12 June 2015

Ms. Mary Massina
Executive Chair
Planning Reform Taskforce
GPO Box 536, Hobart, TAS, 7001, Australia
Massina, Mary (StateGrowth) <mary.massina@stategrowth.tas.gov.au>

Dear Ms. Massina,

Thank you for providing the Property Council of Australia (Tasmanian Division) with the opportunity to detail ongoing comment on the 'work in progress' of the State-wide Planning Scheme through our participation in the Business and Industry Consultative Group.

Following our initial meeting with you on 18 May 2015 where you outlined your intended delivery tasks and programme, we have reviewed the following draft documents you have provided:

- Background Briefing Paper Number 1.
- Terms of Reference for the Business and Industry Consultative Group.
- Appendix A Tasmanian Planning Scheme – Purpose Objectives Administrative General provisions (Version 1.1).
- Appendix A.2 Tasmanian Planning Scheme – Zones (Version 1.1).
- Appendix B Zone Application Framework.
- Questions to Consultative Groups – Business and Industry.

We understand your timeframes, and will endeavour to make timely contributions as required after consultation with our members.

While we acknowledge the laudable goal of the planning reform process which is to deliver certainty, clarity, and consistency to property owners, developers, and the community, we wish to note with some concern the scope and complexity of the current planning reform process.

We believe it is ambitious to simultaneously undertake the development of the State-wide Planning Scheme, the preparation of complementary State Policies and the Local Planning Provisions, along with the implementation of Interim Planning Schemes across the state, and associated changes to LUPA Act as required to support the reform agenda.

This is further complicated by discussions about the potential amalgamation of Local Councils.

Our concern is not about the intentions of the planning reform process, but the potential compromises that may need to be made to manage the complexities within a limited timeframe, and whether adequate resources are to be made available to address the full range of current planning reform activities.

In addition, while we are happy to participate in the ongoing review of elements of the State-wide Planning Scheme as they are made available; it is only when all the individual parts are connected that a complete overview of the effectiveness of the proposed Scheme can be fully appreciated. Sufficient

time should be available to allow stakeholders to undertake a thorough and comprehensive holistic review of the completed draft Scheme prior to promulgation.

We also believe the draft Scheme should be the subject of intensive legal review to ensure procedural matters, definitions, references etc. accord with best practice to minimise opportunities for technical legal anomalies. A detailed review of RMPAT hearings may offer some guidance on the issues which become disputes based on interpretation of poorly drafted provisions.

The process should also recognise that many embedded deficiencies in any new suite of complex legislation or regulation will not become apparent until after a period of operation, and that therefore a review and amendment process should be allowed for as an ongoing task.

Some other general observations made to date are as follows:

- *Exemptions:*

  Are we still trying to 'over regulate' development? At what point is there a reality check on the cost/benefit of the need for 'use' and 'development' to be controlled to the degree apparent in the draft Scheme? To some extent this has been addressed in broadening the 'exemptions' and 'no permit required' definitions, however we believe this should be the subject of further detail policy discussions.

  The exemptions as defined by use or development do not necessarily address the threshold beyond which regulation become 'over regulation'. Often this is related to codes and standards such as signage, heritage, bushfire management etc. Is there an opportunity to review the need for such regulations for example, that the maximum size of a permitted sign should not exceed 400 x 300mm, or that the maximum fence height in a residential area should be 1800mm and not 2000mm?

  In addition, the assumption that if a use or development is not mentioned, it is assumed it *needs* a permit, rather than *not needing* a permit – is this the correct onus?

  There needs to be some clarity in the meaning and scope of 'exemptions' and 'no permit required'. What is the effective difference between these provisions?

- *Application Requirements:*

  The development application process should address the issue of cost and risk to property owners and developers. This issue relates to the quantum of information planning authorities request to enable them to adequately consider an application, which is provided at a significant cost to be borne by the developer.

  Intangible 'qualitative' matters which are the most significant concern to the community, and where the greatest developer risk lies, should be the focus of an initial application, and then more technical matters of specific interest, such as related to infrastructure for example, could be subject to direct approvals between the Council and the applicant.

  With regards to Interpretation, the expanded Terms and Definitions appear to be comprehensive, but should be referred to current planning schemes experience where 'unlisted use' was a reasonably common occurrence. An example would be 'hotel' where there is a inconsistency in the common term for a 'public house' type of use for the sale of alcohol with some accommodation, and a tourist/visitor 'hotel' principally as a place of

accommodation with some ancillary guest facilities/amenities. This is somewhat addressed in the Use Class table, but could perhaps be clarified in the definitions.

- *Zones:*

  The zone provisions appear to be satisfactory; however the significant issue will be when the Council apply these zones in their Local Planning Provisions. We would anticipate significant reaction from property owners and developers when it becomes apparent as to the effect on their property development options/requirements.

  Another concern is the nature of 'discretionary' decisions under the Scheme – is the scope for decisions by Councils sufficiently clear to provide certainty for applicants? If 'acceptable' solutions are met, what is the discretion being applied, and for 'performance requirements' is there sufficient guidelines as to what will satisfy those provisions?

  In addition, while the proposed Scheme may appear to extend exemptions, no permits required, and permitted uses, the Council may in their Local Planning Provisions, apply extensive overlays such as heritage, which would then turn development proposals into discretionary applications.

We look forward to further opportunities to review the State-wide Planning Scheme as it is developed, and support the work of the Planning Reform Taskforce.

Yours faithfully,

Mr Sam Hogg

TAS Division President

cc: Mr. Keith Drew, Business and Industry Consultative Group member - keith.drew@xsquaredarchitects.com.au

cc: Mr. Brian Wightman, Executive Director – BWightman@propertycouncil.com.au