State Planning Provisions Review 2022 - Submissions 21-40 (minus 29)

Submission No:	Name	Organisation
21	Jacci Smith	Flinders Council
22	Lyndal Byrne	Glenorchy City Council
23	Pamille Berg AO	
24	Dermot Barry	Tasmania Fire Service
25	Cameron Brett	Tasmanian Whisky & Spirits Association
26	Rebecca Ellston	Property Council of Australia
27	Dorothy McCartney	
28	Matt Grimsey	Huon Valley Council
30	Ilya Brucksch	Launceston Airport
31	Anne Boxhall	
32	Anne & Miles Harrison	
33	Ciaran Toman	
34	Dr Peter Volker	Forest Practices Authority
35	Emma Riley	ERA Planning & Environment
36	James Hattam	Tasmanian Land Conservancy
37	Elizabeth Shannon	
38	Neil Noye	Hobart City Council
39	Michelle Riley	West Tamar Council
40	Anne-Marie Loader	

[redacted]

From: [redacted]
Sent: Tuesday, 26 July 2022 4:11 PM
To: State Planning Office Your Say
Subject: SPP review - Flinders

Good afternoon Julie

I write in response to your recent email dated 13 July regarding the SPP review comments that have been invited.

As you would be aware, Flinders Council has only been operating under the current planning provisions since late April of this year. The main comment I would have to put forward, after such a short time of utilising the SPPs would be with regard to the Parking and Sustainable Transport Code.

I draw your attention to C2.6.1, noted as:

C2.6 Development Standards for Buildings and Works

C2.6.1 Construction of parking areas

Objective:	That parking areas are constructed to an appropriate standard.
Acceptable Solutions	**Performance Criteria**
A1 All parking, access ways, manoeuvring and circulation spaces must: (a) be constructed with a durable all weather pavement; (b) be drained to the public stormwater system, or contain stormwater on the site; and (c) excluding all uses in the Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Recreation Zone and Open Space Zone, be surfaced by a spray seal, asphalt, concrete, pavers or equivalent material to restrict abrasion from traffic and minimise entry of water to the pavement.	**P1** All parking, access ways, manoeuvring and circulation spaces must be readily identifiable and constructed so that they are useable in all weather conditions, having regard to: (a) the nature of the use; (b) the topography of the land; (c) the drainage system available; (d) the likelihood of transporting sediment or debris from the site onto a road or public place; (e) the likelihood of generating dust; and (f) the nature of the proposed surfacing.

Please note specifically part (c) which excludes a number of zones and by doing so then includes all others – such as Low Density, Rural Living etc which are our primary residential zones. When people are looking to develop in these (residential type) zones they are making what would initially appear to be permitted or NPR applications but they end up being discretionary as they are not able to provide a driveway and that has a suitable surface. As you could imaging, there are not a lot of the nominated surfaces on the Island.

I would be pleased if you would accept this submission in the collated responses and look forward to hearing from you at your convenience.

Kind regards

Jacci Smith | Development Services Coordinator | Environmental Health Officer | Deputy Emergency Management Coordinator

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From: [redacted]
To: State Planning Office Shared Mailbox
Subject: Glenorchy response on SPP Review Scoping Paper
Date: Wednesday, 27 July 2022 9:03:55 AM
Attachments: image001.png
SPP issues 25July 2022_endorsedCouncil meeting coms.docx
S35G Report on Draft LPS_Nov2020.pdf

Hi

Thank you for providing the opportunity to comment on the *SPPs Review - Scoping Paper – May 2022*

At its meeting of 25 July 2022, Glenorchy City Council resolved to submit the attached feedback in response to the review

If you have any questions about the issues raised please contact me

We look forward to the next steps in the review process and achieving positive and quality planning outcomes

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LYNDAL BYRNE
Senior Strategic Planner

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We acknowledge the palawa community (the Tasmanian Aboriginal Community) as the original owners and continuing custodians of this island, lutruwita (Tasmania) and pay our respect to elders past, present and emerging.

Glenorchy City Council response on State Planning Provisions Review – 25 July 2022

The list below identifies issues to be further investigated, along with some suggested changes to specific provisions where applicable. Several of these matters are further detailed in Glenorchy's Section 35G Report, which was submitted to the Tasmanian Planning Commission in November 2022 with the Glenorchy Local Provisions Schedule.

The Section 35G Report forms part of this response.

Priority for Review:

While it is considered that all the matters raised need to be addressed, priority consideration should be given to those matters that improve amenity and protect natural and cultural values, and public infrastructure, that is:

- review of residential development standards;
- review of Local Historic Heritage Code, Natural Assets Code and Scenic Protection Code; and
- introduction of a Stormwater Code.

SPP Key Areas for Review

ADMINISTRATION

3.0 Interpretation - Table 3.1 Planning Terms and Definitions

ISSUE	Suggested Reword / comments
The definition for home-based business and home occupation doesn't take any account of amenity impacts or traffic generation.	Include additional requirements: • *there is no adverse impact on the amenity of nearby properties; and* • *the level of vehicular traffic generated by the business is not greater than that expected for a single dwelling.*
No definition of 'report' – some report definitions (eg flood hazard report, coastal erosion hazard report) repeat the following info as part of the definition:	Have a separate definition in Part B for 'report': *Report means a report prepared by a suitably qualified person for a site, that must include:*

ISSUE	Suggested Reword / comments
"xyz report" *means a report prepared by a suitably qualified person for a site, that must include:* *(a) details of, and be signed by, the person who prepared or verified the report;* *(b) confirmation that the person has the appropriate qualifications and expertise;* *(c) confirmation that the report has been prepared in accordance with any methodology specified by a State authority; and* *(d) conclusions based on consideration of the proposed use or development.*	*(a) details of, and be signed by, the person who prepared or verified the report;* *(b) confirmation that the person has the appropriate qualifications and expertise;* *(c) confirmation that the report has been prepared in accordance with any methodology specified by a State authority; and* *(d) conclusions based on consideration of the proposed use or development.* Then other definitions of particular reports can just say "xyz report" means a report that addresses/considers/includes [the specifics for that type of report]. – and no longer have to state 'prepared by a suitably qualified person' etc each time, as that is covered in the definition of 'report.'
Some types of report definitions don't include the above, but it's unclear why not. Eg coastal erosion investigation area report, archaeological impact assessment. Unsure what the rationale would be that a hazard report requires the above information, but a heritage report doesn't?	Adopt a consistent approach to defining the various types of reports referred to in the scheme.
Some reports are not defined terms at all, eg acoustic report, or a report regarding local historic heritage significance.	Include definitions for all report types.
The terms 'articulation,' 'passive surveillance' and 'public domain' are used in several places in the SPPs but are only defined in the LPS-G GLE-S8.0 Glenorchy Activity Centre Urban Design SAP.	Include the following definitions (or similar) in Table 3.1: *articulation* *means the arrangement of building elements such as windows and door openings, variations in wall plane, roof form, horizontal or vertical wall features and materials that make up a building and affect its relationship to the streets, spaces and other buildings.* *passive surveillance means the location and design of use or development to maximize visibility by passers-by, or casual onlookers from adjoining sites in order to reduce opportunities for crime by*

ISSUE	Suggested Reword / comments
	making potential offenders feel exposed and making legitimate users feel safer. *public domain* *means the publicly used space and includes streets, plazas, parks and public infrastructure.*
Employment training centre definition The reference to 'unemployed persons' can exclude the ability for people seeking to upgrade their skills (ie forklift licence, working at height etc)	Change to: *employment training center means use of land to provide education and training to jobseekers and those seeking skill upgrades*

4.0 Exemptions

ISSUE	Suggested Reword / comments
4.3.10 demolition of exempt buildings *Demolition of buildings for which the construction would be exempt under Tables 4.2 – 4.6, unless....* This means a permit is required to demolish a building that would be No Permit Required (clause 6.6), rather than exempt (Tables 4.2-4.6), to construct.	Change to: *Demolition of buildings which would not, under this planning scheme, require a permit to construct, unless....*
4.2.5 vehicle crossings, junctions and level crossings The interaction of this exemption with the application of the C3.0 code is unclear.	Change to: use of a vehicle crossing, junction or level crossing by a road or railway authority, with no new development or use intensification.
Various exemptions *...unless the Local Historic Heritage Code applies...* The exemption still applies if the property is listed on the Tasmanian Heritage Register.	Change to: *...unless the Local Historic Heritage Code applies and requires a permit, or the place is listed on the Tasmanian Heritage Register.*
Vegetation exemptions	

As identified in Council's S35G Report, there is a conflict between vegetation exemptions and what the Codes (Local Historic Heritage Code and Scenic Protection Code) are seeking to protect. These exemptions need review in line with the review of these Codes.	
Fences Fence requirements introduced under Particular Purpose Zones or Specific Area Plans should not be exempt as they may be required to address character issues specific to the area.	

6.0 Assessment of an Application for Use or Development

ISSUE	Suggested Reword / comments
Table 6.2 Use classes Residential use includes 'secondary residence,' even though this forms part of the definition of a 'single dwelling' use. A secondary residence is not a use in its own right as it forms part of a single dwelling. This would be like listing 'outbuilding' or 'carport' as an example of a residential use. Since a secondary residence is listed as a separate example of the use class, could it be viewed as being excluded from the use status specified for Single Dwellings in zone Use Tables?	Change to: *Residential* *use of land for self-contained or shared accommodation. Examples include a boarding house, communal residence, home-based business, home-based child care, residential care facility, residential college, respite centre, assisted housing, retirement village, multiple dwellings and single dwellings (including a secondary residence).*
Clause 6.2.6 As a boundary adjustment is not listed, does this mean it still requires classification into a use class? Noting that a subdivision creates rights, whereas a boundary adjustment only reorganises existing rights, and is therefore not a subdivision.	Include *boundary adjustment* in the list of uses that don't require categorisation into a use class.
Clause 6.10.2	Reword to:

These elements and particularly Local Area Objectives must be able to be considered for discretionary development	*In determining an application for a permit for a Discretionary use or development the planning authority must, in addition to the matters referred to in subclause 6.10.1 of this planning scheme, have regard to…:*

GENERAL PROVISIONS

ISSUE	Suggested Reword / comments
Introduce provisions to prevent buildings from becoming derelict.	
Introduce provisions to control hours of operation for gaming and gambling activities	
7.10 Development not Required to be Categorised into a Use Class The cross-referencing to clause 6.2.6 and 6.2.8 makes this provision awkward to apply.	Include the provision at clause 6.2.6 as part of the 7.10 General Provision and delete clause 6.2.6, or cross reference from 6.2.6 to 7.10 and not the other way around.

ZONES

General

ISSUE	Suggested Reword / comments
The term 'food and beverage production' The term 'food and beverage production' could be extrapolated to include an abattoir, cheese factory, fish processing, milk processing, winery, brewery, cidery and distillery. All these individual uses cause food to be produced for consumption in varying degrees. The large scale versions are not appropriate for Central & General Business Zone.	Review the term and development a qualification for the use class that it is based on the volume produced and what other uses are associated with it.
Business Zones – Apartment Code/Medium Density Housing	

Additional amenity provisions for residential use should be included. This could be addressed through the Apartment Code / Residential Design Guidelines	
Outdoor storage areas in Industrial and Commercial Zones The requirements should relate to interface issues where employment activities and residential activities abut each other – not just visibility of goods. Other factors such as layout, location of roller doors etc should also be addressed through interface standards.	

Residential zones

ISSUE	Suggested Reword / comments
Undertake a comprehensive review of the residential development standards A full and extensive review of the residential development standards are required ▪ consider neighbourhood character; ▪ reduce potential for overlooking; ▪ consider solar access to open space of subject dwelling; ▪ separate standards for height and setback requirements; ▪ review the intent of garage width standard – the focus should be on presentation of the dwelling to the street; ▪ include the requirement to consider Council policy when assessing waste management (ie requiring communal bins for multiple dwellings); and ▪ include landscaping provisions;	Significant and detailed review is required
Review / modify the provision around Visitor Accommodation to address housing supply issues	Significant and detailed review is required

Review and strengthen assessment requirements for buildings on steep slopes – particularly around the need for emergency and service vehicle access	Additional standards in residential zones to address this are required
Inner Residential Zone A full and extensive review of the Inner Residential Zone is required to facilitate a diversity of housing types and encourage medium density housing	Significant and detailed review is required
Subdivision standard There is no requirement for provision of public open space Include a requirement for provision of public open space in accordance with Council policy	
Waste storage Various provisions in residential zones 8.4.8 etc Currently 8.4.8 A1 requires 1.5m^2 of storage area per dwelling if it is for the exclusive use of each dwelling OR part of a common storage area – a common storage area would have several bins (particularly as many Councils now have a 3 bin system) and exceed the minimum 1.5m^2 in area potentially resulting in a poor outcome. Many Councils also have local policies to maximize common storage and the reduction in numbers of bins. The ability to comply with a Council policy should be included.	Change to: *A multiple dwelling must have a storage area, for waste and recycling bins, that:* *(a) for up to two multiple dwellings:* *(i) is not less than 2.0 m^2 per dwelling; and* *(ii) is in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or* *(b) for three or more multiple dwellings:* *(i) complies with any Council policy; and* *(ii) is a common storage area with an impervious surface that:* *(a) has a setback of not less than 4.5m from a frontage;* *(b) is not less than 5.5m from any dwelling; and* *(c) is screened from the frontage and any dwelling by a wall to a height not less than 1.2m above the finished surface level of the storage area*
Subdivision standards A weed management plan should be a requirement for residential subdivision.	

8.4.2/9.4.2 Setbacks and building envelope for all dwellings A3 8.4.2 A3(b)(ii) is unclear about whether it applies to only the side boundary or both the rear and side boundaries. GCC officers have been interpreting the standard so that (b)(ii) only applied to the relationship of the dwelling to the side boundary, even though the first sentence of (b) refers to both the side and rear boundary. It is for the dwelling to be no more than 9 m in length adjacent to the side boundary, or a third of the length of the side boundary, whichever is lesser. However, (b)(ii) can be read as the 'total length of 9 m of the dwelling' relative to its orientation to both the side and/or rear boundary, or it could be that 'one-third the length of the boundary' only applies to the side boundary. The first interpretation option would result in the rear boundary being built along with no control of the length of the dwelling (or outbuilding or structure) along the rear boundary, other than the 3 m height limit at the boundary.	*A3* *(b) only have a setback of less than 1.5 m from a side or rear boundary if the dwelling:* *(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property;* *(ii) does not exceed a total length of 9m or one third the length of the side or rear boundary (whichever is the lesser), which it is to be built along.*
8.4.2/9.4.2 A1 It is unclear what setback you should choose if you have a primary and secondary frontage but the proposal only satisfies the primary or secondary requirements – do they have to satisfy both? GCC officers believe the 'or' enables one of the four options to be selected but the provisions should be clearer.	Further consideration required. Potentially change operator from *or* to *and.*
8.4.3/9.4.3 Site coverage and private open space for all dwellings A2	Modify to include:

The Acceptable Solution does not have any requirement for sunlight or convenient access, whereas these factors are considered in the Performance Criterion. Open space area should be able to be accessed from a living area. It is requested that similar provisions as to those of the interim planning scheme (10.4.3) be reinstated.	*is directly accessible from a habitable room (other than a bedroom);*

15.0 General Business Zone

ISSUE	Suggested Reword / comments
15.4.3 Design A1 prohibits new buildings from including security shutters or grilles over windows, in order to promote active frontages. However A2, which considers alterations to an existing façade appears to allow for security shutters and grilles to be installed.	Refine the provisions to prohibit grilles and security shutters as part of an alteration to an existing façade.

18.0 Light Industrial Zone

ISSUE	Suggested Reword / comments
18.2 Use Table Vocational training should be permissible in the Light Industrial Zone (and is permissible in the General Industrial Zone). Industrial areas are the best places to learn how to drive a forklift for instance	Include the following wording under Discretionary uses in the 18.2 Use Table: *Educational and Occasional Care If for alterations or extensions to existing Educational and Occasional Care, or for an employment training centre.*

20.0 Rural Zone

ISSUE	Suggested Reword / comments
20.1.1	Include *and* at the end of clause (c).

List lacks and/or operator.	

CODES

General

ISSUE	Suggested Reword / comments
Stormwater Management Code Include a Code on Stormwater management that enables Councils to determine applications based on their own policies While Council has implemented an policy position for assessment under the urban Drainage Act, the ability to consider this assessment in parallel with the planning permit assessment is not always achievable and this can have negative impacts on the developer.	It is considered that a Stormwater Code should be introduced that: ▪ includes the detail on stormwater management in a Council stormwater policy called up by the code 9which would enable Council's to tailor the approach for stormwater management and therefore reduce disagreement on what the Code should do/include ▪ provides the ability to refuse application based on stormwater issues ▪ allows for conditioning in non-urban areas ▪ would strengthen Council's position in any appeal
CPTED requirements Requirements are scattered throughout zones and codes, with sometimes inconsistent scope/wording.	Include a CPTED Code that applies to development in CBZ, GBZ, LBZ and Commercial Zone and industrial areas; alternatively, it could be applied to anywhere in the public realm. Substantial further work required.

C1.0 Signs Code

ISSUE	Suggested Reword / comments
Illuminated signs Review the standards around illuminated signs and particularly their impact on traffic	

C2.0 Parking and Sustainable Transport Code

ISSUE	Suggested Reword / comments
C2.2.1	Reword:

Unless stated otherwise in a particular purpose zone, or subclause C2.2.2, C2.2.3 or C2.2.4, this code applies to all use and development. Clauses C2.2.2, C2.2.3 and C2.2.4 only exclude the application of specific clauses within the code, not the code as a whole. There don't seem to be any instance where the code does not apply.	*C2.2.1* *Unless stated otherwise in a particular purpose zone, this code applies to all use and development.*
Table C2.1 Parking Space Requirements *Educational and Occasional Care* No parking required for year 11 & 12 students (who may have their licence). *Storage* Site is a defined term and means the lot or lots on which a use or development is located or proposed to be located – so the whole lot, not part of a lot. Where parking is based on site area (which is generally the case as site area generates more spaces than employees), this means the whole lot including the area used for carparking if existing, which means parking spaces are generating additional parking requirements. It also includes areas of the site that may be occupied by other uses, or that are unusable (eg contain a waterway or are in a split zone). This is onerous for the initial calculation; and then could be inadequate on the other hand as any degree of intensification of storage use doesn't trigger any additional parking, provided the site area doesn't change.	*Educational and Occasional Care* Include a parking requirement for year 11 & 12 students, based on advice from a Traffic Engineer. *Storage* Base the calculation on the floor area used for storage, plus the area of any outdoor storage area. *General* Further Traffic Engineer review of parking requirements may be worthwhile.

General Parking numbers are generally perceived to be excessive, usually not met (other than for Residential use), and TIAs often demonstrate less parking demand than implied by Table C2.1.	
C2.5.1 Car parking numbers P1 PC often relies on on-street, there is a lot of discretion here – hard to consider cumulative impact.	Further work needed to consider how the cumulative impact of discretionary approvals should be taken into account.
Landscaping Landscaping of car parks should be required.	Reinstate landscaping requirement for car parks in C2.0.

C3.0 Road and Railway Assets Code

ISSUE	Suggested Reword / comments
C3.2.1 *This code applies to a use or development that:* *(a) will increase the amount of vehicular traffic or the number of movements of vehicles longer than 5.5m using an existing vehicle crossing or private level crossing;* *(b) will require a new vehicle crossing, junction or level crossing; or* *(c) involves a subdivision or habitable building within a road or railway attenuation area if for a sensitive use.* The Code should apply to any increase in vehicular movements (the 'or' for the length of vehicles under (a) makes this unclear). Re: (b), new crossings are exempt under clause 4.2.5. This makes the application of the code confusing.	Change to: This code applies to a use or development that: (a) will increase: (i) the amount of vehicular traffic; or (ii) the number of movements of vehicles longer than 5.5m using an existing vehicle crossing or private level crossing; (b) will require a new vehicle crossing, junction or level crossing; or (c) involves a subdivision or habitable building within a road or railway attenuation area if for a sensitive use. Re (b), refer to proposed change to exemption 4.2.5 under *4.0 Exemptions* above.

C3.6 Development Standards for Buildings or Works Lack of requirements for road and pathway design for accessibility needs.	Consider introducing planning requirements for subdivisions to have accessibility requirements for the roads and footpaths. More work required.

C6.0 Local Historic Heritage Code

Significant work is required to address the deficiencies in this Code. There are three broad areas of concern:

- Omissions. Content that has been left out that should be in (in the interests of customer service if nothing else).
- Structure. The compartmentalised nature of the LHHC in particular and the important considerations that 'fall through the cracks' as a consequence.
- Unclear or defective wording.

It is considered that a comprehensive review is required (see also comments in Council's S35G Report). Additional detail will be provided by Council staff based on experience with working the SPPs for over a year, when this full review of the Code occurs. However below is one example of a correction that could be implemented as part of a fix up/correction amendment that could form part of the Stage 1 SPP review:

ISSUE	Suggested Reword / comments
C6.9.1 (P1) The code only applies to the lopping, pruning, removal or destruction of a significant tree. There is no trigger for the code to apply to other works within a tree protection zone per se.	Add: *construction, soil disturbance or soil compaction within the tree protection zone of a significant tree* to the application of the code C6.2.1.

C7.0 Natural Assets Code

It is considered that a comprehensive review is required (see also comments in Council's S35G Report). Additional detail will be provided by Council staff based on experience with working the SPPs for over a year, when this full review of the Code occurs. However below is one example of a correction that could be implemented as part of a fix up/correction amendment that could form part of the Stage 1 SPP review:

However, some fix ups are identified below:

ISSUE	Suggested Reword / comments
C7.2.1	

The use of 'and' in this list means the code only applies if the land is within all three areas?	Change 'and' to 'or'?

C8.0 Scenic Protection Code

Significant work is required to address the deficiencies in this Code. It is considered that a comprehensive review is required. A suggested reword of the Code in included as part of Council's S35G report.

