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**Subject:** MEETING | Mary Massina - Planning Reform  
**Attachments:** [2014-88.pdf](#)

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MIN24/172228

Topic for Discussion

Planning reform, namely third party appeals

Released under RTI

A fairer, faster, cheaper, simpler planning system

Building a Tasmania we  
can all be proud of



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The Plan to make Tasmania attractive  
for investment, to create jobs

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The Liberals will replace the more than 30 inconsistent planning schemes with one statewide planning scheme

## A Majority Liberal Government has a plan to fix the Labor-Green planning mess:

- One single statewide planning scheme
- Streamlined approvals, one set of documents
- Overhauling major projects approvals, including in-principle approvals
- Ministerial call-in powers
- State policies for consistency
- An expert Planning Reform Taskforce
- Cracking down on third party appeals

## A simpler planning system

### One single statewide planning scheme

The Liberals will put in place one single planning scheme for Tasmania, replacing the more than 30 inconsistent planning schemes we currently have.

Immediately after the election the Liberals will establish within the Department of State Growth a **Planning Reform Taskforce** which will commence work on the single statewide planning scheme.

The Planning Reform Taskforce will comprise of local government and public and private sector experts who understand the need for an appropriate planning and approvals system to help grow the economy and create jobs.

To ensure that the single statewide planning scheme is fairer, faster, cheaper, and simpler for all Tasmanians, the Planning Reform Taskforce will be instructed ensure that:

- The work already undertaken to create the three Regional Land Use Strategies is taken into account;
- All land uses are appropriately covered by the planning scheme;
- All special zones and overlays are dealt with by the scheme – such as specific heritage, rural or other unique attributes covered by the existing planning schemes;
- The single statewide planning scheme is aimed at encouraging appropriate investment and providing certainty for the community; and
- Councils and industry have input into forming the new scheme.

It is important that we **fix Labor's planning mess once and for all**. The Liberals will ensure that all relevant stakeholder groups, including industry representatives, local government and community groups are consulted and are part of this important reform of our planning system.

**The Planning Reform Taskforce will also develop a single set of procedures and documents for all applications and permits.**

Small business and Tasmanian families struggle daily with the red and Green tape involved in development applications. A majority Liberal Government will remove this burden. This is part of our plan to cut red and Green tape by 20 per cent.

## State policies to provide consistency

Immediately after the election, a majority Liberal Government will provide the leadership and consistency that has been lacking under Labor and the Greens. We will commence drafting state policies to provide the necessary guidance to councils on how to implement the single statewide planning scheme and plan for Tasmania's future land use needs.

These policies will make clear the government's intention to once again make Tasmania 'Open for Business' and provide certainty to both investors and the community about how the planning scheme will work.

State policies will include, for example, objectives such as:

- Planning and land use is to be geared toward facilitating economic growth and investment;
- Planning and land use is to take into account future needs of the community and potential growth; and
- Sustainable and sensible development is to be encouraged to assist in conserving and allowing access to Tasmania's parks and reserves.

All state policies will be drafted pursuant to relevant laws and regulations.

## A fairer planning system

### Cracking down on third party appeals

Labor and the Greens have allowed anti-development front groups to abuse the appeal process in our planning system.

A majority Liberal government will crack down on third party appeals, introducing a test limiting those able to make a third party appeal to those directly affected by a proposed development or community groups with a longstanding interest — not groups expressly set up to oppose development.

Further, we will make any legislative amendments required to **award costs to the successful party in an appeal, as is the norm in other legal proceedings.**

This measure will ensure Tasmania is in line with other jurisdictions and will act as another deterrent to third party appeals designed to simply obstruct.

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### Making unreasonable objectors pay

In addition to restricting who may appeal development applications, a majority Liberal Government will increase the fee required to lodge an appeal with the Resource Management and Planning Appeal Tribunal (RMPAT). Appealing a decision is a serious matter and the fee should reflect this.

**Until recently parties only needed to pay approximately \$70 to lodge an appeal. Late last year, Labor belatedly increased that fee to approximately \$300. That fee will be doubled to \$600 to be more in line with a fee for a writ in the Supreme Court for matters of this magnitude.**

It is important to note that this will not prevent parties from lodging representations to a project during the normal planning approval process with Councils. However, once the project has received approval, this new fee will apply to appeals to RMPAT.

