to prepare the State of Environment report, and to this end supports a review of the Commission Act to remove section 30(c).</p> <p>The Commission has conducted recent reviews on this issue, which can be provided if requested.</p> <p>The Commission initiated Ministerial consideration of this issue ahead of the Review.</p>

	Report Comment	Page	Commission Comments
<p>Other Comments 14</p>	<p>The Commission may wish to provide further comments, for example on relevant issues not raised under a particular heading – or indeed more general comments with respect to the Review commentary or recommendations.</p>		<ul style="list-style-type: none"> The Commission supports a review of section 6(1A) of the <i>Tasmanian Planning Commission Act 1997</i> to clarify the assessment and review functions and roles of the Commission. This will ensure better delineation and clarification between the role and purpose of the Commission and the PPU. The Commission supports the removal of 'Ex Officio' state agency seats on the Commission, which requires amendment of section 5(g) and (h) of the <i>Tasmanian Planning Commission Act 1997</i>. This would confirm the Commission's independence. The nomination of members also needs

		<p>review, and considerations given to being expertise/skills based rather than nominated for their views, allegiances or interests.</p> <ul style="list-style-type: none"> • There are a number of misleading statements in the Review Report, which indicate the consultants did not have a full understanding of the Commission's current legislative and review functions. For example, on page 50, the Review Report states: <p style="margin-left: 40px;">The TPC has made an important and valued contribution to developing and implementing these [planning] reforms. However, the TPC has not effectively performed some of these new roles and functions to the satisfaction of stakeholders, in particular advising councils on Local Provision Schedules and Local Planning Schemes and coordinating provision of transport and other infrastructure across the Tasmanian Government to support delivery of strategic planning initiatives such as the RLUS.</p> <p>The Commission's current roles and functions do not include 'coordinating planning for land use, transport, and other infrastructure across the Tasmanian Government to support delivery of strategic planning initiatives such as the regional land use strategies, although this is partly stated in section 6(1A) of the TPC Act. Further, the provision of planning and reform information is the role of the PPU, not the Commission.</p> • The Commission supports the Executive Commissioner position, if retained, to be bound by the State Service Principles and Code of Conduct through the instrument of appointment/terms of contract when an appointment is made. This may require legal advice and is a matter appropriately handled by the Department. This would ensure accountability and management of the organisation would be at the same standard as a line agency, and would provide greater confidence of the Commission's impartiality, integrity and independence. • The Review Report appears to provide analysis and determination on a new model design and restructure for the Commission, without firstly articulating the governance principles that should be the foundation for an independent planning commission.
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