C9.0 Attenuation Code

ISSUE	Suggested Reword / comments
C9.4.1 (b) Need to exempt garages (and other outbuildings). These are currently picked up if they are new and therefore an application becomes discretionary.	*The following use or development is exempt from this code:* *(a) use or development assessed as a level 2 activity;* *(b) additions or alterations to an existing building used for sensitive use, provided that the gross floor area does not increase by more than 50% or 100 m², whichever is the greater, from that existing at the effective date; and* (c) *residential outbuildings.*
Mapping Changes to the process for mapping areas under this Code should be considered, as new uses can be approved regularly, but planning scheme amendment updates to identify attenuation areas can take 12 months and significant council resources to implement. If the use has been approved, a fast-track technical amendment process should be applied	
Code is more onerous than interim scheme Code This Code is now more onerous than the Code under the Interim Scheme, a review of this Code could highlight any opportunities to remove certain uses	

C13.0 Bushfire Prone Areas Code

ISSUE	Suggested Reword / comments
A review of this Code should be undertaken to consider whether people should be able to build in Bushfire Prone Areas.	
Review of provisions to ensure that access for service and emergency vehicles in these areas can be achieved is required.	

C14.0 Potentially Contaminated Land Code

ISSUE	Suggested Reword / comments
Accredited Auditors Clarification or a register of accredited auditors would be useful, as Council often has to request further information to determine if the auditor has the correct qualifications	
Permit triggers There is a significant gap between the volume of disturbed land for an exemption and the requirement under the Acceptable Solution	

C7.0 Natural Assets Code, C10.0 Coastal Erosion Hazard Code, C11.0 Coastal Inundation Hazard Code, C12.0 Flood-Prone Areas Code and Bushfire-Prone Areas Code

These codes need to be reviewed to address issues around making communities more resilient to climate change. Decision making about whether a use or development should be permitted in these impact/hazard areas should be the focus, not how the development will be constructed.

STATE PLANNING PROVISIONS - APPLIED, ADOPTED OR INCORPORATED DOCUMENTS

ISSUE	Suggested Reword / comments
Note S2 in clause 3.1 regarding the definition of 'hazardous chemical of a manifest quantity' states that "It will be necessary	Include the Safety Datasheets in the list of Applied, Adopted or Incorporated Documents

ISSUE	Suggested Reword / comments
to refer to the relevant Safety Datasheet" The Safety Datasheets are not listed in the Applied, Adopted or Incorporated Documents	

OTHER

ISSUE	Suggested Reword / comments
Advertising The Attenuation Code, for example, requires a proposal to be advertised, but there is may not be an amenity or 'planning' issue' being considered – the issue may be how the design protects from noise on the subject land – so how would a neighbor be impacted by this? There is an issue with the Act and the simplified approach of 'permitted' and 'discretionary' – with discretionary automatically requiring advertising – whereas not all discretions will impact on the amenity of neighbours.	More work needed.
Various codes Reports required from a suitably qualified consultant Consultants are engaged by applicants and the reports reviewed but to a large extent relied on by the planning authority. Potential for conflict of interest where consultants are incentivised to produce assessments favouring the applicant.	Could there be consideration of provision to allow the planning authority to obtain the reports, at the applicant's cost? Potentially through a Council policy. More work needed.

Section 35G Report

Council officers maintain the issues raised with the SPPs in the Council Report of 9 May 2016 and included in Appendix 1 of the Draft LPS Supporting Report, are still relevant and if not addressed will likely result in interpretation problems, cumbersome process outcomes and an inability to further the objectives of LUPAA, State Policies and the Regional Land Use Strategy in future planning decisions.

However, the following specific changes to the SPPs have been identified as a result of representations received under S35E of LUPAA, and it is requested, in accordance with S35G of LUPAA that these changes be put to the Minister.

Abbreviations

Draft Glenorchy LPS: Draft Glenorchy Local Provisions Schedule

GIPS 2015: Glenorchy Interim Planning Scheme 2015

LUPAA: *Land Use Planning and Approvals Act 1993*

SPPs: State Planning Provisions

STRLUS: *Southern Tasmania Regional Land Use Strategy 2010-2035*

TPC: Tasmanian Planning Commission

TPS: Tasmanian Planning Scheme

S8A Guidelines: Guideline No 1 Local Provisions Schedule (LPS): zone and code application, June 2018

1. Exemptions 4.3.2 internal buildings and works – heritage interiors

Raised in representation no: 33

Discussion:

The exclusion through exemption of internal building and works as a matter for consideration renders the Local Historic Heritage Code deficient and unworkable because, by definition, the Code Purpose Statement - that has the objective of recognising and protecting the local historic heritage significance of local places - cannot be fulfilled.

Further, the exclusion of internal building and works as a matter for consideration:

- has no foundation in the *Land Use Planning and Approvals Act 1993*, the premise having been tested in the Resource Planning and Appeals Tribunal – refer to findings in: MA and JM Purton v A and M Jackson [2013] TASRMPAT 99. Further, the inclusion of an exemption for internal work in the SPPs demonstrates that LUPAA has been read to apply to internal development;
- is inconsistent with the *Historic Cultural Heritage Act 1995* which does include scope for consideration of internal building and works for places entered on the Tasmanian Heritage Register; and
- does not reflect industry best practice as set out in published and widely-used heritage standards such as the *Australia ICOMOS Burra Charter* and J.S.Kerr's, *The Conservation Plan*

which advocate holistic consideration of all aspects that together contribute to the significance of a heritage place.

The exemption is inconsistent with:

- LUPAA Objective Part 2 (g)*: to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value,*
- Regional policies under STRLUS:
  - CV 2 - *recognize, retain and protect historic cultural heritage values…*
  - CV 2.5 - *to base heritage management on the Burra Charter.*

Recommended changes to the SPPS:

Add a column headed 'Significant Interior' to LPS Table C6.1 Local Heritage Places.

Amend the wording of 4.3.2 in the SPPs so it reads:

"All internal building and works unless identified as a Significant Interior in Table C6.1 Local Heritage Places[1]" (retaining the footnote relating to places entered on the Tasmanian Heritage Register as is).

This is a pragmatic and procedurally fair solution since population of the column will be via the planning scheme amendment process.

2. Exemptions 4.4.1 Vegetation Exemptions

Raised in representation no: 33

Discussion:

The exemptions at 4.4.1 enables removal of vegetation under a variety of circumstances, including, clearance within 1.5m of a lot boundary in any zone (or within 3m for a Rural or Agricultural Zone) to construct or maintain a fence, and within 2m of lawfully constructed buildings for maintenance repair and protection, without qualification.

Scenic protection provisions in C8.4.1(a)(ii) - exemption qualification for hedgerows and C8.6.2 - development within a scenic road corridor, become redundant when vegetation within those setback measurements is removed to construction or maintain fencing. That is, the Scenic Protection Code does not do what it is specifically written to do.

Heritage protection provisions in C6.6.10 – to regulate the removal of vegetation in heritage gardens and C6.9.1 - protection of significant trees, are essentially nullified wherever clearance around lawfully constructed buildings and lot boundary fences is carried out. Again, this Code cannot do what it is intended to do: to protect/regulate removal of heritage significant vegetation because the SPPs fail to work as a cohesive document.

The purpose of the Natural Assets Code is to minimise impacts on priority vegetation. However, the broad exemption to allow vegetation removal within 3m of a boundary fence in a Rural Zone has the potential to significant degrade priority vegetation (allowing for the introduction of weeds etc).

The exemption does not factor in any site-specific controls developed via a planning scheme amendment process that protects specific vegetation.

The exemption is inconsistent with:

- LUPAA Objectives:
  - Part 1 (a) – *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity*
  - Part 2 – (*g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*
- Regional policies under STRLUS:
  - BNV 1 and BNV 2 managing and protecting biodiversity and ecosystems and their resilience to climate change.
  - C 1 and CV 4 scenic landscape protection
  - CV 2 recognise and protect historic cultural values.

Recommended changes to SPPs:

Include qualifying statements for heritage scenic landscapes and priority vegetation as follows:

4.4.1 vegetation removal for safety or in accordance with other Acts

If for:

(a) clearance and conversion of a threatened native vegetation community, or the disturbance of a vegetation community, in accordance with a forest practices plan certified under the Forest Practices Act 1985, unless for the construction of a building or the carrying out of any associated development;

(b) harvesting of timber or the clearing of trees, or the clearance and conversion of a threatened native vegetation community, on any land to enable the construction and maintenance of electricity infrastructure in accordance with the Forest Practices Regulations 2007;

(c) fire hazard management in accordance with a bushfire hazard management plan approved as part of a use or development;

(d) fire hazard reduction required in accordance with the Fire Service Act 1979 or an abatement notice issued under the Local Government Act 1993;

(e) fire hazard management works necessary to protect existing assets and ensure public safety in accordance with a plan for fire hazard management endorsed by the Tasmanian Fire Service, Sustainable Timbers Tasmania, the Parks and Wildlife Service, or council;

(f) clearance within 2m of lawfully constructed buildings for maintenance, repair and protection, unless the Local Heritage Code applies; ~~or~~

(g) clearance within 2m of infrastructure including roads, tracks, footpaths, cycle paths, drains, sewers, power lines, pipelines and telecommunications facilities, for maintenance, repair and protection;

(~~g~~h) safety reasons where the work is required for the removal of dead wood, or treatment of disease, or required to remove an unacceptable risk to public or private safety, or where the vegetation is causing or threatening to cause damage to a substantial structure or building; or

(~~h~~i) for the purpose of erecting or maintaining a boundary fence, if within 1.5m of a lot boundary ~~for the purpose of erecting or maintaining a boundary fence,~~ or within 3m of a lot boundary, in the Rural Zone and Agriculture Zone, unless:

(i) the Local Historic Heritage Code or Scenic Protection Code applies;

(ii) the vegetation is identified as Priority Vegetation under the Natural Assets Code; or
(iii) a Particular Purpose Zone or Specific Area Plan applies and includes an applicable standard for vegetation protection.

3. Front fence exemption at Clause 4.6.3 - conflict with Specific Area Plan and Particular Purpose Zone provisions and inability to address visual safety

Raised in representation no: 33

Discussion:

The exemption under Clause 4.6.3 fences within 4.5m of a frontage, applies to all front fences except where a permit is required under a Local Historic Heritage Code.

However:

- GLE-S1.7.5.7 Fences A1(b) (GLE-S1.0 Claremont Peninsula Specific Area Plan) requires fences between buildings and the foreshore to be no more than 0.5m in height if solid, in order to promote open and natural areas with connections to the foreshore.
- GLE-P2.6.7 Fencing A1(b) (GLE-P2.0 Particular Purpose Zone – Technopark), requires a fence along a frontage to be 50% transparent above a height of 1.2m, to ensure an appropriate balance of security and passive surveillance.

It has been demonstrated through a planning scheme amendment process that for these unique sites, lower frontage fences, or variation in design of the front fence, are required to meet specific social, aesthetic and environmental values. These provisions are also required to transitioning in the Glenorchy LPS - however these outcomes will be lost due to the conflict with the exemptions at Clause 4.6.3.

This is also like to create interpretation issues and reduce the effective operation of the planning scheme.

Further, fences adjacent to driveways, can be constructed without adequate sight lines to maximise pedestrian safety.

The exemption is inconsistent with:

- LUPAA Objectives:
  - Part 2 – *(f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation.*

Recommended change to SPPs:

The introductory and last sentence of Clause 4.6.3 of the SPPs should be modified to:

Fences (including free-standing walls) that meet the sight lines at junctions and for driveways in accordance with Australian Standard AS/NZS 2890.1, within 4.5m of a frontage, if located in:

…..

unless the Local Heritage Code applies or an applicable standard under a Particular Purpose Zone or a Specific Area Plan applies, and requires a permit for the use or development

4. Adequate access onto a lot and well-designed new roads

Raised in representation no: 33

Discussion:

To satisfy Section 107 (2) Access orders, of the *Local Government (Building and Miscellaneous Provisions) Act 1993* [LG(B&MP)], subdivision designs need to demonstrate that a vehicle can get from the road ***onto*** the lot – not just from the road ***to*** the lot. This prevents the creation of lots that are so steep with a small frontage, that the new owner needs to construct retaining walls or commit significant funds to ensure a 'reasonable access' is achieved. While the concept of 'buyer beware' could be considered relevant, ensuring that these matters are addressed in the planning stage, and that planning permits align with the requirements of LG(B&MP), benefits both future land holders and Council.

Further, early advice from the road authority can mitigate poor design impacts, such as where the road access is too steep, has lots of retaining walls, lots of culs-de-sac or internal lots with limited parking, making it easier for Councils to determine whether to take over the road.

Unless these issues are addressed, the SPPs will be obstructed from furthering the Objectives of LUPAA, particularly:

- Part 1 (*b) to provide for the fair, orderly and sustainable use and development of air, land and water*
- Part 2 *(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.*

Recommended changes to the SPPs

Modify the Lot Design applicable standard in all residential zones as shown below:

Objective:	That each lot: (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; (c) contains areas which are suitable for development appropriate to the zone purpose, located to avoid natural hazards; and (d) is orientated to provide solar access for future dwellings.
Acceptable Solutions	Performance Criteria
A1 …	P1 …
A2 …	P2 …
A3 Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from ~~the boundary of the lot to~~ a road onto the lot in accordance with the requirements of the road authority.	Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable vehicular access ~~to a boundary of~~onto a lot or building area on the lot, if any, having regard to: (a) the topography of the site;

	(b) the distance between the lot or building area and the carriageway; (c) the nature of the road and the traffic; (d) the anticipated nature of vehicles likely to access the site; ~~and~~ (e) the ability for emergency services to access the site; and ~~(e)~~(f) any advice from the road authority~~.~~

Modify the Road applicable standard in all residential zones, as shown below:

Objective:	That the arrangement of new roads within a subdivision provides for: (a) safe, convenient and efficient connections to assist accessibility and mobility of the community; (b) the adequate accommodation of vehicular, pedestrian, cycling and public transport traffic; and (c) the efficient ultimate subdivision of the entirety of the land and of surrounding land.

Acceptable Solutions	Performance Criteria
A1 The subdivision includes no new roads.	**P1** The arrangement and construction of roads within a subdivision must provide an appropriate level of access, connectivity, safety and convenience for vehicles, pedestrians and cyclists, having regard to: (a) any road network plan adopted by the council; (b) the existing and proposed road hierarchy; (c) the need for connecting roads and pedestrian and cycling paths, to common boundaries with adjoining land, to facilitate future subdivision potential; (d) maximising connectivity with the surrounding road, pedestrian, cycling and public transport networks; (e) minimising the travel distance between key destinations such as shops and services and public transport routes; (f) access to public transport; (g) the efficient and safe movement of pedestrians, cyclists and public transport; (h) the need to provide bicycle infrastructure on new arterial and collector roads in accordance with the *Guide to Road Design Part 6A: Paths for Walking and Cycling 2016*; (i) the topography of the site; ~~and~~

	(j) the future subdivision potential of any balance lots on adjoining or adjacent land~~.~~ ; and ~~(j)~~(k) any advice from the road authority

5. Revised open space and ways provision

Raised in representation no: 33

Discussion:

The Panel Report (Draft State Planning Provisions, 9 December 2016, p.63) included the recommendation that the *Local Government (Building and Miscellaneous Provisions) Act 1993* [LG(B&MP) Act] be reviewed to enable planning assessment for subdivision to be wholly considered under the Tasmanian Planning Scheme. The community and the development industry are likely to experience a confused and convoluted assessment process with elements for subdivision assessment divided between the planning scheme and LG(B&MP) Act. There is also an increased potential for refusal of proposals that do not meet legislative requirements – even where they have been designed in accordance with the planning scheme provisions.

Without an applicable standard for the assessment of ways and open space, the State Planning Provisions represent an disjointed assessment path that is inconsistent with the objectives of LUPAA [Part 1 (b) *to provide for the fair, orderly and sustainable use and development of air, land and water*, and Part 2 (e) *to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals*].

Recommended changes to the SPPs

Insert the following applicable standard into the residential zone provisions of the SPPs:

Objective	That ways and public open spaces provide for: (a) safe, convenient and efficient connections; (b) the adequate accommodation of pedestrian and cycling traffic; and (c) useable and enjoyable public spaces.
Acceptable Solution	**Performance Criteria**
A1 No Acceptable Solution	P1 Ways and public open space within a subdivision must be designed to be well-connected, safe and functional having regard to: (a) appropriate connections through the provision of ways to the common boundary with: (i) adjoining ways; (ii) neighbouring land; and (iii) the neighbourhood road network;

	(b) opportunities to create convenient access to local shops, community facilities, public open space and public transport routes; (c) the ability to provide adequate passive surveillance from development on neighbouring land and public roads, as appropriate; (d) creation of a legible movement network; (e) the slope, location and amenity of any open space areas; (f) any pedestrian and cycle way, public open space plan or landscaping policy adopted by Council; and (g) minimising opportunities for entrapment or other criminal behaviour including, but not limited to, having regard to the following: (i) the width of the way; (ii) the length of the way; (iii) landscaping within the way; (iv) lighting; (v) provision of opportunities for 'loitering'; (vi) the shape of the way (avoiding bends, corners or other opportunities for concealment).
A2 No Acceptable Solution	**P2** Public Open Space must be provided as land or cash in lieu, in accordance with the relevant Council policy.

6. C1.0 Signage Code

- ***Application of C1.6.4 to places listed on the THR***

Raised in representation no: 33

Discussion:

In reviewing heritage and the application of the various SPP provisions, it was noted that while the Local Historic Heritage Code does not apply to assessment of places listed on the Tasmanian Heritage Register, the same process does not apply to the assessment of signs associated with THR listed sites. To avoid confusion, inconsistency and duplication of decision-making, C1.6.4 of the Signs Code should not apply to Places listed in the Tasmanian Heritage Register.

Recommended Change to the SPPs

Insert:

C1.2.3 C1.6.4 does not apply to a registered Place entered on the Tasmanian Heritage Register.

- ***Undefined terms in the Signs Code in relation to heritage provisions***

Raised in representation no: 33

Discussion:

While the representation specifically referenced the Local Historic Heritage Code, similar undefined terms appear in the Signs Code in relation to heritage provisions. In C1.6.4 Signs on local heritage places and in local heritage precincts and local historic landscape precincts, both the Objective and P1 preamble refer to 'unacceptable impact'.

The Code Purpose statement (C1.1) refers to provision of well-designed signs that are compatible with the visual amenity of the surrounding area.

Local historic heritage significance is described strictly according to the defined format in LPS Table C6.1 Local Heritage Places.

The Objective and P1 Performance Criterion, however, introduces – through use of the term 'unacceptable impact' – an extraneous performance measure that:

- is neither defined nor originates from the qualities that make a Place significant
- requires a planning authority to forecast, divine, guess and otherwise have regard to matters that are incapable of anything approaching objective assessment and in direct contradiction of key functions expressed in, but not limited to, SPP 6.8.1 (b).

On this basis, the P1 Performance Criterion relying as it does on the wording, 'unacceptable impact', is effectively unworkable. This is inconsistent with:

LUPAA Objectives:

- Part 2 – (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

Regional policies under STRLUS:

- CV 2 recognise and protect historic cultural values.

Recommended changes to the SPPs:

Delete the term 'unacceptable impact' wherever it appears in C1.6.4 Signs on local heritage places and in local heritage precincts and local historic landscape precincts, and replace it with the term 'adverse impact'.

- ***Assessment of illuminated signs***

Raised in representation no: 33

Discussion:

Illuminated signs have the potential to impact drivers not only at controlled intersections, but also at busy intersections or along busy roads. While C1.6.2 provides for the assessment of illuminated

signs near traffic control devices, it does not indicate who is qualified to provide that assessment. This gap in assessment impedes the ability of the SPPs to further the Objectives of LUPAA, particularly:

- Part 1 (*b) to provide for the fair, orderly and sustainable use and development of air, land and water*
- Part 2 *(f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation.*

Recommended changes to the SPPs

Modify C1.6.2 P1 (f) as shown below:

Objective:	That: (a) illuminated signs are compatible with the streetscape; (b) the cumulative impact of illuminated signs on the character of the area is managed, including the need to avoid visual disorder or clutter of signs; and (c) any potential negative impacts of illuminated signs on road safety and pedestrian movement are minimised.
Acceptable Solutions	**Performance Criteria**
A1 No Acceptable Solution.	**P1** An illuminated sign must not cause an unreasonable loss of amenity to adjacent properties or have an unreasonable effect on the safety, appearance or efficiency of a road, and must be compatible with the streetscape, having regard to: (a) the location of the sign; (b) the size of the sign; (c) the intensity of the lighting; (d) the hours of operation of the sign; (e) the purpose of the sign; (f) (the sensitivity of the area in terms of view corridors, the natural environment and adjacent residential amenity; (g) the intended purpose of the changing message of the sign; (h) the percentage of the sign that is illuminated with changing messages; (i) proposed dwell time; and (j) whether the sign is visible from the road and if so the ~~proximity to and~~ impact on ~~an electronic traffic control device~~drivers of motor vehicles and other road users as assessed by a suitably qualified person.
A2 An illuminated sign visible from public places in adjacent roads must not create the effect of	**P2** No Performance Criterion.

flashing, animation or movement, unless it is providing direction or safety information.	

7. C2.0 Parking and Sustainable Transport Code

- ***Accessible Parking***

Raised in representation no: 33

Discussion:

There are provisions within C2.0 Parking and Sustainable Transport Code (ie C2.6.2 A1.2 and C2.6.5 A1.2), that require accessible car parking spaces to appropriately located and meet the design requirements of the relevant Australian Standards. However, the Code has no standard that requires accessible parking be provided – so these requirements cannot be applied.

It is unclear why the Code would require accessible parking to be designed in a specific manner but fail to specifically require any such spaces. It may be possible that omission of accessible parking numbers was an error.

