



Environmental Defenders Office

8 August 2022

The Hon. Michael Ferguson MP
Minister for Planning
Level 5, 4 Salamanca Place
HOBART TAS 7000

By email only: michael.ferguson@dpac.tas.gov.au

Dear Minister,

Re: Tasmania's State of Environment Report

We refer to our previous letter dated 27 June 2022 concerning Tasmania's State of the Environment Report (**SoE Report**) and your reply dated 7 July 2022.

In your letter, you acknowledged that an SoE Report is required to be produced by the Commission every 5 years pursuant to s 29 of the *State Policies and Projects Act 1993* (Tas) (the **SPP Act**), and that despite this statutory requirement, no Tasmanian SoE Report been produced by the Tasmanian Planning Commission since 2009. You further advised that a review is being undertaken by the "Deputy Secretaries Steering Committee" into SoE Reporting requirements which will be provided to the Government by the end of the year. No terms of reference of the review of SoE Reporting requirements have been publicly released, and it does not appear that there will be any opportunity for the public to provide input into the Review.

Based on the information produced by the Tasmanian Planning Commission (**TPC**) in response to our client's *Right to Information Act 2009* application, it appears the Deputy Secretaries Steering Committee's review will be the fourth review undertaken into the TPC's functions with respect to SoE Reporting in less than a decade, with earlier reviews occurring in 2013, 2018 and 2020. From the information released by the TPC, it also appears to our client that the TPC has not seriously attempted to advance the production of a SoE Report since 2009 nor take steps to implement the outcomes of the reviews undertaken.

Our client, the Australia Institute, is concerned the Tasmanian Government has also failed to take active steps to ensure that SoE Reports are published by the TPC in line with its statutory obligations.

As Minister responsible for the administration of the *Tasmanian Planning Commission Act 1997* (Tas) (the **TPC Act**), you have the power to give the TPC a direction to perform its functions and powers with respect to SoE reporting. Yet, notwithstanding the failure by the TPC to produce two consecutive SoE Report's in 2014 and 2019, you have not given any such direction to the TPC, and nor have your predecessors.

T +61 3 6223 2770

E hobart@edo.org.au

W edo.org.au

131 Macquarie Street, Hobart TAS 7001

ABN: 72002 880 864

It is a matter of continuing and growing public interest that the TPC complies with its SoE reporting obligations under the SPP Act. The recent Australian SoE Report has highlighted that Australia's people and environment are facing enormous challenges due to a rapidly changing climate due to global heating and through increasing pressures from industry, agriculture and land use and development. Yet that report does not provide a sufficient level of detail about what is happening here in Tasmania.

Our client considers that it is essential that both the Tasmanian Government and the broader community have an understanding of the state of Tasmania's environment and whether our planning and environmental laws are achieving their objectives. Tasmanian SoE Reports are critical to providing that understanding.

For these reasons, our client requests that by **no later than close of business 22 August 2022** you

1. Issue a written direction to the TPC (pursuant to section 7 of the TPC Act) to urgently produce a SoE Report within a specified timeframe.
2. Provide the TPC with the requisite resources to enable it to comply with the direction.

For clarity – the delays to date are unreasonable and a breach of the SPP Act, and the request to specify a time frame should not be read as a concession in relation to same.

If you refuse to provide the requested commitments by 22 August 2022, we are instructed to put you on notice that the Australia Institute will consider exploring potential legal avenues to ensure a Tasmanian SoE Report is produced in accordance with statutory requirements.

Yours faithfully,

Environmental Defenders Office



Claire Bookless

Managing Lawyer – lutruwita/Tasmania