Successful appellants will have their fee refunded if costs are awarded in their favour.

### Ministerial call-in powers

Under Labor, investors and the community have been left without leadership when it comes to planning. The Liberals will restore certainty and fairness by utilising existing 'call-in powers' for the Minister for Planning where appropriate, enabling the Minister to act if necessary.

Under the Liberals, Ministerial call-in powers will be available for projects that make a significant economic contribution, require significant capital investment, or if the project has been unreasonably delayed in the development assessment process. A similar threshold exists for the as yet unused assessment of Projects of Regional Significance.

The failure to use such call-in powers has resulted in the Labor-Green Government needing to introduce specific legislation just to get a sensible project through – like the Parliament Square project.

## A faster planning system

### 24 hour approvals

Under a majority Liberal Government development applications made for single residential dwellings in residential zones (pursuant to Planning Directive No 4), if compliant, will be granted approval in no more than 24 hours.

Despite the simple nature of applications made under the Single Dwelling Residential Code, planning authorities can and still do take up to the full 42 days available to approve this simple application.

## Shorter assessment timeframes

For other applications for permitted use or **development we will reduce the timeframe for assessment from 42 days to 21 days, and the timeframe for the request for further information from 21 days to 14 days.**

Currently these applications can take not only the legislated full 42 days for assessment but much longer when, by virtue of the 'stop the clock' provisions, further information is requested.

These delays are unacceptable and our policy will shorten the time taken for an outcome, providing greater certainty for investors and the community.

The proposed shorter timeframes are achievable and the Liberals are committed to working with local government to ensure that we make Tasmania an easier place in which to invest and do business.

We also support private certification of simple, residential developments falling within permitted residential zones as a means of speeding up the approvals process.

## A cheaper planning system

In Tasmania, preparing a development application and dealing with the Labor-Green planning mess is a lengthy, complicated and therefore, costly process.

Under the Liberals' single statewide planning scheme, preparing a development application and complying with the requirements of the scheme will be far simpler and, as a consequence, much cheaper.

## In-principle approval for major developments

Too often investors spend large amounts of time and money on preparing reports and studies to comply with onerous bureaucratic planning requirements, only to have their proposal rejected. This is not conducive to attracting much-needed investment to our state.

Investors need certainty that a development is right for an area and will likely gain the necessary planning approval before they spend this money.

The Liberals will establish an in-principle approval system which will provide developers with greater certainty before proceeding to engage expensive consultants. This in-principle approval will be subject to a number of conditions or requirements that may need to be met for a full-approval to be granted. The initial application for in-principle approval a plan must indicate how any planning issues that arise will be resolved.

An in-principle approval provides investors with a greater level of certainty when investing before they proceed further.

Additionally, the Office of the Coordinator General will assist in attracting investors, providing guidance on the planning approval process and assist in cutting red and Green tape.

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## Costings

Zero. This policy will be implemented from within existing departmental resources.

Released under RTI

Adviser:

Department: Premier and Cabinet

Ministerial CM Reference: MIN24/172228

DPAC CM Reference: 24/101752/1

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## Meeting Brief for the Minister for Housing and Planning

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Meeting with Mary Massina, Tuesday 17  
September 2024, 1pm, venue

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**Order of proceedings:** ?? minute meeting

**In attendance:**

**Department contact:**

**On-site contact:**

### Guidance notes

- Ms Massina is seeking to discuss how the government has delivered on its 2014 election commitments in relation to planning reform with a specific interest in the Governments 2014 election plan to reduce third-party planning appeals.
- Ms Massina is the chief executive officer of the South Arm Irrigation Scheme. The company is building a pipeline across the Derwent River (from Blackmans Bay to South Arm), where the water pipeline will support the proposed South Arm Golf Course (Arm End) and other farming interests in the area.
- The South Arm Golf Course remains subject to a Supreme Court challenge, where the legal case relates to whether development associated with the Golf Course has substantial commenced under the planning permit.
- The treatment plant that will provide the water to the irrigation scheme is also subject to an appeal in TasCAT.