In any instance, the failure to address accessible parking provision it is inconsistent with the objectives of LUPAA, particularly:

- Part 1 (*b) to provide for the fair, orderly and sustainable use and development of air, land and water*
- Part 2 *(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.*

Recommended Change to the SPPs

Modify Clause C2.5.1 to include A2 and P2:

Objective	That an appropriate level of car parking spaces are provided to mee the needs of the use.
Acceptable Solution	**Performance Criteria**
A1 **….**	**P1.1** **….**
A2 The number of accessible car parking spaces must be provided in accordance with the National Construction Code.	**P2** No Performance Criteria

- ***Clarity of terms***

Raised in representation no: 33

Discussion:

The terms ‘access’ and ‘access ways’ are used within the SPPs but have no definition.

A definition for ‘vehicular crossing’ is provided; however, the word ‘driveway’ is used within the definition (noting that ‘driveway’ is used independently within the SPPs and is not defined). It is also

considered that colloquially, the term driveway is more likely to be interpreted as the 'access' rather than the 'crossover'.

Clear and consistent definitions are required otherwise there will be misinterpretation and inconsistent decision making.

Recommended change to the SPPs

In Table 3.1

- Insert the new term and definition:

driveway: private access from the carriageway that leads to the car park on the land.

- Replace the definition of 'vehicle crossing' with:

the portion of land, over which a vehicle travels, between a site's boundary and the adjoining carriageway

- Clarify the term 'access' where it appears throughout the SPPs.

- ***Technical issues***

Raised in representation no: 33

Discussion:

Given the limitations S35E of LUPAA – which effectively prevents further comment on the SPPs - consideration of some of the technical impacts of the Code could not be raised. However in reviewing the issues raised in the representations it is considered that the technical issues relating to the design for parking in C2.6.2, which refers to Table C2.3 for width and length of car parking spaces and aisles and is different to AS2890.1 figures 2.2 and 2.5 should be raised.

In respect to consistency in decision making, clarity of provisions and in terms of safety that Clause C2.6.2 is inconsistent with the objectives of LUPAA, particularly:

- Part 1 (*b) to provide for the fair, orderly and sustainable use and development of air, land and water*
- Part 2 (f) *to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation.*

Recommended changes to the SPPs

Revise car parking width and length requirements, particularly within C2.6.2 and table 2.3 to ensure design requirements are consistent with Australian Standards.

8. Heritage issues and C6.0 Heritage Code

- ***6.1.3 Assessment of an Application for Use or Development***

Raised in representation no: 33

Discussion:

Application requirements make no reference to the ability of a planning authority to require additional information on heritage grounds.

6.1.3 provides a comprehensive list of categories of additional information that may be requested by a planning authority.

Heritage is conspicuously absent from the list.

The omission of any reference in the SPPs to the ability of a planning authority to request additional information to inform assessment as to how an Application may impact upon the historic cultural heritage significance of a Place as set out in LPS GLE-Table C6.1 effectively:

(a) nullifies the ability of a planning authority to exercise due diligence in fulfilling its fundamental obligations with respect to SPP *6.0 Assessment of an Application for Use or Development* (including but not limited to - *6.8 Discretionary Use or Development*, *6.10 Determining Applications*, *6.11 Conditions and Restrictions on a Permit*),

by:

(b) impeding operation of *C6.0 Local Historic Heritage Code* through failure to provide the planning authority with the ability to request specific information to enable assessment of Applications with respect to the *C6.1 Code Purpose* noting the extensive reliance upon Performance Criteria in the Code and the nuanced values that characterise *LPS GLE-Table C6.1*.

A lack of clarity on the extent and scope of information that can be requested for heritage matters is likely to lead to frustration for both applicants and the planning authority, and is inconsistent with the Objectives of LUPAA, particularly:

- Part 1 (b) *to provide for the fair, orderly and sustainable use and development of air, land and water*
- Part 1 (c) *to encourage public involvement in resource management and planning*
- Part 2 (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

Recommended change to the SPPs:

Insert the following into 6.1.3:

(d) in relation to Local Heritage places, Local Heritage Precincts, Local Historic Landscape Precincts, Significant Trees, and Places or Precincts of Archaeological Potential:

- photographs, drawings or photomontages necessary to demonstrate the impact of the proposed development and works on the local historic heritage significance of the place;
- a conservation plan (with definition as follows: **conservation plan** means a plan prepared by a suitably qualified person in accordance with *The Conservation Plan: A Guide to the Preparation of Conservation Plans for Places of European Cultural Significance* (Kerr J, National Trust of Australia, NSW, 1982).
- a heritage impact statement (with definition as follows: **heritage impact statement** means a report from a suitably qualified person setting out the effect of the proposed development and works on the local historic heritage significance of the Local Heritage Place, Local Heritage Precinct or Local Landscape Precinct).

- an arboricultural impact statement (with definition as follows: **arboricultural impact statement** means a report from a suitably qualified person setting out the effect of the proposed development and works on significant trees or trees/tree groups that contribute to the local historic heritage significance of the Local Heritage Place, Local Heritage Precinct or Local Landscape Precinct.
- a statement of archaeological potential (with definition as follows: **statement of archaeological potential** means a report from a suitably qualified person that includes; a written and illustrated site history, overlay plans showing the main historical phases of site development and land use on a current base layer, a disturbance history, a written statement of archaeological significance and potential taking into consideration key significant phases of site development and land use, and the impacts of disturbance).
- an archaeological method statement (with definition as follows: **archaeological method statement** means a report from a suitably qualified person that includes: strategies to identify, protect and/or mitigate impacts to known and/or potential archaeological values (typically described as a statement of archaeological potential), collections management specifications including proposed storage and curatorial arrangements, identification of measures aimed at achieving a public benefit, details.

- ***Application of Code to THR listed sites excluding significant trees***

Raised in representation no: 16 & 33

Discussion:

In reviewing representations on issues relating to dual listings and the need to avoid confusion, inconsistency and duplication of decision making, the circumstance under C6.2.3 to exclude places listed on the Tasmanian Heritage Register (THR), from assessment under C6.0 Local Historic Heritage Code, *except for the lopping, pruning, removal or destruction of a significant tree*…would appear to be at odds with this goal. It is unclear why significant trees can be dual listed and require assessment by both the planning authority and the Tasmanian Heritage Council (THC), but all other places only require assessment by the THC (note that signage is also subject to this anomaly and is discussed elsewhere in this S35G Report).

Recommended Change to the SPPs

Council officers believe the best planning outcome is the creation of a standalone Code for Significant Trees – as they have a range of values beyond purely heritage significance. Additionally, modification to the SPPs to ensure that places listed both locally and on the THR are only assessed by the Tasmanian Heritage Council is required.

- ***Undefined terms – particularly in the assessment of demolition***

Raised in representation no: 33

Discussion:

C6.1.1 (a) Code Purpose
C6.3 Definition of Terms

C6.6 Development Standards for Local Heritage Places
C6.6.1 Demolition. LPS GLE Table C6.1 Local Heritage Places

The Code Purpose statement (C6.1.1) refers to recognition and protection of local historic heritage significance and significant trees.

Local historic heritage significance is described strictly according to the defined format in LPS Table C6.1 Local Heritage Places.

The Performance Criteria comprising C6.6.1 Demolition, however, introduces extraneous performance measures that are neither defined nor originate from the qualities that make a Place significant. Specifically in C6.6.1:

- Both the Objective and P1 preamble refers to 'unacceptable impact'.
- P1 (g) refers to 'reasonable option'
- P1 (h) refers to 'any economic considerations.

Performance Criteria for demolition in the Development Standards for Local Heritage Places are unworkable because they use wording that is not defined, has no genesis in the local historic heritage significance statements that underpin LPS Table C6.1 Local Heritage Places, and is so broad that it is incapable of objective assessment**.**

Use of the wording 'unacceptable impact' and/or 'unreasonable impact' throughout C6.0 that is not defined and so broad it renders the objectives and performance measures, wherever it is used, incapable of objective assessment.

Reference to 'reasonable option' and 'any economic considerations' introduces an undefined performance measure that has no place in values-based regulation.

All the aforementioned are nebulous terms that require a planning authority to forecast, divine, guess and otherwise have regard to matters that are incapable of anything approaching objective assessment and in direct contradiction of the reference to applicable standards in the Discretionary Use or Development decision making requirements referred to in SPP 6.8.1 (b).

Performance criteria must be clearly articulated to enable an applicant to demonstrate compliance, the use of these terms provides no guidance as to what may be acceptable or reasonable to the applicant nor does it make for consistent decision making.

On this basis, C6.6.1 Demolition is considered unworkable to all intents and purposes.

This is inconsistent with:

- LUPAA Objectives:
  - Part 2 – (*g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*
- Regional policies under STRLUS:
  - CV 2 recognise and protect historic cultural values.

Recommended changes to the SPPs:

In the C6.6.1 Objective and the P1 preamble delete the words 'unacceptable impact' and replace with the words 'adverse impact'.

Delete C6.6.1, P1 (g) whether demolition is a reasonable option to secure the long-term future of a building or structure.

Delete C6.6.1, P1 (h) any economic considerations.

- **Undefined terms - generally**

Raised in representation no: 33

Discussion:

C6.1.1 (a) Code Purpose
C6.3 Definition of Terms
C6.6.1 Demolition
C6.6.10 Removal, destruction or lopping of trees or the removal of vegetation that is specifically part of a local heritage place
C6.7.1 Demolition within a local heritage precinct
C6.7.2 Demolition within a local landscape precinct
C6.8.1 Development Standards for Places or Precincts of Archaeological Potential
GLE Table C6.1 Local Heritage Places
C6.10 Development Standards for Subdivision.

In C6.6.1 both the Objective and P1 preamble refers to 'unacceptable impact'.

In C6.6.10 the P1 preamble refers to 'unreasonable impact'.

In C6.7.1 both the Objective and P1 preamble refers to 'unacceptable impact'.

In C6.7.2 both the Objective and P1 preamble refers to 'unacceptable impact'.

In C6.8.1 the P1 preamble refers to 'unacceptable impact'.

In C6.10.1 both the Objective and P1 preamble refers to 'unacceptable impact'.

The Code Purpose statement [C6.1.1 (a)] refers to recognition and protection of local historic heritage significance and significant trees.

Local historic heritage significance is described strictly according to the defined format in LPS Table C6.1 Local Heritage Places.

The Objective/s and/or Performance Criteria cited above, however, introduce – through use of the terms 'unacceptable impact' and 'unreasonable impact' - extraneous performance measures that:

(a) are neither defined nor originate from the qualities that make a Place significant; and
(b) require a planning authority to forecast, divine, guess and otherwise have regard to matters that are incapable of anything approaching objective assessment and in direct contradiction of key functions expressed in, but not limited to, SPP 6.8.1 (b).

On this basis, all the performance measures that rely on the wording 'unacceptable impact' and 'unreasonable impact' are effectively rendered unworkable.

This is inconsistent with:

- LUPAA Objectives:

- Part 2 – (*g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*
- Regional policies under STRLUS:
  - CV 2 recognise and protect historic cultural values.

Recommended changes to the SPPs:

Delete the terms 'unacceptable impact' and 'unreasonable impact' wherever they appear in C6.0 Local Historic Heritage Code and replace, in each case, with the term 'adverse impact'.

9. C7.0 Natural Assets Code

Raised in representation no: 33

Discussion:

The Panel, in its report on the Draft State Planning Provisions, 9 December 2016, indicated that *the Natural Assets Code requires revision as a high priority* (section 5.74, p.36-37).

LGAT and the Meander Valley Council in their representation on the Draft Meander Valley LPS, identified key flaws with the SPP Natural Assets Code, that is, it fails to:

- further *the objectives of LUPAA to maintain ecological processes and genetic diversity;*
- *deliver its stated Code purpose to "minimise impacts on identified priority vegetation" and "to manage impacts on threatened fauna species, by minimizing clearance of significant habitat;*
- *implement a cogent division of responsibility between agencies charged with the responsibility of regulating the management of native vegetation through the interaction between the Forest Practices System and the planning scheme and does not account for the different overarching objectives of scale, the land use practices under each system or a hierarchy of controls;*
- *outline clear responsibilities and expectations for land owners and developers so that in proposing land use and development, it is understood what the code purpose of 'minimising impacts' and 'minimising clearance' actually means. In particular, there is no foundation in data or scientific practice to determine what "unreasonable loss of priority vegetation", the fundamental premise for the operation of Section C7.6.2, actually is. Section C7.6.2 is inoperable, as it is without meaning and has no prospect of measurement. This will inevitably end in confused, inconsistent and inconclusive administration of the planning scheme provision.*

Essentially, LGAT and the Meander Valley Council came to the conclusion that, due to the inability to measure many of the terms in the Natural Assets Code, the Code is unworkable.

Council officers note and support this assessment of the Code. Further, the inability to evaluate on-ground values of a site during the application assessment stage, or provide for a buffer to protect priority vegetation and facilitate the movement of natural values, demonstrates that the Code fails on a number of levels and is inconsistent with:

- LUPAA Objectives:
  - Part 1 (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.*

- Part 1 (b) *to provide for the fair, orderly and sustainable use and development of air, land and water.*
- Part 2 (*c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.*
- Part 2(d) *to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels.*
- Part 2 (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

- Regional policies under STRLUS:
  - BNV 1 *Maintain and manage the region's biodiversity and ecosystems and their resilience to the impacts of climate change.*
  - BNV 2 *Protect threatened native vegetation communities, threatened flora and fauna species, significant habitat for threatened fauna species, and other native vegetation identified as being of local importance and places important for building resilience and adaptation to climate change for these.*

Recommended changes to the SPPs

Undertake a review of the Natural Assets Code including the suggested changes put forward in the Meander Valley S35G Report.

It is noted that Tasmanian Planning Commission has put a notice to the Minister for Planning under S35G(2) of LUPAA for a review of the Natural Assets Code

10. Need for a revised Scenic Protection Code

Raised in representation no: 33

Discussion:

In preparing the Draft Glenorchy LPS and seeking to populate the scenic values and management objectives in Table at C8.1, significant problems with C8.0 Scenic Protection Code were realised.

In particular:

- A focus on skylines and not all scenic landscapes, in that the Code does not adequately provide for landscapes in coastal areas, river estuaries, or highly scenic rural areas. There is also no definition for skyline.

- There are difficulties in interpreting and applying the Scenic Road Corridor provisions, and limited ability to provide scenic protection in any instance.

- There is limited scenic protection within Rural and Agricultural Zones.

  It is understood that the policy intent behind the Tasmanian Planning Scheme was to ensure that zone provisions address use and development standards relevant to the zone (uses, heights, setbacks, lot sizes), while overlays would address elements relevant to the value or hazard. In the instance of the Rural Zone, controls on Design (light reflectance and impacts caused by cut and fill), present in similar zones in the interim schemes were not included in the SPP zone, and while it was anticipated that they would instead occur in the Scenic Protection Code (where such impacts on values should be assessed) they do not.

Due to the matters identified above, applying the Scenic Protection Overlay over land in a Rural Zone, such as Collinsvale where the landscape value is primarily in its rural/residential character, is ineffective in managing design elements like cut and fill and light reflectance and there are no other appropriate tools in the SPPs that enable this.

For instance an Extractive industry, proposing 500m^2 of cut and fill to 10m in depth, could be established on top of a ridgeline, but 50m below a skyline, and 120m from a road, in a Rural Zone and within a Scenic Protection Area, but there would be no standards to assess its visual impact.

Also, as noted earlier, the intent to protect hedgerows and exotic trees close to scenic road corridors under the Code is effectively removed by the vegetation removal exemption at Clause 4.4.1 (or even Clause 4.4.2 – as there is no definition of what a private garden constitutes with the SPPs).

The Code at C8.0 is inconsistent with:

- LUPAA Objectives:
  - Part 2 (*g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*
- Regional policies under STRLUS:
  - C 1 *Maintain, protect and enhance the biodiversity, landscape, scenic and cultural values of the region's coast.*
  - CV 4 *Recognise and manage significant local historic and scenic landscapes throughout the region to protect their key values*.

The Scenic Protection Code is significantly flawed and is ineffective in achieving its purpose.

Recommended changes to the SPPs:

Replace C8.0 Scenic Protection Code with the revised code included in Appendix 1

11. Flood Prone Areas Code

Raised in representation no: 21

Discussion:

The Flood Prone Areas Hazard Code does not provide for an acceptable solution pathway, even where an application can demonstrate through site-specific survey information, that finished floor levels are to be above predicted flood levels (noting that the southern interim planning schemes provide for a finished floor level for habitable rooms being no less than 300mm above the flood level).

With Councils mapping flood prone areas, it is considered that this, along with site specific survey information, should be able to be relied upon to determine appropriate development.

It is considered that modifications to the Flood Prone Areas Hazard Code to include an Acceptable Solution that allows for development to be a specified height above flood levels would be consistent with the:

- LUPAA Objectives:
  - Part 2 (f) *to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation*

- Regional policies under STRLUS:
  - MRH 2 *Include provisions in the planning scheme for use and development in flood prone areas based upon best practice in order to manage residual risk*.

Recommended changes to the SPPs:

Introduce Acceptable Solutions to the Flood Prone Areas Hazard Code standards to enable a permitted pathway for use and development within a flood prone hazard areas overlay map.

12. Stormwater Management

Raised in representation no: 33

Discussion:

Stormwater management is essentially the same as water and sewerage management and needs to be considered at the time of assessment of a planning application.

There are no other tools available to management stormwater, as the *Urban Drainage Act 2013* is ineffective as it was not written with the intent of being used as a planning control, and thus provides no head-of-power to manage stormwater quality in new developments. Further, it only applies to urban areas.

The lack of a planning tool to manage stormwater is also considered inconsistent with the *State Policy on Water Quality Management 1997,* the objectives of LUPAA and the STRLUS.

While some stormwater provisions occur in the SPP zones, they are only triggered for subdivision applications, and even in this instance are inadequate to address water quality and would be better accommodated with a consistent code applicable to all land.

It is noted that Clause 6.11.2 (g) of the SPPs provides a broad head of power for applying conditions on a permit with regard to '*erosion, and stormwater volume and quality controls*', however it is unclear how this could ensure stormwater is appropriately addressed as:

- there are no standards in the SPPs to relate the condition to (as required under Clause 6.10.1)
- the principles for applying conditions do not allow a planning authority to defer making a decision through conditional approval.

It is considered that the SPPs require modification to include a Stormwater Management Code that will enable a wholistic consideration of all the issues related to development.

It is noted that the Panel in its report on the Draft State Planning Provisions, 9 December 2016 recommended *that a stormwater management code or standards suitable for inclusion in zones be prepared to better manage the stormwater disposal.*

In 2016, the Southern Tasmanian Councils drafted a Stormwater Code for inclusion in the State Planning Provisions (SPPs). The code was drafted in alignment with the SPWQM to facilitate the implementation of the provisions (Clause 31 and 33) outlined in the policy. It is recommended that this Code be included into the SPPs to appropriately manage stormwater.

The omission of a way to appropriately manage stormwater within the TPS is inconsistent with:

- LUPAA Objectives:

- Part 2 (b) ensuring a scheme is the *principal way of setting objectives, policies and controls for the use, development and protection of land*
- Part 2 (e) providing for *the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals*

- Regional policies under STRLUS:
  - WR 1.1 - *Use and development is to be undertaken in accordance with the State Policy on Water Quality Management*.

Recommended changes to the SPPs:

Insert the C17.0 Stormwater Management Code included in Appendix 2 into the SPPs.

13. Identifying THR listed Sites of archaeological potential

Raised in representation no: 33

Discussion:

Places listed on the THR can be include in the LPS. THR sites can also include places of archaeologic potential. Table at Clause C6.4 Place or Precinct of Archaeological Potential also requires modification to enable reference to THR sites to be included.

Suggested changes to the SPPs:

Insert a column to identify THR Number of places of precincts of archaeological potential:

Table C6.4 Places or Precinct of Archaeological Potential

Reference Number	THR Number	Town/ Locality	Property Name / Address / Name of Precinct	Folio of the register	Description, Specific Extent and Archaeological Potential

Appendix 1 – Draft Scenic Protection Code

C8.0 Scenic Protection Code

C8.1 Code Purpose

The purpose of the Scenic Protection Code is:

C8.1.1 To recognise and protect landscapes that are identified as important for their scenic values.

C8.2 Application of this Code

C8.2.1 This code applies to development on land within a scenic protection area.

C8.2.2 This code does not apply to use.

C8.3 Definition of Terms

C8.3.1 In this code, unless the contrary intention appears:

Term	Definition
backing ridgeline	means the first ridgeline located behind the proposed development.
key landscape feature	means a visually prominent and distinguishing element within the broader landscape that adds positive scenic value to the scenic protection area. It may be described in the scenic protection areas list in the relevant Local Provisions Schedule. Key landscape features may be natural or cultural elements (e.g., a prominent mountain peak, a distinctive and large rock outcrop, a distinctive or colourful area of vegetation, or a building/structure that adds positive aesthetic or scenic value to the scenic protection area).
management objectives	means the management objectives for the scenic protection area as detailed in the scenic protection areas list in the relevant Local Provisions Schedule.
ridgeline	means the line formed by the highest visible points (or crest) of a hill, mountain or intervening ridge. A landscape may be composed of more than one ridgeline.
scenic protection area	means an area shown on an overlay map in the relevant Local Provisions Schedule, as within a scenic protection area, and is listed and described in the scenic protection areas list in the relevant Local Provisions Schedule. The protection value column in scenic protection areas list in the relevant Local Provisions Schedule identifies whether a scenic protection area is of medium or high value.
scenic value	means the specific characteristics or features of the landscape that collectively contribute to a scenic protection area as described in the scenic protection areas list in the relevant Local Provisions Schedule.
skyline	means the line at which the sky and the land and/or extensions of landcover from the land (e.g., trees or buildings) appear to meet, forming a visible horizon.

	Where such landcover extensions exist, the skyline is located at the top of those extended features, not at the ridgeline. However, where no landcover extensions exist, the ridgeline and the skyline may be synonymous.

C8.4 Use or Development Exempt from this Code

C8.4.1 The following development is exempt from this code:

(a) planting, clearing or modification of vegetation on existing pasture or crop production land, unless for the clearing or modification of the following:

(i) exotic trees, other than part of an agricultural crop, that are more than 10m in height and located within 120m of the edge of a carriageway of a road; or

(ii) hedgerows within 120m of the edge of a carriageway of a road;

(b) buildings and works required for an agricultural use, including structures for controlled environment agriculture, irrigation and netting, on land within an Agriculture Zone or Rural Zone, excluding the destruction of vegetation identified in C8.4.1(a);

(c) alterations or extensions to an existing building if:

(i) the gross floor area is increased by not more than 25% from that existing at the effective date;

(ii) there is no increase in the building height;

(iii) external finishes are the same as those on the existing building; and

(iv) external finishes are similar to those on existing buildings and do not have a light reflectance value above 40%.

(d) subdivision not involving any works; and

(e) development subject to the Telecommunications Code.

C8.5 Use Standards

C8.5.1 There are no Use Standards in this code.

C8.6 Development Standards for Buildings and Works

C8.6.1 Development within a medium value scenic protection area

Objective:	That: (a) key landscape features, elements and scenic attributes of a medium value scenic protection area are maintained or enhanced; (b) vegetation clearing or modification does not diminish the value of a scenic protection area; and (c) development is designed and located to minimise visual impact on scenic values.

Acceptable Solutions	**Performance Criteria**
A1 Clearing or modification of vegetation within a medium value scenic protection area must: (a) be on land greater than 50m in elevation below a backing ridgeline; and	**P1** Clearing or modification of vegetation within a medium value scenic protection area must not cause an unreasonable reduction of the scenic value of a medium value scenic protection area, having regard to: (a) the species, age and location of the vegetation to be removed;

(b) not total more than 500m^2 in extent, per title, including any land cleared since the effective date. **A1.2** Clearing or modification of: (a) exotic trees, other than part of an agricultural crop, that are more than 10m in height and located within 120m of the edge of a carriageway of a road; or (b) hedgerows within 120m of the edge of a carriageway of a road; must not be visible from a road.	(b) the area of vegetation to be removed including any vegetation removed since the effective date; (c) the topography of the site; (d) the visual impact on a ridgeline, skyline or key landscape feature; (e) the number of viewpoints and travel routes the area to be cleared or modified would be seen from; (f) the location, species and extent of proposed replanting; and (g) any management objectives identified in the scenic protection areas list in the relevant Local Provisions Schedule.
A2 Buildings and works within a medium value scenic protection area must not be vis ble from public spaces.	**P2** Buildings or works within a moderate value scenic protection area must not cause an unreasonable reduction of the scenic value of a medium value scenic protection area, having regard to: (a) the location of any visually dominant elements and their impact on viewlines to key landscape features, ridgelines or skylines; (b) the number of viewpoints and travel routes the buildings and works would be seen from; (c) the topography of the site; (d) the location of, and materials used in construction of, driveways or access tracks, (e) the ability of the selection of exterior colours and textures to blend into those of the landscape; (f) building height, bu k and form; (g) the extent of any cut and fill required; (h) proposed screening vegetation; and (i) any management objectives identified in the relevant Local Provisions Schedule.
A3 Exterior building finishes for additions or extensions to existing buildings in a medium value scenic protection area must have a light reflectance value of not more than 40%.	**P3** Exterior building finishes for additions or extensions to existing buildings in a medium value scenic protection area must not cause an unreasonable reduction of the scenic value of a medium value scenic protection area, having regard to: (a) light reflectance value; and (b) ability of the selected materials and finishes to blend into those of the landscape.
A3 Exterior building finishes for new buildings in a medium value scenic protection area must have a light reflectance value of not more than 40%.	**P3** No Performance Criteria.

C8.6.2 Development within a high value scenic protection area.

Objective:	That: (a) key landscape features, elements and scenic attributes of a high value scenic protection area are maintained or enhanced; (b) vegetation clearing or modification does not diminish the value of a scenic protection area; and (c) development is designed and located to minimise visual impact on scenic values

Acceptable Solutions	**Performance Criteria**
A1 No Acceptable Solution	**P1** Clearing or modification of vegetation within a high value scenic protection area must not cause an unreasonable reduction of the scenic value of a high value scenic protection area, having regard to: (a) the species, age and location of the vegetation to be removed; (b) the area of vegetation to be removed including any vegetation removed since the effective date; (c) the topography of the site; (d) the visual impact on a ridgeline, skyline or key landscape feature; (e) the number of viewpoints and travel routes the area to be cleared or modified would be seen from; (f) the location, species and extent of proposed replanting; and (g) any management objectives identified in the scenic protection areas list in the relevant Local Provisions Schedule.
A2 No Acceptable Solution	P2 Buildings or works within a high value scenic protection area must not cause an unreasonable reduction of the scenic value of a high value scenic protection area, having regard to: (a) the location of any visually dominant elements and their impact on viewlines to key landscape features, ridgelines or skylines (b) the topography of the site; (c) the location of, and materials used in construction of, driveways or access tracks, (d) the ability of the selection of exterior colours and textures to blend into those of the landscape; (e) the number of viewpoints and travel routes the buildings and works would be seen from; (f) building height, bulk and form; (g) the extent of any cut and fill required; (h) proposed screening vegetation; and (i) any management objectives identified in the relevant Local Provisions Schedule.

A3 Exterior building finishes for additions or extensions to existing buildings in a high value scenic protection area must have a light reflectance value of not more than 40%.	**P3** Exterior building finishes for additions or extensions to existing buildings in a high value scenic protection area must not cause an unreasonable reduction of the scenic value of a high value scenic protection area, having regard to: (a) light reflectance value; and (b) ability of the selected materials and finishes to blend into those of the landscape.
A3 Exterior building finishes for new buildings in a high value scenic protection area must have a light reflectance value of not more than 40%.	**P3** No Performance Criteria.

<prefix>-Table C8.1 Scenic Protection Areas

Reference Number	Protection Value	Scenic Protection Area Name	Description	Scenic Value	Management Objectives

Appendix 2 – Draft Stormwater Management Code

C17.0 Stormwater Management Code

C17.1 Code Purpose

C17.1.1 The purpose of this provision is to ensure that stormwater from use and development, in both construction and operational phases, is of a quality and quantity that enables protection of natural assets, infrastructure and property.

C17.2 Application of this Code

C17.2.1 This Code applies to:

(a) use involving:

i) vehicle storage and/or display;

ii) carparking for 6 or more vehicles;

iii) a service station;

iv) potentially contaminating activities, industries and land uses;

v) industrial vehicle storage;

vi) un-bunded outdoor chemical storage;

vii) sediment, fertiliser, gravel, soil or mulch stockpiled for commercial storage; and

(b) development.

C17.3 Definition of Terms

C17.3.1 In this Code, unless the contrary intention appears:

Term	Definition
Acceptable Stormwater Quality and Quantity Targets	means the stormwater quantity and quality targets in Table 1 other than area specific stormwater quantity and quality targets within relevant legislated water quality targets, or licenced operational targets.
annual exceedance probability (AEP)	means the probability of an event with a certain magnitude being exceeded in any one year.
stormwater	means rain (or snow and ice melt) runoff from surfaces that is not trade waste, industrial waste, or waste water effluent, and which has been concentrated by means of a drain, surface channel, subsoil drain or formed surface
typical urban stormwater	means runoff from urban areas containing impervious roads, paths and roof surfaces that drain into a stormwater drainage system without prior detention and water quality treatment
impervious surface	means any surface that impedes the infiltration of water into the soil and includes any roof or external paved or hardstand area, including for a road, driveway, a vehicle loading, parking and standing apron, cycle or pedestrian pathway, plaza, uncovered courtyard, deck or balcony or a storage and display area.

major stormwater drainage system	means the combination of overland flow paths (including roads and watercourses) and the underground reticulation system designed to provide safe conveyance of stormwater runoff and a specific level of flood mitigation.
minor stormwater drainage system	means the stormwater reticulation infrastructure designed to accommodate more frequent rainfall events (in comparison to major stormwater drainage systems) having regard to convenience, safety and cost.
stormwater drainage system	means a major or minor stormwater drainage system.
natural assets	means biodiversity, environmental flows, natural streambank and stream bed condition, riparian vegetation, littoral vegetation, water quality, wetlands, river condition and waterway and/or coastal values.
suitably qualified person	means a professional engineer currently practising with relevant CPEng or NPER accreditation, or a person who in respect to the type of work to be undertaken can adequately demonstrate relevant academic qualification, and an appropriate level of professional indemnity and public liability insurance.
Stormwater Service Provider	means as defined in the Urban Drainage Act 2013
water sensitive urban design (WSUD)	means the integration of urban planning with the management, protection and conservation of the urban water cycle to ensure that urban water management is sensitive to natural hydrological and ecological cycles.

C17.4 Development Exempt from this Code

C17.4.1 The following development is exempt from this code:

(a) A single dwelling that will be connected to existing stormwater infrastructure;

(b) A subdivision creating new lots greater than 5000m^2 in area and with new roads and footpaths less than 500m^2 in area; and

(c) Subdivisions which are solely for the purpose of creating road reserve, public open space, littoral or riparian reserve; minor boundary adjustments.

C17.5 Application Requirements

In addition to any other application requirements, the planning authority may require the applicant to provide a report from a suitably qualified person if considered necessary to determine compliance with acceptable solutions or performance criteria, as specified:

(a) a report demonstrating the suitability of private and public stormwater systems for a proposed development or use;

(b) a report that demonstrates stormwater treatment meets acceptable stormwater quality and quantity targets;

(c) a report that demonstrates the suitability of a site for an on-site stormwater disposal system, which includes topography, soil analysis, geohazards, and may consider other pressures and risks.

C17.6 Use Standards

C17.6.1 Stormwater management

Objective:	To ensure altered pollutant types and/or loadings are managed appropriately to protect natural values, infrastructure and property.
Acceptable Solutions	**Performance Criteria**
A1.1 Use of a site does not include any of the following: (a) chemical storage that requires new bunding and spill management (Footnote R1); (b) a new service station; (c) potentially contaminating activities, industries, and land uses' (Footnote R2); or (d) long-term industrial vehicle storage, or a regular use carpark for 6 or more vehicles, or sediment, fertiliser, gravel, soil or mulch stockpiled for commercial storage, except if within any of the following zones: i) Rural Living Zone; ii) Landscape Conservation Zone; iii) Rural Zone; and iv) Agriculture Zone. **A1.2** Sediment, fertiliser, gravel, or mulch stockpiles are either under roof, covered, bunded, or managed to prevent stormwater contamination (Footnote R1 or R4).	**P1** (a) Stormwater treatment must be suitable for the site and designed such that stormwater volume, pollutant load and pollutant concentrations achieved through: i) appropriate chemical bunding and spill management (Footnote R1); and ii) acceptable Stormwater Quality and Quantity Targets (Table 1) (Footnote R3), and the proposed treatment is suitable for the site, and includes an acceptable ongoing maintenance burden (including site access). (b) If (a)(ii) cannot be achieved stormwater may be captured and held for later removal and disposal to public sewer if to TasWaters satisfaction. (c) The Stormwater Service Provider may, at their discretion, accept a cost contribution for stormwater quality in lieu of meeting the targets that are linked to an Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider or is a provision of any developer contribution required pursuant to a policy adopted by Planning Authority for stormwater treatment.

C17.7 Development Standards for Buildings and works

C17.7.1 Stormwater Drainage and Disposal

Objective:	To ensure that buildings, works and stormwater drainage and disposal create stormwater of a quality and quantity that enables protection of natural assets, infrastructure and property.
Acceptable Solutions	**Performance Criteria**
A1 Stormwater from new impervious surfaces must be disposed of by one or both of the following: (a) gravity to public stormwater infrastructure; (b) on site if an existing residential or rural development at the effective date and is consistent with the current disposal method and within any of the following zones:	**P1** Stormwater from new impervious surfaces must be disposed of by one or both of the following: (a) on-site, if a report by a suitably qualified person demonstrates that the site is suitable and that the onsite disposal system is designed, and will be maintained and

i) Rural Living Zone; ii) Landscape Conservation Zone; iii) Rural Zone; iv) Agriculture Zone; or v) Environmental Management Zone.	managed, to minimise the risk of failure to the satisfaction of the Planning Authority; (c) to public stormwater infrastructure via a pump system which is designed, maintained and managed to minimise the risk of failure to the satisfaction of Stormwater Service Provider.
A2 Building and works where sediment and stormwater is managed during development (Footnote R4), and does not include any of the following: a) more than 500m^2 additional impervious area; b) 6 or more car parks; c) increased vehicle refuelling area at existing service stations; d) new service stations; (e) potentially contaminating activities, industries, and land uses' (Footnote R2); (f) chemical storage that requires new bunding and spill management (Footnote R1); (g) long-term industrial vehicle storage; or (h) sediment, fertiliser, gravel, soil or mulch stockpiled for commercial storage, except if within any of the following zones: i) Rural Living Zone; ii) Landscape Conservation Zone; iii) Rural Zone; and iv) Agriculture Zone.	**P2** (a) Sediment and stormwater is managed so that Acceptable Stormwater Quality Targets (Table 1) (Footnote R3) are achieved, and the proposed treatment is suitable for the site, and includes an acceptable ongoing maintenance burden (including site access) and sediment and water is managed during development (Footnote R4). (b) The Stormwater Service Provider may, at their discretion, accept a cost contribution for stormwater quality in lieu of meeting the targets that are linked to an Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider or is a provision of any developer contribution required pursuant to policy adopted by Planning Authority for stormwater treatment.
A3 Building and works must comply with one of the following: a) results in no change in the proportion of total impervious areas to pervious area for the whole site; b) the proportion of total impervious areas to pervious area for the whole site, for a non-commercial or non-industrial development is less than 50% of the site; c) the proportion of total impervious areas to pervious area for the whole site for a commercial or industrial development is less than 70% of the site; or d) the quantity and conveyance of stormwater caused is compliant with stormwater	**P3** Building and works must comply with one of the following: a) Any increase in stormwater runoff can be accommodated within an existing stormwater drainage system (or infrastructure upgraded as part of the development proposal) to the satisfaction of the Stormwater Service Provider, and the Stormwater Service Provider may, at their discretion, accept a cost contribution for a future improvement of the public stormwater system for infrastructure upgrades that are linked to an Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider;

drainage system requirements of the Stormwater Service Provider.	b) a new minor stormwater drainage system must be sized in accordance with the requirements of the Stormwater Service Provider; or c) a new major stormwater drainage system must be designed to accommodate a 1% AEP storm event (and having regards to climate change).

C17.8 Development Standards for Subdivision

C17.8.1 Stormwater management for subdivision

Objective:	To ensure that subdivision storm water drainage and disposal creates stormwater of a quality and quantity that enables protection of natural assets, infrastructure and property.
Acceptable Solutions	**Performance Criteria**
A1 Stormwater from new impervious surfaces must be disposed of to public stormwater infrastructure.	**P1** Stormwater from new impervious surfaces may be disposed of on-site if a report to the Planning Authority demonstrates that the site is suitable and that the onsite disposal system is designed, and will be maintained and managed to minimise the risk of failure to the satisfaction of the Planning Authority.
A2 Subdivision includes no new road.	**P2** Subdivision must be designed such that stormwater quality from the proposed impervious surfaces and likely future impervious surfaces following development of the lots (taken to be up to 500m^2 per lot) is maintained and must comply with one of the following: a) Acceptable Stormwater Quality Targets (Table 1; Footnote R3) are achieved, and the proposed treatment is suitable for the site, and includes an acceptable ongoing maintenance burden (including site access) and sediment and water is managed during development (Footnote R4); or b) the Stormwater Service Provider may, at their discretion, accept a cost contribution for stormwater quality in lieu of meeting the targets that are linked to an Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider or is a

	provision of any developer contribution required pursuant to policy adopted by Planning Authority stormwater treatment.
A3 Subdivision includes no new road.	**P3** Subdivision must comply with one of the following: a) any increase in stormwater runoff can be accommodated within an existing stormwater drainage system (or infrastructure upgraded as part of this proposal) to the satisfaction of the Stormwater Service Provider, and the Stormwater Service Provider may, at their discretion, accept a cost contr bution for a future improvement of the public stormwater drainage system for infrastructure upgrades that are linked to an Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider; b) a new minor stormwater drainage system must be sized in accordance with the requirements of the Stormwater Service Provider; or c) a new major stormwater drainage system must be designed to accommodate a 1% AEP storm event (and having regards to climate change).

Table 1 (see also Footnote R1 & R5):

80% reduction in the average annual load of total suspended solids (TSS) based on typical urban stormwater TSS concentrations or acceptable to the stormwater service provider.
45% reduction in the average annual load of total phosphorus (TP) based on typical urban stormwater TP concentrations or acceptable to the stormwater service provider.
45% reduction in the average annual load of total nitrogen (TN) based on typical urban stormwater TN concentrations or acceptable to the stormwater service provider.
Stormwater treatment and risk minimisation of potential stormwater contamination associated with carparks, roads, recreational, commercial and industrial sites, that are acceptable to the: (a) Stormwater Service Provider, (b) Urban Drainage Plan (or similar) created or accepted by the Stormwater Service Provider, (c) legislated water quality targets, (d) licenced operational targets. (e) ANZEC (2000) guidelines in the absence of local water quality objectives for receiving waters

Footnotes
R1

Tasmanian EPA ‘Bunding and Spill Management Guidelines’ at:
http://epa.tas.gov.au/documents/bunding_and_spill_management_guidelines_dec_2015.pdf
Note: Section 4. describes assessment considerations for bunding

R2
‘Potentially contaminating activities, industries and land uses’ are listed by the Tasmanian EPA at:
http://epa.tas.gov.au/regulation/potentially-contaminating-activities

R3
Advice can be obtained from the Derwent Estuary Programs Water Sensitive Urban Design Engineering Procedures for Stormwater Management
http://www.derwentestuary.org.au/wsudengineeringinfo/
The *DPIPWE State Stormwater Strategy 2010*
http://epa.tas.gov.au/epa/document?docid=721
The Model for Urban Stormwater Improvement Conceptualisation (MUSIC),
http://ewater.org.au/products/music/
a nationally recognised stormwater modelling software package used to assess land development proposals based on local conditions including rainfall, land use and topography, is recognised as current best practice

R4
Advice can be obtained for preparing sediment and water management plans or appropriate control measures for development from the
Derwent Estuary Program:
http://www.derwentestuary.org.au/stormwater-factsheets/
and International Erosion Control Association:
http://www.austieca.com.au/publications/best-practice-erosion-and-sediment-control-bpesc-document

R5
Stormwater quantity requirements must always comply with requirements of the local authority including catchment-specific standards. All stormwater flow management estimates should be prepared according to methodologies described in Australian Rainfall and Runoff (Engineering Australia, current version) or through catchment modelling completed by a suitably qualified person.

From: [redacted]
To: State Planning Office Your Say
Subject: Submission on the State Planning Provisions Scoping Paper: Deletion of the Environmental Living Zone
Date: Wednesday, 27 July 2022 10:06:59 AM
Attachments: image001.jpg
image004.jpg

Dear Madam/Sir:

In accord with the State Planning Provisions Review Scoping Paper (May 2022), I wish to provide comment as follows.

The State Planning Provisions (SPPs) made on 2 March 2017 **deleted the Environmental Living Zone (ELZ**), extant in the interim Tasmanian planning schemes, from the suite of SPP zones. The Landscape Conservation Zone (LCZ) was added as a new zone, but it has important differences in purpose and intent.

I consider the deletion of the ELZ to be a weakening of appropriate zone protections within the SPPs of a number of properties throughout Tasmania, and I ask that this degradation of protections be reconsidered and rectified in the government's review of the SPPs.

The Department of Justice's *Fact Sheet 6 – Tasmanian Planning Scheme – Rural Living Areas* (September 2017) provides the following explanation of the deletion:

> *"The Environmental Living Zone was first used in interim planning schemes, and it provides for residential development in areas characterised by native vegetation cover and other landscape values. This established competing priorities between residential development and the protection of natural and landscape values. The Tasmanian Planning Scheme avoids the competing priorities of the Environmental Living Zone through the creation of the Landscape Conservation Zone. The Landscape Conservation Zone instead provides a clear priority for the protection of landscape values with residential development largely being discretionary" (pp. 1 – 2).*

Under the SPPs, residential properties in Tasmania previously classified within the interim scheme's ELZ have had to be re-zoned under one of the SPP zones. The four possible zone options for former Environmental Living Zone sites are the Environmental Management Zone (EMZ), the Rural Living Zone (RLZ), the Low Density Residential Zone (LDRZ), or the Landscape Conservation Zone (LCZ). For most Tasmanians who are owners and residents on larger blocks previously designated as being within the Environmental Living Zone, the EMZ, RLZ, and LDRZ are not appropriate alternative classifications due to various aspects of the purpose statements making them incompatible. Depending on the individual property characteristics, the most likely SPP zone for reclassification is under the new Landscape Conservation Zone..

There are very considerable differences between the "Zone Purpose Statements" listed in the former Environmental Living Zone (ELZ) versus the new Landscape Conservation Zone (LCZ) with respect to their protections for existing residents on properties within the zone.

The six "Zone Purpose Statements" in the interim scheme's ELZ include two which clearly state the zone's intent:

14.1.1.4 To protect the privacy and seclusion that residents of this zone enjoy.

14.1.1.5 To provide for limited community, tourism and recreational uses that do not impact on natural values or residential amenity (Tasman ELZ, p. 2).

The ELZ also contains two "Local Area Objectives", both of which explicitly

> P*rovide for environmental living opportunities between and adjoining existing settlements where a high level of amenity and privacy will be enjoyed and ecological and aesthetic values will be protected* (Tasman ELZ, p. 2).