## Key points

- The need for changes to third party appeal rights was considered in detail during 2018-19. At the time, the proportion of appeals did not warrant any change to the requirements for third party appeals.
- The findings from 2018-19 were as follows:
  - 2018-19 statistics show 5,296 DAs and a total of 52 appeals (around 1%). Data is not available on how many of these were third party appeals.
  - Of the appeals that were lodged, the RMPAT (precursor to TasCAT) resolved 80% (around 40 appeals) by mediation.
  - Leaving only 10 appeals that year that proceed to hearings. Maybe half of these (5) were third party appeals.
  - The scale of the problem created by third-party appeal at that time was not evident by the data.
  - The matter of awarding costs to the successful party as the norm was also investigated. It was found that a reason for not instituting a 'winner gets costs' position is that with most planning appeals the solution is not black and white. The outcome might be an approval with a condition modifying it based on an appeal – in those circumstances there is no clear winner of the appeal.
- Latest appeal data is similar to that from 2018-19, with only around 1% of applications being appealed and with a significant proportion resolved through mediation.
- The Government has also implemented a suite of changes to the planning system which would collectively reduce the number of third-party planning appeals.
- The reform changes are spread across the *Land Use Planning and Approvals Act 1993* (LUPAA), planning schemes, regional land use strategies, policies and other related legislation.
- Other proposed reforms will remove appeals for proposals considered through an independent Development Assessment Panel.
- Collectively, these reforms have reduced the opportunities for third-party appeals.

## Background

- The suite of planning reform actions that have been undertaken to date since the government came into power in 2014, have a combined effect of reducing the number of third-party appeals.

- **These reform actions include -**
  - Planning Taskforce created in 2016 to oversee preparation of the State Planning Provisions (SPPs).
  - The single statewide planning scheme was approved in 2017 and now 24 of 29 Councils are operating under the Tasmanian Planning Scheme (TPS), with 2 more expected shortly (later this year), resulting in more exempt activities, more proposals achieving “No Permit Required” status and more proposals achieving a “Permitted use” status. Exempt activities, “No Permit Required” proposals and “Permitted use” development applications (DA) are not subject to third party appeals.
  - The SPPs at clause 6.10.1 requires decision makers to only consider those parts of representations that relate to the matters of the DA that are subject to discretion. They are not able to consider “anything and everything” in the representation if the content doesn’t relate to a matter which is the subject of discretion.
  - The preparation of the SPPs was overseen by the Tasmanian Planning Reform Taskforce, which was chaired by Ms Massina.
  - DA processing times for Permitted applications was shortened to 28 days in 2014 – section 58 of LUPAA.
  - The period for Planning Authorities to make requests for more information for Permitted applications was reduced from 21 days to 14 days in 2014 – section 54 of LUPAA.
  - The Major Projects assessment process was approved in 2020 and further refined in 2022 following lessons learnt from the Bridgewater Bridge project. To date 3 Wind Farm projects have been declared a major project along with the Bridgewater Bridge. Major Projects decisions are not subject to third party appeals.
  - Appeal fees have increased to 204 fee units (currently \$1.87 = \$380) under the *Tasmanian Civil and Administrative Tribunal Regulations 2021*
  - The State Planning Office recently launched a revamped website aiming to provide comprehensive information about the State’s planning system, which will ultimately lead to a better understanding of the planning system in the community including their expectations of the appeal process.
  - Over a long period of time TasCAT has consistently required third-party appellants to base their appeals on legitimate planning grounds, which refer to the provisions of the TPS where decision makers have the discretion to approve or refuse the DA. Third-party appeals based on “permitted status” matters are not allowed to be heard by TasCAT, unless there has been an error in determining that status.

- **Reform tasks that are still underway and due for completion, include -**
  - Introduction of the Tasmanian Planning Policies and comprehensive reviews of the three regional land use strategies will further assist with strategic planning and front loading the planning process. This provides better opportunities for success and community acceptance, which generally flows onto less third-party appeals on individual developments.
  - A draft Bill for Development Assessment Panels (DAPs) has been prepared and is being finalised for tabling in Parliament later this year. A decision by the DAP will not be subject to third party appeals, enabling a reduction in third party appeals.
  - The SPPs are undergoing their 5 yearly review which is likely to identify further improvements to the SPPs to enable the DA system to be streamlined and simpler to apply.

**Attachment(s):**

1. N/a