By contrast, the two Zone Purpose statements for the LCZ address **only the landscape values** of properties in the zone, providing for the landscape values' "protection, conservation and management", and for compatible use and development that does not adversely impact on those landscape values.

Within that change from the ELZ into the LCZ, there is no requirement for the protection of the **privacy and seclusion of the existing residents** on those properties, as was the clearly stated intent of the Environmental Living Zone in which they were previously classified.

Given the provisions of the interim scheme's ELZ, owners and residents of larger blocks previously classified under the ELZ continued to develop their residential properties in good faith in keeping with the clearly-stated Environmental Living Zone purpose and objectives of **privacy and seclusion within a high amenity landscape setting**.

In the cases where properties have now been transferred into the SPP's new Landscape Conservation Zone, where this explicit amenity of existing residents **is not even mentioned** within the purpose or objectives, the defining character of these properties is at significant risk through possible future adjacent successful development proposals which, consistent with the LCZ, may protect and conserve the landscape values while ignoring and degrading the amenity of existing residents.

While some protection to the privacy, seclusion, and amenity of existing residents **may possibly be implied** in the LCZ "Performance Criteria" through the requirements for discretionary uses to "be compatible with landscape values", those residents have lost the **explicit** residential amenity protection contained in the Zone Purpose and Area Objective clauses of the previous ELZ zone which was tailored for that purpose.

Any such new implied protection within the LCZ is minimal: due to the presence of significant landscape values on these blocks, new discretionary development applications on these blocks transferred to the LCZ would almost certainly be for proposed uses located in already-cleared portions of the blocks, thereby not being assessed within the zone's performance criteria as having an impact on landscape values. This could result in approval of the LCZ listed discretionary uses such as tourist retail hire, boarding kennels, or 200sqm food services being located within 20m of the former ELZ properties' residential boundaries.

I recognise that this current review is limited to the SPP component of the Tasmanian Planning Scheme, and that it does not include the Local Provisions Schedules or any consideration of

where zones and codes are applied in the LPS. However, the negative effects of the deletion of the ELZ from the SPPs can best be demonstrated by referring to the resulting circumstances of those Tasmanian residents whose properties were previously zoned under the ELZ and have now had to be placed in an alternative SPP zone.

As a concrete example of the effects of the SPPs' deletion of the ELZ and re-classification of these formerly-zoned properties, in Eaglehawk Neck, with the transfer of at least seven large hillside forested residential properties from ELZ to LCZ as the only applicable zone under the SPPs, these properties form the precious, relatively continuous visual "green basin" backdrop to the village adjoining the Crown Land forests of the ridgeline, as seen from Pirates Bay and the much-visited lookout at the top of Pirates Bay Road.

As such, these forested residential properties also protect the privacy and amenity of the residents of the small Low Density Residential Zone (LDRZ) properties along Blowhole Road below. Future successful development applications of the large hillside blocks under the LCZ performance criteria provisions could significantly change the character and amenity of this area for these smaller block residents as well, with the result of future intermittent signs being located along Blowhole Road indicating the access for "Rent Kayaks Here" and "Bob's Hamburger Place" businesses on the LCZ blocks above.

For these large contiguous blocks, inappropriate development approvals for such commercial businesses would have been much more difficult to achieve under the interim scheme's ELZ provisions, where the carefully-related zone purpose statements, local area objectives, future character statements, and certain performance criteria repeatedly emphasised the requirements to "*not adversely impact residential amenity and privacy of adjoining properties"* (Tasman ELZ, 14.3.2, P1).

Given the SPP zones, any opportunities for the Local Provisions Schedules (LPS) of councils to remedy this situation for existing residents of such properties appear to be limited or non-existent. This need for a solution to be identified within the review of the SPPs was recognised in the Tasman Council's 35G Report to the Tasman Planning Commission (TPC) in June 2021, where the Report noted in reference to one of the Tasman ELZ properties rezoned under the SPP's LCZ that

> *"(1) The September 2019 draft LPS zoned this property as Rural Living Zone. The TPC modified the zone to Landscape Conservation due to conservation covenants and landscape values.*
>
> *"(2) The Rural Living Zone considers residential amenity, whereas the Landscape Conservation Zone does not. The character of use of the area is residential in nature, whilst the area also has clearly identifiable scenic qualities.*
>
> *"(3) The change in zone purpose under the Landscape Conservation Zone is a significant change and results in some uncertainty as to what land uses could occur in adjoining areas.*
> *…*
> *"(5) The issue with the lack of residential amenity provisions in the Landscape Conservation Zone is of merit and that the SPPs should be amended. The Landscape*

Conservation Zone will typically apply where residential use occurs, not withstanding the fact that residential use is a discretionary use in that zone.

"(6) It is considered unlikely that the issue would meet the section 34(2) tests to warrant a site specific provision in the LPS. However, this can be explored in future TPC hearings" (pp. 77 – 78).

To redress this situation, either the Environmental Living Zone needs to be reinstated for use within the SPP's suite of zones, or the disjunction needs to be corrected by amendments and additions in the SPP to the LCZ wording.

As an example of such amendments, might the previous 14.1.1.4 "Zone Purpose Statement" present in the Tasman interim planning scheme's ELZ be introduced into the LCZ with the addition of one word, i.e.

*14.1.1.4 To protect the privacy and seclusion that **existing** residents of this zone enjoy,*

with that equivalent wording also being inserted where relevant throughout the LCZ Performance Criteria, thereby ensuring that this important zone purpose and objective can and must be considered during assessment processes? Obviously only a planner, and not I as a layperson, would know how this intent could best be achieved.

In short, I wish to request that this issue outlined above of the disjunction caused by the deletion of the ELZ and the new provisions of the LCZ with regard to the critical issue of the zone's ongoing protection of existing residents' amenity, privacy, and seclusion will be addressed within the State Planning Provisions Review.

Thank you for the opportunity to comment.

Yours sincerely,

[redacted]

M. Pamille Berg AO

[redacted]

Pamille Berg AO Hon. FRAIA
Director

Pamille Berg Consulting Pty Ltd
[redacted] ABN: 51 101 196 507

Tasmania Fire Service

File No: A22/173638

Mr. Brian Risby
Director
State Planning Office
Department of Premier and Cabinet
yoursay.planning@dpac.tas.gov.au

Dear Mr Risby

SCOPING THE STATE PLANNING PROVISIONS REVIEW

Thank you for the invitation to provide feedback on the State Planning Provisions (SPPs) to inform the State Planning Office's review process.

Tasmania Fire Service recommends the following sections of the SPPs be included in the current review:

- Section 4.0 – Exemptions.
- Section 6.2 – Categorising Use or Development.
- Section C13.0 – Bushfire-Prone Areas Code.

The rationale for reviewing the above sections is outlined in the following sections.

SECTION 4.0 – EXEMPTIONS

Section 4.0 of the SPPs provide a suite of exemptions. Clause 4.0.1 specifies that the use or development listed in Tables 4.1 - 4.6 is exempt providing it meets the corresponding requirements. 4.4.1 includes exemptions for 'Vegetation removal for safety or in accordance with other Acts'.

Section 56 of the *Fire Service Act 1979* allows for the State Fire Commission to cause the formation of firebreaks as it considers necessary or desirable. To establish and maintain a firebreak it must be accessible. This means the creation of a fire trail will often be an integral part of the formation of a firebreak created under s.56.

It is not immediately clear to TFS whether the construction of a fire trail would be exempt under 4.4.1(e) or whether this could only be applied to the vegetation removal associated with fire trail. As this interpretation issue has state-wide implications for the Government's bushfire risk mitigation activities, we request that it be included as part of the current review process.

SECTION 6.2 – CATEGORISING USE & DEVELOPMENT

Clause 6.2 of the SPPs specifies how use and development is to be categorised for planning assessment purposes.

Notwithstanding the need to classify use and development, clause 6.2.6 recognises that there are some works that in reality do not need to be classified within a Use Class and it is impracticable to do so. This includes subdivision, a sign, land filling, retaining walls and coastal protection works.

Removal of vegetation for the purposes of establishing a hazard management area is clearly 'development' as defined in s.3 of the *Land Use Planning and Approvals Act 1993.* Therefore, it must be categorised into a Use Class, as required under clause 6.2.1.

Removal of vegetation for the purpose of protecting a building from bushfire hazard is 'directly associated with' and 'subservient' to the use of that building and must therefore be similarly classified, as required under clause 6.2.2. Works associated with establishing a hazard management area for a proposed single dwelling would therefore be classed as part of the 'Residential' use.

For the most part, this does not appear to create any significant problem for development in bushfire-prone areas. However, it does limit options in situations where a developer seeks to establish a hazard management area on an adjoining property that is zoned in a way that prohibits 'Residential' land use (e.g. on land zoned Environmental Management, Recreation, Open Space and to a limited extent also Landscape Conservation).

Containing land uses and their impacts within appropriate zoning is generally considered to be sound planning practice. Conversely, detracting from biodiversity values within an environmental zoning for the benefit of development within a neighbouring zone is unlikely to be acceptable. Notwithstanding this, in situations where there are no significant biodiversity values on the adjoining land it may be unnecessarily restrictive to prohibit landowners from establishing suitable hazard management areas that would facilitate the efficient development of their land.

It is TFS' view that it may be more appropriate for planning authorities to have discretion to consider the proposed vegetation removal based on actual impacts on values protected by the planning scheme (i.e. biodiversity or scenic values), rather than having no option but to automatically reject the proposal on the basis of use class. If the proposed vegetation removal demonstrably satisfies the applicable Zone and Code development standards, it may well be an acceptable planning outcome to establish a hazard management area along the shared boundary within the adjoining zoning.

SECTION C13.0 – BUSHFIRE-PRONE AREAS CODE

The Bushfire-Prone Areas Code was first introduced 10 years ago (September 2012) as Planning Directive No.5 in response to a Tasmanian Government review that was stimulated by the 2009 Victorian Bushfires. It was implemented in conjunction with amendments to the *Fire Service Act 1979* that provided for the establishment of an accreditation system for bushfire hazard practitioners.

Much has changed since 2012 and the SPP review process provides a timely opportunity to reflect on the Code's effectiveness and to adjust where necessary to ensure it remains fit for purpose. It is noted that planning for bushfire will become increasingly important in the coming decades.

Application of Code to habitable buildings

The Code originally applied to the development of habitable buildings, subdivisions and vulnerable or hazardous uses located in bushfire-prone areas. This essentially meant that most new developments in bushfire-prone areas required a bushfire hazard management plan for planning approval purposes. Construction requirements were then applied in accordance with the National Construction Code through the building approvals process.

In February 2016, the Minister for Planning and Local Government issued Interim Planning Directive No.1 (IPD1), which introduced some significant changes to the Code. The scope of the Code was reduced to subdivision, a smaller range of vulnerable uses and hazardous uses. At the same time, controls for habitable buildings were transferred into the building regulatory system in the form of a Director's Determination enacted under s.20 of the *Building Act 2016*. It is understood the 2016 changes aimed to reduce the application costs and timeframes for building work. There were also examples of duplicated assessments being required for new buildings in new subdivisions.

It is important to note that whether a bushfire assessment is required at the planning approvals stage or at the building approvals stage, an assessment is still required. Furthermore, experience has shown that there have been some notable disadvantages incurred by deferring this assessment to the building approvals process. Key issues observed by TFS since 2016 include:

1. Building siting

   Tasmanian bushfire requirements place upper limits on acceptable exposure (Bushfire Attack Level) for new buildings. Building siting and separation from the source of bushfire hazard is a critical issue that requires consideration as early as possible in the design process. In some cases, there is a need to formalise agreements with neighbouring landowners to achieve suitable separation.

   Under the current framework it is common for a design to be prepared for planning approval without any consideration of bushfire. Planning approval is subsequently granted, and the developer then discovers their approved design is unable to comply with the deemed-to-satisfy building requirements for bushfire. This can have significant consequential impacts on projects because of redesign, reduced yield, additional consultant costs and additional approvals. It is noted that attempts to 'reverse-engineer' non-compliant designs and obtain approval as a Performance Solution for building compliance purposes are regularly found to be unsatisfactory as well as being exceedingly expensive for proponents.

   Building siting is a fundamental planning consideration for a variety of reasons. It is also a key consideration for bushfire purposes, meaning it is logical to consider the issue as early as possible in the design and approvals process. Conversely, by not providing any requirement to consider the issue at planning, the current framework can (and regularly does) act as a conduit for approval of inappropriate designs.

2. Vegetation removal

Habitable building proposals outside of suburban contexts regularly require removal of native vegetation to establish a compliant hazard management area and achieve an acceptable Bushfire Attack Level (BAL). Vegetation removal usually requires planning approval.

Under the current framework, there is no requirement for a bushfire assessment for habitable buildings at the development application stage. Notwithstanding this, some local councils request a bushfire assessment at the DA stage to inform their assessment of biodiversity impacts. In the absence of a scheme requirement to provide a bushfire assessment however, the issue is not always considered, meaning subsequent planning approvals can sometimes be required to remove vegetation and/or reposition the building to comply with bushfire requirements applicable for building compliance.

In situations where native vegetation removal is required, it is logical (and impracticable not to) to consider bushfire at the development application stage. In these situations, there is little to gain by not formally requiring a bushfire assessment as part of the development application.

3. Inconsistent compliance

Prior to 2016, planning authorities were responsible to ensure a compliant bushfire hazard management plan was provided in support of proposed development and that proposed buildings were sited accordingly. Building surveyors and permit authorities were responsible for ensuring the design and construction of building work complied with the relevant Bushfire Attack Level. Since 2016 there has been greater reliance on building surveyors and reduced reliance on planning authorities.

TFS audits of approved and completed building work in bushfire-prone areas indicate widespread and serious non-compliance with the bushfire safety requirements of the *Building Act 2016*.

The fact that the building approvals process is not a public one also makes it more difficult to detect compliance issues in the approvals process. By comparison, the planning approvals process has greater transparency and allows for public scrutiny of discretionary applications.

Based on TFS's observations, it appears likely that the post-2016 framework has led to reduced compliance within the development industry and has potentially adversally impacted public safety outcomes.

4. Maintenance

Ongoing maintenance of bushfire protection measures is critical to their ongoing effectiveness. Ensuring maintenance of hazard management areas for the life of the building it protects is an ongoing problem that is not assisted under the current framework.

Whereas planning permits can include conditions requiring ongoing maintenance of an approved hazard management area, this is not possible under the building regulatory framework for residential development. This is

because there is no maintenance schedule required for class 1a buildings and no capacity to include such conditions in Occupancy Permits.

5. Unnecessary complexity

   The regulatory framework as it applies to bushfire-prone areas post-2016 is much more complex than it was in 2012. Consequently, TFS routinely observes inconsistent and/or incorrect application of the bushfire requirements by both regulators and industry.

   Whereas previously regulators and industry were required to understand the Code, now they must be conversant with the Code, the building regulations, and multiple Director's Determinations. The complexity of the system has of course been exacerbated by the ongoing planning and building reform process, which effectively means there are two parallel building regulatory frameworks to navigate.

   With bushfire requirements for habitable buildings regulated through the building regulatory system, any variation (however minor) to a Deemed-to-Satisfy requirement requires the development of a Performance Solution. The process for developing a Performance Solution is well suited for buildings with complex interrelated design requirements that require the involvement of a range of technical experts. It is similarly well suited for certain bushfire design considerations (for example, the use of an alternative building material). However, most proposed bushfire-related performance solutions are relatively straightforward and relate to matters that could likely be more efficiently dealt with as part of a discretionary planning assessment. Furthermore, the development of Performance Solutions for building compliance is outside the scope of training of almost all licensed designers and accredited practitioners. This has meant that relatively simple variations are routinely not handled efficiently by industry and often become burdensome for both proponents and regulators.

   There is therefore concern that the current framework adds unnecessary complexity, which in some instances has resulted in non-compliant development and poor bushfire safety outcomes.

TFS can provide specific examples of projects that illustrate the abovementioned points. In many cases, the costs and delay issues experienced would likely have been avoided or reduced had bushfire been formally considered through the planning approvals process. Based on the issues identified above, TFS's view is that there is sufficient justification to warrant reviewing the current scope of the Code as it relates to habitable buildings.

In reviewing the scope of the Code, private bushfire shelters are also worthy of consideration. These buildings are subject to stringent performance requirements under the National Construction Code. However, the siting of these structures and required vegetation removal are also relevant planning considerations.

Consideration should also be given to transferring the bushfire requirements for temporary housing (Planning Directive No.7) into the Code, to consolidate bushfire provisions within the structure of the State Planning Provisions.

Any adjustments to the scope of the Code would of course need to be compatible with other planning policy objectives and aligned with building regulations and the Chief Officer's Accreditation Scheme for Bushfire Hazard Practitioners.

Vulnerable Uses

Certain land uses are particularly vulnerable when exposed to bushfire hazards and therefore warrant a higher level of protection. Accordingly, the Code recognises a range of uses that trigger vulnerable use requirements.

Occupants of visitor accommodation facilities can be especially vulnerable in bushfire emergencies. In 2016, Visitor Accommodation was removed from the scope of vulnerable uses defined in the Code.

Certain types of Visitor Accommodation that previously would have been subject to the Code are now effectively unregulated for bushfire protection. This includes campgrounds and 'glamping' facilities, which often do not involve any habitable buildings and therefore do not trigger any bushfire requirements under the building regulations.

'Eco-tourism' proposals often proposed in natural environment settings where bushfire risk and biodiversity considerations are unavoidable. The vegetation removal issue described previously in this submission has caused problems for some significant commercial projects due to an incorrect assumption that it is not necessary to remove vegetation for bushfire protection. Furthermore, bushfire protection can have a significant influence on the design outcome in these contexts. For example, if a building within the eco-tourism facility is designated to be used an onsite emergency refuge it must be sited appropriately, have sufficient internal capacity and be supported by appropriate access and egress routes.

It is TFS's view that in most cases, bushfire protection for Visitor Accommodation use and development should be considered as early as possible in the design and approvals process. There may be some locations where it is inappropriate to approve such developments because risks cannot be adequately mitigated and/or because of environmental impacts. Either way, the current framework is not conducive to proper assessment of these matters prior to issuing a planning permit.

It is recommended that the range of uses currently considered to be a 'vulnerable use' be reviewed, particularly 'Visitor Accommodation'. To avoid conflicting with Planning Directive No.6, an exception could be made for visitor accommodation in existing buildings.

Hazardous Uses

The Code's definition of 'hazardous use' refers to manifest quantities specified in the *Work Health and Safety Regulations 2012* and explosives locations specified in the *Explosives Act 2012.*

The current definition has the advantage of being aligned with thresholds set within the broader statutory framework. However, it has the disadvantage of not been simple to interpret. Determining the relevant manifest quantity can be a complex task and is often a challenge for industry and regulators. Because of this, hazardous uses are sometimes not identified as such in the assessment process. For example, there has been significant growth in the number of distilleries being approved across the State. TFS is now aware of

many distilleries that have been approved without conforming to the relevant fire safety requirements (both for building compliance and bushfire).

There may be scope to simplify the trigger for hazardous uses, which may increase compliance. This should be considered as part of the SPP review.

Use Standards

The Code provides use standards for vulnerable and hazardous uses.

C13.5.1 P1 and C13.5.2 P1 respectively provide Performance Criteria that must be considered. The Tribunal has previously found that the requirement to consider "*whether there is no suitable alternative lower-risk site*" was ultra vires because the analysis required to satisfy this requirement would be infinite in scope (Appeal No. 47/17P). This finding was later rejected by the Supreme Court, which concluded that while satisfying the provision may be difficult or burdensome, it was not ultra vires (File No. 2312/2019). Notwithstanding this latter decision, there is likely scope to improve the provision to be less burdensome.

C13.5.1 A2 and C13.5.2 A2 respectively include a requirement for an 'emergency management strategy'. In TFS's experience, there has been little consistency in how this requirement has been addressed by industry. There may be opportunities to simplify the requirement and align it more closely to what will eventually be required prior to occupancy (for example, requiring a 'draft bushfire emergency plan', instead of an 'emergency management strategy').

C13.5.1 A3 and C13.5.2 A3 respectively require a bushfire hazard management plan but do not refer to any development standards. Greater clarity may be achieved by incorporating appropriate standards into the Code.

TFS considers it to be appropriate to review and refine the current use standards as part of the SPP review.

Development Standards

The Code currently provides development standards for subdivision in clause C13.6.1.

Based on TFS's experience with the Code over many years, we see opportunity to refine some of the existing specifications to improve clarity (particularly in relation to water supplies and private access).

The current version of the Code prescribes minimum construction standards for private access, roads and fire trails but does not consider subdivision design. For instance, a Code-compliant design does not necessarily facilitate firefighter access to the bush interface and does not necessarily provide for safe evacuation routes. It certainly does not aim for best practice. Given how important subdivision design is for facilitating firefighter intervention and community evacuation, consideration should be given to whether the Code should in fact be aiming higher with respect to design outcomes.

Development requirements for habitable buildings were removed from the Code in 2016. Depending on what is determined in relation to the scope of the Code, it may be appropriate to introduce additional development standards for habitable buildings.

Incoming changes to the National Construction Code will significantly increase the required separation distances for certain types of vulnerable use buildings (e.g., schools) and will therefore have implications for future siting of such buildings. It is preferable that the Code is aligned with these new building requirements.

In conclusion, TFS recommends review of Sections 4.0, 6.2 and C13.0 of the SPPs for the reasons outlined in this submission. We are confident that there some worthwhile refinements and revisions that will result from the review and welcome the opportunity to be involved in the next stages of the process.

If you have any queries about this submission, please contact [redacted]

Yours sincerely,

[redacted]

Dermot Barry
CHIEF OFFICER

27 July 2022

26 July 2022

State Planning Provisions Review
Department of Premier and Cabinet
State Planning Office
GPO Box 123
HOBART TAS 7001 HOBART TAS 7001

By email to: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam,

SUBMISSION – STATE PLANNING PROVISIONS REVIEW 2022

The Tasmanian Whisky & Spirits Association (TWSA) submits the points set out below to the review of the State Planning Provisions (SPPs).

The TWSA is the industry representative body of the Tasmanian distilling industry, counting more than 70% of Tasmanian distilleries as members, which together constitute more than 95% of total Tasmanian production.

It is an industry very much on the rise, having been 'reborn' only 30 years ago. The total value of production in the 2020 financial year was $350 million and the forecast for the 2023 financial year is in excess of$500 million, meaning the industry is fast becoming one of the State's major contributors to employment and economic growth. It is now recognised globally as one of the world's handful of unique 'whisky regions', leveraging off Tasmania's excellent innate whisky-making characteristics.

Even so, the industry is still very much a minnow compared to the other great whisky regions. Whilst a few Tasmanian distilleries are now expanding into substantial production volumes, the entire industry combined is still around the size of one modest-sized Scottish distillery (and there are well over 100 Scottish distilleries). This means that the industry has enormous growth potential.

In 2021 the TWSA, in partnership with the State Government, embarked on a project to review the regulatory environment around the industry. This is now likely to become a pilot project for other States with support from the Federal Government. The impetuous for this is threefold:

- The need to ensure our workplaces are safe.
- The need to ensure rules and regulations are applied consistently across Tasmania.
- The need to ensure rules and regulations are in parity with our overseas competitors.

Because our industry is relatively new and has experienced enormous growth, particularly in just the last ten years, the regulatory environment has been caught somewhat 'off guard'. Unlike, say Scotland, our regulators have not had a distilling industry of any size to deal with before and are still largely unfamiliar with the real risks and potential impacts. In such a circumstance regulators naturally tend to 'play it safe' and err on the side of caution. Many of our members are familiar with overseas distilleries and we have anecdotal evidence that our industry is being put at a competitive disadvantage in the global market place through unnecessary or excessive regulations whilst, at the same time, some safety aspects are not well understood by our regulators and are essentially self-managed by the industry.

Additionally, our members have found themselves subject to a very inconsistent application and interpretation of the existing rules and regulations across the State, be they planning, building or environmental health and regardless of whether they are applied by Local Government Planning Authorities and Environmental Health Officers or private sector Building Surveyors or hazardous industry consultants.

Whilst most of our issues relate to the building approvals system (and the various Australian Standards attached thereto) and to the Environmental Health sphere, there remains concerns with the planning system. The State's move to a single planning scheme is to be applauded, but even now amongst Councils that have completed the transition to the Tasmanian Planning Scheme we find there is inconsistency in interpretation. For example, proposals that in our view ought to be treated as discretionary are being treated by some Councils (but not others) as prohibited. This means there is either a need to amend the SPPs to make them clearer or the State needs to establish interpretation guidelines alongside the statutory provisions.

Particular points are:

1. Distilleries are, in our view, correctly defined as 'Resource Processing', being specifically listed as an example within that definition.

   The process transforms barley, and sometimes other grains, into whisky. There are three major steps: brewing, distilling and aging. The aging step is often carried out at a separate location, due to the need for large, affordable floor space, but it is nonetheless an equally important part of the process.

   However, at least one Tasmanian Council has determined that the whisky aging process, on its own, does not fall within the definition of 'distillery' and has therefore determined that 'bond stores' (sheds used for aging whisky) are prohibited in the Rural and Agriculture zones. This Council advised that bond stores should be located in industrial or commercial zones.

This is unfortunate as;

(a) From a fire safety management viewpoint, the most cost-effective locations for bond stores are in rural areas. It is noted that most bond stores in Scotland, Ireland and the United States are located in rural areas.

(b) Bond stores require minimal infrastructure. Using valuable fully-serviced industrial or commercial land for bond stores is needlessly expensive for our larger distilleries that require much floor space. From a broader viewpoint, using such land for bond stores is a waste. There is a limited supply of fully serviced industrial and commercial land and it can generate a far greater economic benefit for society if used for industrial or commercial uses that do require high-capacity infrastructure services.

(c) Many Tasmanian Councils recognise that bond stores are a legitimate part of the whisky-making process and consider them to fall within the definition of 'distillery', even if not on the same title as the associated brewing and distilling functions.

It is our submission that either the definitions in the SPPs need to be clarified or there needs to be a mechanism whereby a consistent (and logical) interpretation of the existing definition is disseminated to Planning Authorities.

It is noted that Table 3.1 Planning Terms and Definitions includes a definition for 'cidery' but not for 'distillery'. If the former approach suggested above is pursued, then the following definition for 'distillery' is proposed:

> *means use of land for the manufacture of distilled spirits, including brewing, distilling and/or aging of spirits, and if land is so used, includes the display and sale of distilled products, and the preparation and sale of food and drink for consumption on the premises.*

2. The definition of 'home-based business' includes the limitation *'(e) there is no storage of hazardous material on site'*. There is no definition of 'hazardous material', however there is a definition of 'hazardous chemical of manifest quantity'.

It is our submission that the definition of 'home-based business' should refer to 'hazardous chemical of manifest quantity' rather than 'hazardous material'.

Many distillery businesses started out as home-based businesses, making small quantities that are acceptable under the relevant Australian Standard within, typically, an outbuilding associated with a dwelling in residential areas. For example, in areas the SPPs would define as the General Residential Zone or the Low Density Residential Zone. As it is, the current definition of 'home-based business' could be interpreted as excluding small distillery business start-ups in residential areas.

It is our submission that the Planning Approvals system can leave the issue of safety to the Workplace Health and Safety system and the Building Approvals / Australian Standards system.

3. The TWSA notes that Resource Processing (and therefore distilleries) are discretionary in the Rural Living Zone, the Village Zone, the Urban Mixed Use Zone (if for food or beverage production), the three Business Zones (if for food or beverage production), the Commercial Zone (if for food or beverage production), the two Industrial Zones, the Agriculture Zone and the Major Tourism Zone. Resource Processing is permitted in the Rural Zone. This allocation of use status within these zones in supported.

   However, it is noted that Resource Processing is prohibited in the Landscape Conservation Zone. It is proposed that *Resource Processing if for a brewery, winery, cidery or distillery* be discretionary in the Landscape Conservation Zone. Small operations could easily fit within outbuildings in this zone without any greater impact on landscape values than the average dwelling.

   Additionally, whilst this zone is generally applied to areas of important *natural* landscapes, it is not inconceivable that in the future the zone could be applied to important *cultural* landscapes, as similar zones are in the UK, for example. It is noted that the purpose statement of the zone does not specify *natural* landscape values. There would be no reason to outright prohibit the possibility of distilleries or wineries in cultural landscape areas, and such uses might even be encouraged is some circumstances.

For any further information, please contact TWSA Committee Member, [redacted]

Sincerely

[redacted]

Cameron Brett
President
Tasmanian Whisky & Spirits Association
[redacted]

Property Council of Australia
ABN 13 00847 4422

Level 2, 53 Salamanca Place
Hobart 7000
T. [redacted]
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27 July 2022

By Email Only: yoursay.planning@dpac.tas.gov.au

To whom it may concern,

Scoping the State Planning Provisions Review

Introduction

The Tasmanian Division of the Property Council of Australia would like to thank the State Government and the Department of Justice for the opportunity to make comment on the 5-yearly review of the State Planning Provisions (SPPs).

As we've previously submitted, we believe the State Planning Provisions "SPPs" are a refined and well-compiled planning document.

However, concern remains that due to the fact the local government sector still has significant input, there is still too much room for interpretation and potential for unpicking consistency.

Please refer to additional summarised member comments below.

Which parts of the SPPs do you think work well?

We acknowledge the SPPs attempt to create consistency. We also support the easing of private open space requirements. For example, the removal or requirement of the private open space needing to be directly off of a habitable room.

Which parts of the SPPs do you think could be improved?

Members request that lot sizes are appropriately zoned based on their size. For example, general residential zoning requires a garage setback of 5500mm from the frontage, however some blocks are less than 15m in length. This does not leave a lot of room for a dwelling and practical private open space for amenity of user.

What improvements do you think should be prioritised?

Simplicity and time for approvals must be of the essence with no stopping of the clock. Limiting planning discretion within areas of general, inner and low density residential. These zonings are for

residential living, it should not be as difficult as it currently is. This in turn takes an excessive amount of time to propose a compliant development in a zoned area of which is developed for residential housing.

Are there any requirements that you don't think should be in the SPPs?

8.4.2 A1 (c) is a requirement for a vacant lot, with existing dwellings either side to have a garage setback of not greater or less than the existing dwellings. Members suggest that this is nothing but a time waster and can impact quite heavily on a development depending on the neighbouring properties. It does not add any value to the development or streetscape.

Further, additional no permit required exceptions should be considered. Such as a threshold for renovations.

Are there additional requirements that you think should be included in the SPPs?

We've previously asked for clarification that you can't exceed acceptable solutions by such a significant amount that it renders the solution ridiculous. This could be clarified if the criteria utilised to define an acceptable solution were known. This is extremely important as planning documents become legal argument.

Additionally, tension remains between quantitative and qualitative measurements. SPPs have a qualitative base, except when you don't meet the standard, it becomes a qualitative decision. A qualitative decision is subjective. Quantitative decisions have a baseline, where the baseline for qualitative decisions is very difficult to define, and this can prove problematic.

As far as reasonably possible we believe there should be guidance provided for performance standards, however a balance should be maintained between prescriptive and not dictating.

Conclusion

The Tasmanian Division of the Property Council is again appreciative for the opportunity to comment on the review of the SPPs.

If you require further information or clarification on our submission, please contact me at 0477 555 227 or Rellston@propertycouncil.com.au.

Yours sincerely

Rebecca Ellston
Executive Director, Tasmania
Property Council of Australia

From: [redacted]
To: State Planning Office Your Say
Subject: Submission State Planning Review
Date: Wednesday, 27 July 2022 6:08:29 PM

To whom it may concern

Thank you for giving me the opportunity to voice my concerns about the State Planning Provision Reforms

The State Planning Reform has a responsibility to develop guidelines and policies that support communities that are healthy, active, safe, sustainable and provide choices. It needs to cater not just for present needs but also for the future. State Planning Provisions need to acknowledge that our social and physical environments are changing rapidly. People are demanding healthier, more liveable cities and action on climate change. Our present way of living; giving cars priority, allowing developments that do not consider peoples' and communities health and well being, reducing individual rights to challenge inappropriate and unsustainable developments, providing insufficient infrastructure to support healthy choices are unsustainable. Planning authorities need to provide guidance and leadership to support more liveable and healthy communities, not just to assist developers to maximise profits and make it easier for them

I am a long-term citizen of Hobart and, as I live in close proximity to the city I am a commuter and recreational cyclist and walker, Instead of using my car, I do most trips by bicycle or I walk. People who choose active transport options are generally healthier, happier, contribute less to pollution and congestion, save themselves and councils money by not using roads and car parking places and make their communities safer places. They should be supported at the state and council level by development of suitable infrastructure for cycling and walking

An example of my concerns about the State Planning Review is the inadequate provision for bike parking. This is disappointing as it directly discourages cycling. Cycling has the potential to improve the liveability of the city, improve peoples health, reduce traffic congestion and the need for additional car parking spaces, reduce pollution and assist with the fight against climate change. By not providing adequate and safe bike parking, means as usual, motor vehicles are prioritised over a healthy society and people.
By requiring numerous car parking spots but many fewer bike parks, the state provisions appears to be a step backwards compared to the old planning scheme. The old planning scheme at least clearly differentiated between the number of bike parks for staff and the number for visitors. It also mandated whether the parking was provided as lockable lockers, locked compounds, or hoops out in the open. There appears to be little consistency or logic as why some industries have bike parking mandated for staff and others don't. For example with the health industry, there are high numbers of car parking required for staff and yet no bike parking based on employee numbers. Making the distinction between bike parking for customers/visitors and staff is important as customer/visitor parking should be near an entrance and easily accessible, whereas staff/resident parking should be undercover, secure and not accessible to the public.With a focus on visitor parking, mandated bike parking is for hoop rails near a building rather than

secure end-of-trip facilities required by staff. The state provisions therefore contribute to an environment that makes riding a bike harder, especially for staff. In many industries such as general office, professional and retail, the required bike parking is clearly inadequate, having very small numbers of mandated bike parking spots for staff and visitors based on large areas of floor space that may contain many employees or customers. For general office use, for example, only one bike park is required per 500m2, yet this area an area could fit many employees in an open office plan.

The other area about lack of bike parking that concerns me and that seems very short sighted, is the lack of any minimum bike parking for apartment buildings and requirements for a specific minimum number of carpark spaces in residential developments. The government and councils should replace these minimum car parking requirements with a minimum bicycle parking requirement, in order to help shift community behaviours toward healthy active cheaper transport and away from polluting, expensive and congesting individual car ownership. There needs to be a specific section added to the code that deals with employee/resident bicycle parking and bicycle parking for apartment buildings. All new apartment buildings should require secure, undercover bike parking at street level.for residents/staff and accessible bike parking for visitors/customers. Each apartment should have at least one secure space (either individual lockers or a communal secured cage where a hoop/rail is supplied for each apartment) to park a bicycle or scooter just as they each get a car parking space, especially if the building is in an inner-city area. There should be design requirements to ensure that resident bike parking is located at street level, in a residents-only area and that has an extra level of security such as padlocks or swipe cards. Entry into the bike parking should be via a driveway ramp that is flush to the road surface so bikes and scooters are not negotiating concrete lips which can cause wheels to catch and cause an accident.

The state provisions should provide clear direction on the sort of infrastructure to be built to enable more and safer cycling and walking It needs to help to transform our streets to places which encourage people to walk and ride rather than take the car as the first option. The benefits of supporting planning that makes adequate provision for active transport are multiple and far reaching. The Planning provisions should focus on whether it benefits the health and well being of its citizens not whether it makes it easier and more profitable for developers

Dorothy McCartney
[redacted]

[redacted]

HUON VALLEY COUNCIL

HUON VALLEY COUNCIL SUBMISSION

State Planning Provisions Review – Scoping Paper

Introduction

Huon Valley Council recently exhibited their Local Provisions Schedule (LPS) for a period of 120 days. Over 400 representations were received on matters that cover a range of themes.

Ideally, and in line with better planning practice, implementation of a new planning scheme should be preceded by strategy and policy development informing the application of zones and codes. The same strategy and policies should also inform the review of the State Planning Provisions (SPPs).

Unfortunately, this has not been the case to date, with the implementation of Tasmanian Planning Scheme (TPS) undertaken in the absence of contemporary strategic planning and state-wide planning policies. This has caused significant public uncertainty and concern, and consequent significant counteraction against the draft LPS. Notwithstanding this, the current SPP review process is an opportunity to address obvious issues that have the potential to impact operations and outcomes in the short term.

Many of the points raised in this SPP review scoping submission cover (a) concerns raised formally and informally by the community and (b) implementation challenges Council has faced to date. Additionally, Council and the Planning Authority have undertaken a risk-based assessment of the current SPPs that informs both these comments but, more importantly, the initiation of a Huon Valley Council Strategic Planning Program that will partly compensate for the lack of state level strategy development to date.

The following submission captures the key issues, categorised under relevant SPP provisions or sections, that need further consideration.

Matters for further consideration:

1. Landscape Conservation Zone

The inaccurate name and zone purpose of this zone has caused significant understandable confusion. Concerns raised include impacts on land value and the ability to obtain finance for purchases or property improvements.

There is also confusion on how discretion will be applied, and perceived subjective performance criteria assessed.

The following comments seek to encourage a more accurate depiction of what the zone seeks to achieve, address some of the value and financial concerns, and give greater certainty on how provisions and discretion will apply when assessing use and development proposals:

- Change Landscape Conservation Zone to another name e.g. Landscape Living or Landscape Lifestyle, to better reflect the range of permitted and discretionary uses associated with the zone.
- Review the zone purpose to better match the use table and assessment provisions. While the zone purpose has no significant bearing on the application of the zone, many have raised it as a contributing factor to financing and value issues.
- Change Residential use from discretionary to permitted (as is the case with the interim scheme Environmental Living Zone). This will improve zone perceptions and will address some of the value and financial concerns raised by some community members as the zone will be seen as a 'residential zone'.
- Coupled with the change in residential use status, is the need to strengthen the provisions to protect remaining landscape values and allow for adequate impact mitigation measures to be considered. The current reliance on subjective terminology, especially 'having regard to' creates uncertainty for both the Planning Authority and the landowner/applicant on how such regard needs to be demonstrated in a planning application.

2. Rural Zone

The Rural Zone's broad use table and somewhat limited provisions are a significant risk to the Rural areas.

The notional linkage of various use classes to Resource Development or Resource Processing does not address this risk as both use classes have broad definitions covering a range of activities.

Further, the lack of clear minimum criteria for meeting these qualifications makes it difficult to determine meaningful association with either use class.

To address this, the Rural zone should be split across various key activity group types, that prioritise a particular subgroup of associated uses.

An example of this would be Rural Production Zone where resource processing activities would be prioritised, Rural Business, where end user business activities associated with resource development/processing are prioritised, and Rural Residential, where intensification

of residential use is not desirable but the intention is to prioritise residential use associated with small scale farming, resource processing, or agri-tourism.

This will limit the potential ad hoc development of unrelated or potentially conflicting uses across large areas of Rural zone and allow for finer scale use and development considerations in Rural areas without the need to develop Specific Area Plans or other local area specific planning tools (which are onerous to develop in their own right).

3. Natural Assets Code – Priority Vegetation overlay

A different approach to determine priority vegetation is needed that can easily be updated with new data and the approach to determine priority vegetation needs to be broadly reviewed.

Biodiversity and ecosystems are naturally dynamic and science and data continually improving, and the planning scheme needs to be responsive to this.

A state-wide priority vegetation determination mechanism should be developed that continually updates the layer. This approach should incorporate precautionary pinciples as well as means to consider impacts of important/priority natural features that are not located within a spatial overlay but that clearly meet the definition or threshold to be considered an important/priority natural feature. Such a mechanism could be a clause allowing suitably qualified persons or local councils to formally identify priority vegetation or other important natural features that notionally fall outside of a mapped priority vegetation or waterway overlay but that meet minimum criteria to be considered as such, to formally identify this and consider it in their assessment of a development proposal (potentially like the Flood-Prone Areas Hazard Code Application clause C12.2.4)

There also needs to be consideration of other offsets in the Priority Vegetation Area provisions.

The current provisions of the Priority Vegetation Overlay limit offset considerations to on site offsets only. This places a limitation on the ability of an applicant to address the planning scheme when opportunities may be available offsite or through offset bank or similar financial mechanisms. The provisions should be broadened to allow for consideration of these additional offset types.

4. General Residential Zone Standards/Provisions

The zone provisions appear to have been diluted to encourage multi-dwelling development at the cost of liveability and good urban design considerations.

There is a significant reduction in criteria for assessment which will equate to poor design outcomes and limited ways to justify serious modification or refusal on future amenity impact reasons.

Future occupant residential amenity is not prioritised e.g. 0 metre setback from rear boundary.

Solar access and passive solar orientation provisions have been diluted with subjective assessment criteria.

5. Lack of an Onsite Wastewater Code

Loss of this code may have implications for smaller un-serviced / minimal serviced lots. Currently lots less than 5000m^2 require an onsite wastewater report to ensure adequate space is available on site for black water and absorption trenching. The proximity to downslope water systems is also assessed in the interim planning scheme to ensure waterways are not contaminated This has, however, been removed for many of the residential zones in the SPPs without apparent due consideration for downstream impacts. An example of the consequence of historical wastewater mismanagement is Coles Bay with many small lots with inadequate septic systems or space for upgrades resulting in contamination of beaches and ground water in the area. The consideration of wastewater management and potential indirect/downstream impacts should be included in the SPPs, either as provisions in all zones or as a standalone code.

6. General Comments

Unquantifiable provisions in zones (e.g. “having regard to”) making assessment difficult.

Many of the zone and code provisions rely on subjective wording that creates uncertainty on the part of the applicant and the Planning Authority. Given the controlling and narrowed focus of the current TPS zones and codes, and the objective to apply consistent planning controls across the State, there needs to be clear criteria to assess against rather than subjective and unmeasurable reference points.

For example, C8.0 Scenic Protection Code Performance Criteria specifies;

...*must not cause* an *unreasonable reduction* of the scenic value of the road corridor, *having* regard to...

There are obvious questions on, what is classified / specified / measured as ‘unreasonable’ and how much ‘regard to scenic value’ is acceptable without any clear definition of direction given.

This subject wording is used liberally throughout the State Planning Provisions.

Limited ability to consider local characteristics and variations

There is an onerous process to develop Specific Area Plans rather than incorporate provisions in the zones and codes that allow for discretionary considerations of local features and characteristics.

This matter has been previously raised but to reiterate, the objective of consistency should not come at the cost of creating generic planning outcomes that are apathetic to local scale variation and unique characteristics. Additional provisions need to be included in zones and codes that facilitate consideration of local characteristics and/or stronger state support given to the development of local area specific planning tools that address this gap.

Lack of stormwater management considerations

This gap is already captured in the *SPP Review Summary of Issues Previously Raised*. Huon Valley Council supports the inclusion of a stormwater code in the SPPs.

Lack of provisions for infrastructure charges

There should be clearly defined provisions that identify potential scenarios where infrastructure charges can be considered by the Planning Authority

The lack of Climate Change considerations

There is a lack of climate change considerations outside of the current codes that focus on specific adaptation considerations. There should be a broader consideration of Climate Change mitigation and adaptation matters across the entire TPS.

Loss of “Re-organisation of Boundaries” as an independent objective under zones

There is only one reference of ‘reorganisation of lot boundaries” in the SPP under Performance Criteria P1(b) of Clause 21.5 Development Standards for Subdivision under the Agriculture Zone. The implications of this for Rural or non-residential zones need to be explored.

Tasmanian Planning Commission Guidelines

The Guidelines put in place by the Tasmanian Planning Commission for applications of zones and codes to the LPS must be reviewed as soon as possible in response to the review of SPPs.

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29 July 2022

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001

(yoursay.planning@dpac.tas.gov.au)

Dear Sir / Madam

STATE PLANNING PROVISIONS REVIEW - SUBMISSION

Thank you for the opportunity to lodge this submission regarding the State Planning Provisions Review. This letter sets out Launceston Airport's comments on the existing provisions relevant to the airport, as well as some proposed improvements to enhance the provisions.

Launceston Airport has a keen interest in the State Planning Provisions (SPPs) from an airport safeguarding perspective, particularly having regard to implementation of the National Airports Safeguarding Framework (NASF) and the Launceston Airport Master Plan 2020 (the Master Plan). The Master Plan was approved by the Commonwealth Minister for Infrastructure, Transport and Regional Development, under the provisions of the *Airports Act 1996*, in July 2020. The Master Plan includes an Airport Safeguarding Strategy (Section 12).

Scope of the review

The review being undertaken by the State Planning Office is only considering the SPPs component of the Tasmanian Planning Scheme. All the SPPs are open to review. It is understood that this review does not include the:

- Local Provisions Schedules
- Regional Land Use Strategies
- State Policies
- [redacted] the broader planning framework within LUPAA and associated legislation.

The review will also not consider where zones and codes are applied in the Local Provisions Schedules. This is the role of individual councils with independent oversight from the [redacted]sion. Instead, the review will consider the rules and administrative

[redacted] For Launceston Airport, the primary element of the SPPs of relevance is the 'Safeguarding of Airports Code'. It is noted that we have recently been working with the North Midlands Council and the Tasmanian Planning Commission on the Northern Midlands Local Provisions Schedule and how it applies to the airport. This process highlighted some of the matters outlined in this submission, requiring attention in the SPPs.

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The social and economic importance of airports

Airports are important national infrastructure assets. They are essential transport hubs and contribute significantly to the national economy, as well as to the economies of the cities, regions, States and Territories where they are located. They are significant contributors to jobs, economic development, national productivity and social connectivity. They also support trade and tourism and help to drive growth across the economy. All sectors of the Australian economy rely directly or indirectly on the efficient movement of people and freight through airports.

The Tasmanian network of airports, across major urban centres and regional areas, form an integral part of the National/Tasmanian economic infrastructure and are critical to connecting communities. Tasmania relies on an efficient and reliable aviation sector and airport network for its citizens to remain physically 'in touch' with each other and the rest of the world.

Airports provide vital services to their communities, including the facilitation of passenger services, mail and time-sensitive freight deliveries, the Royal Flying Doctor Service, Tasmanian Ambulance services, rescue operations, firefighting operations and the transfer of workers to employment centres and job sites. As such, airports are deeply linked into most economic activities, with these linkages increasingly driven by growth in leisure tourism and the regional expansion of strategic resource and agricultural activities.

Airports are capital intensive businesses, underpinned by their principal role as transport infrastructure providers. Airport infrastructure, whether terminal facilities or runway works, are among the most expensive forms of commercial and civil construction.

The report '*Connecting Australia: The economic and social contribution of Australia's airports'* (Deloitte Access Economics, for the Australian Airports Association, 2018) provides detailed information regarding the significant role of Australia's airports. A copy can be found here: https://airports.asn.au/wp-content/uploads/2018/05/Connecting-Australia-The-economic-and-social-contribution-of-Australian-airports.pdf

Airports need to be properly protected over the long term to realise these benefits and ensure their safe and efficient operation.

Launceston Airport

Launceston Airport is a major economic gateway for Northern Tasmania and for the State of Tasmania.

Launceston Airport is the second busiest airport in Tasmania for passengers and provides the main aviation hub for Northern Tasmania. Located close to the Launceston CBD, the airport is a's infrastructure, providing access to national and international usiness.

Launceston Airport is a key driver in securing and sustaining employment, development and other services. It provides significant direct and indirect employment associated with a range of aeronautical and related businesses, and the employment benefits provided by the airport represent a significant stimulation to the Tasmanian economy.

Launceston Airport and its operators and tenants on the airport site directly employ 383 people. These employees are engaged in a range of activities including airport management,

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Airservices, airlines, retail, car rentals, service contractors, security, general aviation, quarantine and a number of non-aviation tenants in the terminal building. Overall employment is expected to grow to approximately 452 over the next eight years and to approximately 559 over the next 20 years, primarily in the airline, retail and service contractor sectors.

The current employment of 383 people at Launceston Airport is estimated to make a direct contribution of approximately $81m in output to the Northern Tasmania region economy.

While the inputs from direct employment, and capital expenditure, are substantial in a local context, the wider contribution in the facilitation of tourism, trade and connection of the community to mainland Australia is vital to the social and economic health and development of the region and Tasmania as a whole.

For further information regarding Launceston Airport, please refer to the Master Plan which can be accessed here:
https://launcestonairport.com.au/corporate-section/about-us/master-plan

Airport safeguarding challenges

The capacity of an airport to operate as an airport is fundamentally dependent on what occurs on the land surrounding it. Existing sites in many cases pre-date significant urban development. More recently, urban expansion and densification has increased tensions between residential and industrial development and airport operations.

Land use planning decisions can directly impact on the viability of operations to/from an airport. Poor land use planning around airports can lead to a range of issues and problems including aircraft safety hazards, operational restrictions, protracted litigation, amenity impacts for nearby residents and airport closures in the extreme case. Airport safeguarding aims to prevent or mitigate these issues for the benefit of the whole community.

The main challenge is to balance growing demand for aviation services with urban growth pressures and the continued amenity and safety of residents in surrounding areas. Population growth, urban development demands and increased aviation activity will necessitate more complementary planning nationwide.

The erection of structures that physically intrude into the flight paths of arriving and departing aircraft can clearly limit or prevent use of the airport. But so too can other developments that are less obvious. For example:

- Insensitive residential developments under flight paths may lead to complaints about aircraft noise and eventually lead to the introduction of curfews or even the closure of an airport
- [redacted]nerate smoke or similar hazards may constrain use of an airport
- [redacted]riculture, animal husbandry or wetland developments may attract [redacted]azard to aviation.

There is no uniform statutory regime that requires developments around airports to be subjected to scrutiny to assess their potential impact upon an airport. CASA has some limited capacity under the Civil Aviation (Building Control) Regulations 1988 to approve or not approve buildings or structures in limited areas around airports, but only in respect of Sydney, Bankstown, Moorabbin, Adelaide, Melbourne and Essendon airports. The Secretary of the Commonwealth Department of Infrastructure, Transport, Regional Development and

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Communications has some capacity to act to protect airspace around the Commonwealth-leased airports under the Airports (Protection of Airspace) Regulations 1996.

However, none of this legislation provides comprehensive protection for Australia's airports. As a result, State/Territory and local town planning policies and controls are critical for effective airport safeguarding.

National Airports Safeguarding Framework

The National Airports Safeguarding Framework (NASF) aims to address the lack of a uniform statutory regime for airport safeguarding in Australia.

NASF was developed by the National Airports Safeguarding Advisory Group (NASAG) comprising of Commonwealth, State and Territory Government planning and transport officials, the Australian Government Department of Defence, the Civil Aviation Safety Authority (CASA), Airservices Australia and the Australian Local Government Association (ALGA).

NASF generally aims to:

- improve community amenity by minimising aircraft noise-sensitive developments near airports
- improve safety by ensuring aviation safety requirements are recognised in land use planning and development decisions.

The NASF was agreed to by Commonwealth, State and Territory transport ministers at the meeting of the then Standing Council on Transport and Infrastructure in May 2012. Each jurisdiction is responsible for implementing NASF into their respective planning systems.

NASF includes seven principles and nine guidelines. The NASF principles are:

- *Principle 1: The safety, efficiency and operational integrity of airports should be protected by all governments, recognising their economic, defence and social significance.*
- *Principle 2: Airports, governments and local communities should share responsibility to ensure that airport planning is integrated with local and regional planning.*
- *Principle 3: Governments at all levels should align land use planning and building requirements in the vicinity of airports.*
- *Principle 4: Land use planning processes should balance and protect both airport/aviation operations and community safety and amenity expectations.*
- *Principle 5: Governments will protect operational airspace around airports in the [redacted] on and community safety.*
- *[redacted] and statutory planning frameworks should address aircraft noise by applying a comprehensive suite of noise measures.*
- *Principle 7: Airports should work with governments to provide comprehensive and understandable information to local communities on their operations concerning noise impacts and airspace requirements.*

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The NASF guidelines are:

- *Guideline A: Measures for Managing Impacts of Aircraft Noise*
- *Guideline B: Managing the Risk of Building Generated Windshear and Turbulence at Airports*
- *Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports*
- *Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*
- *Guideline E: Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports*
- *Guideline F: Managing the Risk of Intrusions into the Protected Airspace of Airports.*
- *Guideline G: Protecting Aviation Facilities - Communications, Navigation and Surveillance*
- *Guideline H: Protecting Strategically Important Helicopter Landing Sites*
- *Guideline I: Managing the Risk in Public Safety Zones at the Ends of Runways (Draft).*

Further details of NASF can be found here:
https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/aviation-safety/aviation-environmental-issues/national-airports-safeguarding-framework/national-airports-safeguarding-framework-principles-and-guidelines

In October 2021 NASAG released the '*National Airports Safeguarding Framework 2019 Implementation Review*' report. This report included eight implementation recommendations:

1. *Commonwealth/State/Territory Ministers endorse an intergovernmental agreement to standardise a national approach to airport safeguarding.*
2. *National Airports Safeguarding Advisory Group (NASAG) continue to oversee implementation of the National Airports Safeguarding Framework (NASF).*
3. *NASAG to implement a schedule for ongoing review of all NASF Guidelines to ensure the currency and functionality of the framework.*
4. *Australian Government to include provisions relating to consideration of the NASF in legislation at the 22 federally leased airports by 2027.*
5. *State/Territory governments to include provisions relating to consideration of the NASF in their respective planning regimes by 2027.*
6. *State/Territory governments to develop and disseminate clear policy/guidance on the status of the NASF (for that individual jurisdiction), and how it should be applied to large and small airports.*
7. *[redacted]cess for regular consultation/engagement with local government*
8. *[redacted]ory governments, peak aviation industry bodies, peak planning bodies to contribute to the development of NASF educational materials for use by planning practitioners, local government, tertiary institutions, and the building/development industry.*

Recommendations 5 and 6 above are particularly relevant to the SPPs Review.

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Further information regarding the NASF Implementation Review can be found here: https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/aviation-safety/aviation-environmental-issues/national-airports-safeguarding-framework/review-national-airports-safeguarding-framework-implementation

Implementing NASF

Land use and development proposals around airports should be assessed having regard to NASF. To facilitate this, in the Tasmanian Planning Scheme appropriate planning policies and controls should be put in place in accordance with the NASF principles and guidelines.

NASF covers safeguarding for the larger civilian airports subject to the Commonwealth Airports Act 1996 as well as military airports and smaller regional and general aviation airports. The Framework accommodates differences in size, use and local circumstances of individual airports in its application.

It is the responsibility of each land use planning jurisdiction to implement NASF into their respective planning systems as the Commonwealth Government has very limited powers in this area (outside the Commonwealth-leased airport sites). State, Territory and local town planning policies and controls are critical for effective airport safeguarding.

The methods for implementing NASF into planning systems will vary in each State and Territory and potentially in each Local Government area. The key issues and requirements to be covered however, are generally the same, as set out in the NASF guidelines.

It is noted that the Australian Airports Association (AAA) has produced a practice note titled '*Planning Around Airports – Safeguarding for the Future'*. The purpose of this practice note is to raise awareness of airport safeguarding issues within the planning profession and assist town planners and planning authorities in understanding airports and how to safeguard their ongoing operation. It includes guidance on how to implement NASF. The AAA practice note can be accessed here: https://airports.asn.au/airport-practice-notes/.

Case Study: Melbourne Airport Environs Safeguarding Standing Advisory Committee

In line with the principles of NASF and the recommendations of the NASAG Implementation Review outlined above, the Victorian Government has recently undertaken an extensive review of its planning system in relation to airport safeguarding.

The Me[redacted]rt Environs Safeguarding Standing Advisory Committee (MAESSAC) was appointed by the Victorian Minister for Planning in March 2020. The purpose of the Committee was to advise on improvements to the planning provisions safeguarding Melbourne Airport and other airport environs in Victoria, including:

[redacted]work, zones, overlays and any other related planning provisions [redacted]l and any complementary safeguarding tools and processes.

The Committee's final report and Victorian Government's response were released in April 2022. They can be accessed here: https://www.planning.vic.gov.au/policy-and-strategy/airports-and-planning/safeguarding-victorias-airports

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The Committee's report made 15 recommendations. The Victorian Government's response supports most of the Committee's recommendations either in full, in part or in principle, and sets out eight actions it will take to safeguard Victoria's airports into the future:

1. *Strengthen the Planning Policy Framework and further implement the National Airports Safeguarding Framework.*
2. *Review the role and content of the Melbourne Airport Environs Strategy Plan*
3. *Update planning controls, subject to further evidence, to provide targeted responses for: aircraft noise, wildlife strike risk, pilot distraction from lighting, airspace intrusion and public safety areas.*
4. *Update helicopter landing site provisions to address the risk of airspace intrusion, subject to further evidence.*
5. *Review opportunities to require the expert input of relevant authorities as part of the planning approval process and expand notice provisions for airport operators if appropriate.*
6. *Provide new and updated guidance for practitioners about planning for airports and airports safeguarding.*
7. *Improve access to spatial information.*
8. *Provide information about aircraft noise impacts to potentially affected people.*

The first planning scheme amendment arising from MAESSAC and the Government's response was Amendment VC218 (gazetted 18 May 2022). This amendment made changes to Clause 18.02-7S of the Planning Policy Framework to better reflect the matters set out in the NASF guidelines.

Further planning scheme changes and other initiatives are expected in due course as outlined in the Victorian Government's response.

Case Study: Queensland's Strategic Airports and Aviation Facilities Policy

The Queensland Government has a comprehensive suite of planning policies and guidelines relating to airport safeguarding.

The State Planning Policy (SPP) expresses the Queensland Government's interests in, and policies for, a range of land use planning matters including 'Strategic Airports and Aviation Facilities' (https://dsdmipprd.blob.core.windows.net/general/spp-july-2017.pdf).

The 'Strategic Airports and Aviation Facilities' element of Queensland's SPP states:

> *[redacted]tion facilities play a key role in facilitating economic growth in [redacted]f the Queensland economy, including tourism, trade, logistics, [redacted]dustries rely on the safe and efficient movement of people and freight through strategic airports.*
>
> *The strategic airports and aviation facilities, to which the SPP applies, are essential elements of the national and state air transport network and the national defence system. Ensuring development does not impact on the safe and efficient operation of these facilities will support continued growth of the state's economy, regional communities and national defence.*

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The policy also includes assessment benchmarks for development applications. These must be used by applicants when making, and state and local government when assessing, development applications.

The document '*Integrating state interests in a planning scheme: Guidance for local governments*'

(https://planning.statedevelopment.qld.gov.au/__data/assets/pdf_file/0034/66598/integrating-state-interests-in-planning-schemes-guidance.pdf) provides guidance to assist local government in the interpretation, integration and advancement of the state interests articulated in the state planning instruments when making or amending their planning scheme. This document includes nearly 40 pages of detailed guidance relating to the integration of the 'Strategic Airports and Aviation Facilities' state policy in planning schemes.

On page 245 of this document, it states the following in relation to NASF:

> *The National Airports Safeguarding Framework (the safeguarding framework) was developed by the National Airports Safeguarding Advisory Group which includes representatives from Commonwealth Infrastructure and Defence departments and aviation agencies; state and territory planning and transport departments; and the Australian Local Government Association.*
>
> *The safeguarding framework includes guidelines which provide proponents of development and local government further information about how to address risks to aviation safety posed by development. Refer National Airports Safeguarding Principles and Guidelines. These guidelines have informed the SPP and this guidance material.*

The measures to be included in a planning scheme include assessment benchmarks, being the matters against which a development proposed in a development application must be assessed against.

Assessment benchmarks to effectively integrate the Strategic airports and aviation facilities state interest can be technically complex and as such, the document '*Strategic airports and aviation facilities state interest: Example planning scheme assessment benchmarks*' (https://dsdmipprd.blob.core.windows.net/general/strategic-airports-and-aviation-facilities-state-interest-example-planning-scheme-assessment-benchmarks.pdf) sets out 'Example assessment benchmarks' for this purpose.

Tasmanian Planning Scheme Safeguarding of Airports Code

The primary tool in the SPPs specifically for airport safeguarding is the Safeguarding of Airports Code (C16.0). The purpose of this code is:

> *To safeguard the operation of airports from incompatible use or development.*
>
> *To provide for development that is compatible with the operation of airports in accordance with appropriate future airport noise exposure patterns and with safe air navigation for aircraft approaching and departing an airport.*

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The Safeguarding of Airports Code only applies to:

a) *a sensitive use within an airport noise exposure area; and*

b) *development within an airport obstacle limitation area.*

Clause LP1.7.14 of the SPPs states:

a) *If a planning authority has:*

   i. *airport noise exposure areas based on airport noise contours contained in an airport master plan or otherwise adopted for the relevant airport; and*

   ii. *airport obstacle limitation area based on the Obstacle Limitation Surfaces and Procedures for Air Navigation Services – Aircraft Operations for the relevant airport, in its municipal area, the LPS must contain an overlay map showing those areas for the application of the Safeguarding of Airports Code.*

The code stipulates land-use and subdivision standards for sensitive uses in airport noise exposure areas and development standards for buildings and works in airport obstacle limitation areas. The code recognises airport master plans may be approved under the *Airports Act 1996* for Commonwealth-leased airports or may be prepared and adopted for a non-Commonwealth-leased airport, which is appropriate.

Whilst the Safeguarding of Airports Code provides some protection for airports, there is no reference to NASF in the code, and it does not address the full range of airport safeguarding matters set out in the NASF guidelines. As previously stated, pursuant to the NASF agreement, it is the responsibility of each jurisdiction to implement the framework into their respective planning systems.

At present, the code essentially only addresses the matters contained in NASF Guideline A (aircraft noise) and Guideline F (airspace protection). There are NASF guidelines relating to seven other safeguarding matters. This review provides an opportunity to enhance and improve the SPPs Safeguarding of Airports Code to better address certain aspects of the NASF guidelines that are not currently addressed, similar to the recent MAESSAC review in Victoria.

The Safeguarding of Airports Code should specifically refer to NASF and should address the following additional safeguarding matters in accordance with the applicable NASF guidelines:

- [redacted] Risk of Building Generated Windshear and Turbulence at Airports
- Managing the Risk of Wildlife Strikes in the Vicinity of Airports
- Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation
- [redacted] Distractions to Pilots from Lighting in the Vicinity of Airports
- [redacted] cilities - Communications, Navigation and Surveillance
- Protecting Strategically Important Helicopter Landing Sites
- Managing the Risk in Public Safety Zones at the Ends of Runways.

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Launceston Airport would be pleased to work with the State Planning Office on how this may be achieved via amendments to the code or other planning provisions. These matters are technically complex, however, as a guide, the MAESSAC report discusses how they may be incorporated into planning provisions, albeit in the context of the Victorian planning system.

Airport noise exposure area

Pursuant to the Safeguarding of Airports Code, the airport noise exposure area is defined as *'land shown on an overlay map in the relevant Local Provisions Schedule to be within an airport noise exposure area'*.

The Tasmanian Planning Commission's *'Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application'* states:

SAC 1 *The airport noise exposure area overlay should be based on the relevant airport noise contours contained in the airport master plan or those otherwise adopted by the relevant airport owner of operator for the relevant airport in accordance with any accepted guidelines.*

SAC 2 *The airport noise exposure area overlay should at least include the land within the 20 Australian Noise Exposure Forecast (ANEF) contour and all land within higher ANEF contours.*

SAC 3 *The airport noise exposure area overlay may also take account of the N contours contained in the airport master plan or those otherwise adopted for the relevant airport.*

The fact that the airport noise exposure area may take into account N contours, in addition to the ANEF contours, is consistent with NASF Guideline A and is strongly supported. The provisions relating to the airport noise exposure area should, however, recognise the difference between these two sets of contours having regard to Guideline A and Australian Standard AS2021. Each set of contours has specific planning standards and requirements which should be recognised in the code.

Airport obstacle limitation area

Pursuant to the Safeguarding of Airports Code, the airport obstacle limitation area is defined as *'land in the vicinity of an airport shown on an overlay map in the relevant Local Provisions Schedule on which specific limits expressed by AHD apply for the height of development as are necessary to protect aircraft movement and safety in accordance with the applicable Obstacle Limitation Surfaces and Procedures for Air Navigation Services – Aircraft Operations for that airport'*.

The Tasmanian Planning Commission's 'Guideline No. 1 – Local Provisions Schedule (LPS): [redacted]tes:

[redacted]*tacle limitation area overlay should be based on the Obstacle [redacted]ces (OLS) and Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) contained in the airport master plan or those otherwise adopted by the relevant airport owner of operator for the relevant airport in accordance with any accepted guidelines.*

SAC 5 *The airport obstacle limitation area overlay must identify the specified height limit on the land within the overlay by reference to AHD. The specific height limit should be identified as the lower of the OLS or the PANS-OPS for the applicable*

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airport if the two surfaces overlap. The overlay may address any anomalies in the OLS or PANS-OPS height limitations provided they are endorsed by the relevant airport operator.

The fact that the airport obstacle limitation area includes both the OLS and the PANS-OPS is consistent with NASF Guideline F and is supported.

The following should be captured by the requirements relating to the airport obstacle limitation area, in accordance with NASF Guideline F:

- intrusions into the operational airspace of airports by tall structures, such as buildings and cranes, as well as trees in the vicinity of airports.
- activities that could cause air turbulence, where the turbulence could affect the normal flight of aircraft operating in the airspace; and
- activities that could cause the emission of steam, other gas, smoke, dust or other particulate matter, where the smoke, dust or particulate matter could affect the ability of aircraft to operate in the airspace in accordance with Visual Flight Rules (VFR).

At present, the code does not address all of the above issues, which is not consistent with NASF.

In recent discussions with the Tasmanian Planning Commission regarding the airport obstacle limitation area overlay for Launceston Airport in the Northern Midlands Local Provisions Schedule (LPS), the Commission has required that the airport's OLS and PANS-OPS be combined into a single lowest common surface layer with no sloping surfaces. We would like to make it clear that this is not an easy exercise. This because the OLS and PANS-OPS are separate sets of surfaces, prepared by separate technical consultants, and both comprise sloping surfaces.

In addition, Launceston Airport's OLS and particularly the PANS-OPS, cover multiple municipalities, not only Northern Midlands. Launceston Airport was notified of the exhibition of the draft Northern Midlands LPS, and we have been involved in that process, but we did not receive notification regarding the LPS for several other municipalities affected by the airport's OLS and/or PANS-OPS. We understand that some of the relevant municipalities have had their LPSs approved, and others are well advanced in the process. This means that Launceston Airport's airport obstacle limitation area will not be reflected in several LPSs.

Launceston Airport submits that there needs to be a better way of dealing with the airport obstacle limitation area that covers multiple municipalities, rather than a piecemeal approach relying on individual LPSs. We would welcome the opportunity to discuss these issues with the State Planning Office to ensure that Launceston Airport's airspace surfaces are properly and fully protected in all the relevant LPSs.

[redacted]s

n Airport during the development of the airport's current Master Plan, the State acknowledged its role in the implementation of the NASF guidelines through the planning system. In doing so the State identified that the planning system is broader than the relevant planning scheme, and some of the NASF Guidelines may best be implemented through appropriate strategic planning to avoid land use conflicts as opposed to implementing specific use and development standards in the planning scheme.

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The State also stated that there may be opportunities to address many of the NASF guidelines through the future Tasmanian Planning Policies (TPPs), which will provide the overarching policy guidance for use and development in Tasmania. The TPPs will guide the allocation of planning zones helping to ensure that airports are protected through any future rezoning proposals.

The '*State Planning Provisions Review Scoping Paper*' states:

> *The TPPs are high-level strategic policy ambitions and directions on land use planning matters of State and community interest. They will provide a way for the Tasmanian Government and community to consider and set directions on a broad range of complex and emerging planning issues. These high-level policies will inform strategic planning and the statutory planning provisions within the SPPs and LPS.*
>
> *Some matters raised during the SPPs review scoping process may need to be considered in conjunction with the broader policies in the TPPs. The SPPs must be reviewed for consistency with these policies once the TPPs are made.*
>
> *Once the TPPs are made, a discussion paper will be circulated to explore how consistent the SPPs are with the TPPs and what changes may need to be made to the SPPs.*

Whilst the TPPs are not part of the current SPPs Review, we would like to flag that what would be welcome is strong inclusion and reference to airports at the TPP level to ensure appropriate recognition and protection for these critical pieces of infrastructure, like Queensland's 'Strategic Airports and Aviation Facilities' policy document. The social and economic importance of airports and the need to safeguard their ongoing operation in accordance with NASF, should be a key matter addressed in the TPPs.

Conclusion

The review of the SPPs provides a timely and welcome opportunity to address the outcomes of the recent NASF Implementation Review in the Tasmanian Planning Scheme. This submission has set out how this may be achieved, particularly via improvements to the Safeguarding of Airports Code.

Launceston Airport would be pleased to assist the State Planning Office with any technical aspects of this submission if required.

Should you have any queries or wish to discuss these matters, please do not hesitate to contact me on [redacted].

Yours sincerely

[redacted]

Ilya Brucksch
Head of Planning, Development & Customer
Launceston Airport

From: [redacted]
To: State Planning Office Your Say
Subject: SPP"s review
Date: Wednesday, 3 August 2022 2:17:47 PM

Good afternoon

Please see comments below, submitted as part of the State Planning Provisions Review.

1. **Fencing**
   The SPPs include numerous exemptions listed under clause 4.0, which are uses or developments that are exempt from requiring a planning permit. Currently the exemptions include requirements for fences (Table 4.6, clauses 4.6.3 and 4.6.4) A change to this is required to resolve an anomaly in fence height regulations where new dwellings are required to be built one metre (or more) above natural ground level in flood prone zones. The higher floor level of new dwellings effectively "removes" one metre (or more) from the height of an adjoining boundary fence. This has obvious privacy implications. As part of this review, a change to fencing requirements could address the floor level height difference between new and existing homes where the new home is constructed on a raised building pad.

2. **Coastal Development and Flood Mitigation**
   The SPP's do not currently include effective provisions to mitigate the increasing risks associated with coastal developments. Floods can no longer be considered a surprise event in Tasmania and planning provisions need to reflect this by prioritising mitigation to protect existing infrastructure in coastal areas. An April 2022 Core Logic Report into the effects of rising sea levels and erosion on seaside suburbs in the greater Hobart area describes the risks associated with coastal erosion and rising sea levels as alarming and in need of urgent attention. The Climate Risk Map (Climate Council, May 2022) identifies several areas in Tasmania where homes are likely to be uninsurable in 30 years from now. The recent NSW and QLD flood disasters are a wake-up call to fully address climate-related issues in the planning provisions of all states.

   .....

Anne Boxhall

Seven Mile Beach

[redacted]

3 August 2022

State Planning Office,

Dept of Premier & Cabinet

GPO Box 123,

Hobart Tas 7001

State Planning Office

Dear Sir/Madam,

SPP REVIEW REPRESENTATION from MP&EA HARRISON

The ACCEPTABLE SOLUTIONS

We do not accept that the "Acceptable Solutions" automatic tick and flick quantitative design rules, provide good planning outcomes. We query if they are actually "acceptable" to the general public.

In effect, they are site by site development controls with no regard for the street or neighbourhood and proposed development down the street. They provide no wholistic view and do not enhance community liveability, connectivity, or sustainability. From feedback we often receive they do not meet community expectations.

The State Planning Provisions (SPPs) Acceptable Solutions are a set of "Tick & Flick" design rules that set a minimum standard of uniform design for residential buildings. Where zoning is defined as "General Residential", these rules are applied everywhere in Tasmania with no ability for residents or Councils to object on Quality of Life grounds. The results of the application of these minimum standards can now be seen in such erstwhile charming villages as Margate, Campania and Cambridge. Wherever new buildings have been constructed following the Acceptable Solutions of the SPPs, areas which were once part of beautiful Tasmanian living environments have been negatively impacted.

We are of the opinion that the standards are resulting in an unreasonable impact on residential character and amenity, one of the reasons why, in 2016, the Planning Commission urged a review of the Residential standards as a priority.

LOCAL CHARACTER MUST BE PRESERVED

In our view it is essential that quality statements Desired Future Character Statements (DFCSs) or Local Area Objectives (LAOs) should be reinstated to the planning provisions so that Councils have the power to demand higher quality standards where they can be justified and/or in line with community expectations.

As Residential Standards for any one zone across the state are all the same, how can local character be protected?

POPULATION DENSITIES – NEED FOR DEFINITION

It is our view that desired planning population densities should be properly defined so that rural areas can benefit from lower density levels and different building standards. Failure to take action on these matters will inevitably mean the gradual decline of such Tasmanian gems as Richmond, Ross, Evandale, and Stanley. These sites already have "General Residential" SPP's applied to them when there is absolutely no justification for the use of such "Tick & Flick" design rules in those very special villages. Current planning provisions, including the SPPs and the provisions fast-tracked into Interim Schemes under PD8, are remorselessly eroding the qualities that make Tasmania's towns and suburbs so special.

CONCLUSION

To conclude, the SPPs are not acceptable and must be thoroughly reviewed as per recommendations from the Planning Commission, many professionals, individuals and groups, including Planning Matters Alliance, and the Tasmanian Planning Information Network.

Thank you for the opportunity to submit this representation. We look forward to speaking to these comments at public hearings auspiced by the Tasmanian Planning Commission at some time in the future.

Yours faithfully,

Miles and Anne Harrison

From: [redacted]
To: State Planning Office Shared Mailbox
Date: Wednesday, 3 August 2022 10:38:21 PM

Hello I would Like to give feedback on the “State Planning Provisions review - scoping issues”.
I think It’s very important that it is amended to add mandatory bike parking in new apartments and admendments which allow for more mixed use zoning.
Thanks, Ciaran

[redacted]

[redacted]

From: [redacted]
To: State Planning Office Shared Mailbox
Cc: [redacted]
Subject: SPPs Review - FPA submission
Date: Thursday, 4 August 2022 12:43:38 PM
Attachments: image003.png

In responding to the review of the State Planning Provisions, I make the following points in my capacity as Chief Forest Practices Officer.

- The primary purpose of the *Forest Practices Act 1985* is to regulate ***forest practices*** as they are defined in the Act.
- The reason "clearing of trees" and "clearing and conversion of threatened native vegetation communities" were incorporated in the FP Act as ***forest practices*** was to regulate clearing for agricultural purposes, not for other development purposes. It could be argued the forest practices system is designed to deal with activities in the agriculture and rural resource zones, but is not designed for urban settings.
- Development proposals that are not forestry or agriculture related are usually handled under other legislation (e.g., mining, clearing for subdivisions, sporting precincts, tourist developments, infrastructure such as power lines, water and gas pipelines, telecommunications, railways, public roads etc).
- The Forest Practices Regulations provide exemptions for the above matters in several situations where other legislative approval processes are in place.
- The FPA is of the view that it should regulate forest practices in the Rural, Agriculture, and Rural Living (only where a property is greater than 5 ha) Zones and that forest practices associated with developments in all other Zones are best dealt with by approval processes under the LUPA Act and the Tasmanian Planning Scheme.
- The Tasmanian Planning Scheme should use terms which are clearly defined by referring to defined terms in other Acts and Regulations or to clearly define such terms in Table 3.1 as much as possible to avoid confusion and misinterpretation (for example reference to "disturbance of vegetation" in Table 4.4.1 is not clear). The definition of ***plantation forestry*** as an agricultural activity also leads to confusion with State and Commonwealth legislation particularly in relation to definitions of forested land and deforestation in the Commonwealth Emissions Reduction Fund.
- It is of concern that some local provisions may conflict with the forest practices system. Biodiversity overlays that rely on modelled parameters can lead to incorrect classification of vegetation. The forest practices planning process relies on on-ground assessment of ecological conditions and mapping overlays are merely a guide to assist these assessments.
- In situations where there is an overlap between the Development Permit process and Forest Practices Plans, there is difficulty if Councils require a certified Forest Practices Plan as a condition on a development permit. This has the effect of putting all the responsibility on the Forest Practices Authority to decide in relation to the forest practices, it is unnecessary duplication. In the zones outlined above, it would be better for Councils to handle the Permit process from start to finish. This may require amendment of both the LUPA Act and the FP Act.
- I am aware that some Councils have established Biodiversity Offset arrangements including financial offset arrangements. The State Planning Provisions need to consider the legality, efficacy, and operability of such arrangements. Can land that is already protected be used as an offset for a development or must an offset be additional to existing protected land? In addition, if an offset is put in place, are there ongoing management requirements that are the responsibility of the developer that do not result in a burden to the Council or the

State? The capacity to manage offsets and offset funds is an important consideration. NSW is the most advanced jurisdiction in this area.

- There have been situations where people have "gamed" the forest practices system to subvert LUPAA permit processes. For example, clearing small areas of trees under the Regulations and then seeking a Development Permit for a building, after the tree clearing has been completed. Such loopholes should be addressed.
- Private Timber Reserves takes any forestry practices outside the Local Government Planning Scheme, they are a means of providing security to forest owners to be able to conduct forestry operations in future without being affected by changes in local government planning schemes. The current review of the State Planning Provisions, appear to substantially reduce the need for Private Timber Reserves, but in my view, there is no harm in keeping them.
- A Private Timber Reserve must only be used for establishing forests, growing or harvesting timber in accordance with the Forest Practices Code and such other activities the FPA considers to be compatible (s. 12 of the FP Act). It is recommended that Planning Provisions require the removal of a PTR from any land prior to application being made to erect buildings or undertake other activity that is not compatible with the PTR and may require a LUPAA Permit.
- I recommend the enforceability of planning provisions should be strengthened. This can be achieved by increasing the statute of limitations period to three years and provision of capacity for infringement notices with or without prescribed fines as an alternative to prosecution. The FPA has found that such provisions in section 47B. of the Forest Practices Act can save time and expense for both the FPA and the respondent.

The FPA is willing to work with the Planning Commission to achieve State Planning Provisions that recognise the important role the forest practices system plays in land use management and to avoid duplication or conflicting requirements.

Peter

Dr Peter Volker
Chief Forest Practices Officer (Executive Director)
Forest Practices Authority
30 Patrick St, Hobart, Tasmania 7000
M – [redacted]
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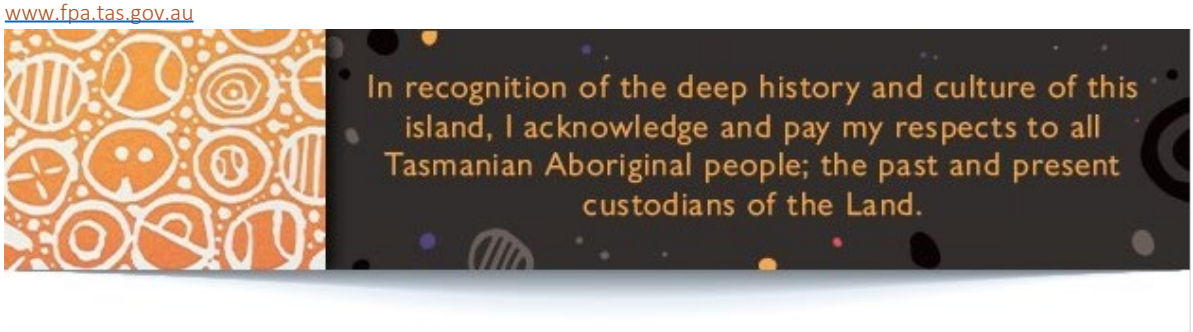

correspondence if you are not the intended recipient. Any opinions expressed in this message are those of the individual sender, except where the sender expressly, and with authority, states them to be the opinion of the Forest Practices Authority.

---

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abn: 67 141 991 004

4 August 2022

State Planning Office
Department of Premier and Cabinet
Level 7 / 15 Murray Street
HOBART TAS 7000

By email: stateplanning@dpac.tas.gov.au

Dear Sir/Madam,

STATE PLANNING PROVISIONS (SPPS) REVIEW SCOPING PAPER

Thank you for providing the opportunity to be involved in the review of the current SPPs. The intent of this letter is to provide feedback on the issues that our planning staff have experienced with the SPPs to date and to highlight the zone and code standards that can complicate the assessment of a planning application. For clarity purposes, an explanation of each issue is provided, along with some potential solutions for your consideration. We hope that you find value in this feedback.

Lack of an Apartment Code

The issue

We understand that this is being progress separately to the current SPP review, however given the high growth of the Tasmanian population and construction of multiple dwellings to meet the associated housing demand, inclusion of specific apartment design standards are required urgently. There is currently no way of ensuring new apartment style dwellings across the broad range of zones (including but not limited to the Inner Residential, General Residential, Urban Mixed Use, Commercial, Local Business, General Business and Central Business zones) in which they are currently developed provide an acceptable minimum standard of amenity for the future occupants including but not limited to:

- communal green space.
- solar orientation and ventilation.
- layout standards e.g. siting bedrooms away from neighbouring living areas and private open space.
- storage areas.
- minimum dwelling size.

Presently, the lack of standards is a disincentive to provision of basic amenity by proponents. With increasing financial pressures in delivering infill development associated with rising construction and labour costs and risk ratings applied to financing of these types of developments in Tasmania, these considerations are sometimes considered expendable by the proponent without firm direction in the planning requirements.

Potential solution

This needs to be prioritised and implemented asap. We highly value the beautiful State that we live in and want to see well planned developments complement our communities and provide for comfortable living spaces.

Residential Zone standards

The issue

Recent design standards, e.g. solar orientation requirement for dwellings (windows to living spaces and private open space) has been removed from both the General Residential and Inner Residential Zones resulting in amenity and environmental issues, as additional heating /cooling methods are subsequently required to create a comfortable living space. Utilising the natural energy of the sun is the most cost effective and environmentally friendly design solution. While the pressure for housing is high, quality of housing choice should not be compromised.

Potential solution

The standards for orientation of living areas and private open space areas should be reintroduced into the SPPs.

Attenuation Code

The issue

The required attenuation area for some uses is too great in our opinion.

Some uses (e.g. a bakery) are commonly located in a residential area, although require a large (200 m) attenuation area, burdening the surrounding residents. In addition, a frost fan requires an attenuation distance of 2km, which is excessive considering their realistic impacts and proximity of these fans to rural towns and rural based dwellings.

In addition, extractive industries attenuation needs to be amended so that the attenuation is measured from the extent of the mining lease, and not from the property boundary, as this creates an attenuation distance that is far greater than required, particularly for large sites.

Additionally, the Attenuation Code should not consider a sensitive use within an agricultural or rural zone, as this inhibits the intended purpose of these zones. The primary uses within the agricultural / rural zones should be protected. By requiring consideration of sensitive uses, as per the current SPP standards, fertigation, frost fans etc all require discretionary assessment. The choice to construct a sensitive use within a non-residential zone, should not come at the expense of the permitted uses for non-residential development within the area zoned specifically for non-residential use. The current Code puts too much priority on the sensitive use, creating undue impacts on industries.

Potential solution

The entire Attenuation Code needs to be reviewed, with further clarity provided for the definition of each use.

Coastal Erosion Code, Coastal Inundation Code

The issue

The Coastal Erosion Code and the Coastal Inundation Code rely on the mapping overlay to determine if a site is at risk, regardless of a site assessment revealing otherwise. This results in an incorrect site classification for some sites and an unwarranted and costly planning discretion i.e. someone needs to go through the planning scheme amendment process just to have their land classified correctly.

Potential solution

Both codes need more flexibility to enable the ability to change the site classification if an onsite assessment is undertaken by a suitably qualified person.

Parking and Sustainable Transport Code

The issue

No provision for electric vehicle (EV) charging points.

Potential solution

Include a provision for EV charging points once you're over a certain number of parking spaces.

Parking and Sustainable Transport Code

The issue

Insufficient bicycle parking requirement, particularly given the rise of electric vehicles in society today. It is highlighted that the Australian Capital Territory are proposing to ban the importation of new petrol and diesel cars entirely from 2035 and it is inevitable that other States and Territories will follow. For this reason, it is imperative that the planning scheme requires the provision of this infrastructure now to meet demand in the future.

Potential solution

Increase the bicycle parking requirement to meet the current and future demand.

Parking and Sustainable Transport Code

The issue

Clause C2.3 Definition of terms - using the existing definition for 'floor area', the carparking calculation for a proposed use doesn't exclude things like staff tea rooms, toilets, lobbies etc, so far more carparking is theoretically required than is realistically necessary.

Potential solution

The Code should be revised to include two definitions: one for 'floor area' and one for 'net floor area'. We have provided examples below:

Term	Definition
floor area	means the gross floor area, excluding the area of stairs, loading bays, access ways, or parking areas, of any area occupied by machinery required for air conditioning, heating, power supply, or lifts.
net floor area	in relation to a building, includes all the area between internal surfaces of external walls but does not include: (a) stairs, cleaners cupboards, ablution facilities, lift shafts, escalators or tea rooms (b) where tea rooms are provided as a standard facility in the building; (c) lobbies between lifts facing other lifts servicing the same floor; (d) areas set aside as public space or thoroughfares; (e) areas set aside as plant and lift motor rooms; (f) areas set aside for use of service delivery vehicles; and (g) (f) areas set aside for car parking or access.

As a consequence of the above, Clause C2.5.4 Loading bays; Clause C2.5.5 Number of car parking spaces in the General Residential Zone and Inner Residential Zone; and Table C2.1 Parking Space Requirements will require consequential changes, however the result will be that the permitted car parking requirements will more accurately reflect real demand.

Parking and Sustainable Transport Code

The issue

The carparking requirement for each use in Table C2.1 Parking Space Requirements needs to be reviewed as some uses require far too much parking then realistically necessary. For example, there are specific provisions to allow a higher density for social housing dwellings in the planning scheme, although no specific provisions for parking despite research proving that car ownership is lower in this demographic cohort. Throughout Tasmania (as with all states of

Australia) governments are working to provide social housing options that provide suitable housing for a wide mix of recipients. Traditionally social housing has been standalone dwellings in outer suburban contexts. In recent years there has been a need to diversify property options with medium density development situated in well-connected centralised locations. This has resulted in social housing developments occurring as infill projects within established areas, providing easy walkability and access to public transport and less dependency of car ownership. The consequence of not including subsidies in the SPPs for social housing, is that this always becomes a discretion on a planning application, requiring a costly traffic impact assessment, which is an added cost that is not realistically warranted.

Potential solution

Revise Table C2.1 Parking Space Requirements to reflect Australian traffic guidelines and realistic parking demands for different types of residential use.

Local Historic Heritage Code

The issue

If there is a proposed development to a State heritage listed building (under the Tasmanian Heritage Register) it is exempt from the Local Historic Heritage Code and potential impacts to the heritage precinct, local historic landscape precinct, precincts of archaeological potential, or significant trees (if relevant) are not considered. The nature of potential issues and impacts are different between a heritage place and a heritage / landscape precinct, place of archaeological potential, or important vegetation. Therefore, the heritage values in its entirely are not being adequately protected through the SPPs.

Potential solution

Amend the application clauses so that only the specific clauses relating to heritage places are not applicant in the event that the place is listed under the Tasmanian Heritage Register.

Signs Code

The issue

This Code is far too complicated. It is helpful that pictures of each sign type are now included however, there are way too many types of signage to consider and an assessment against the Code is currently complicated and confusing.

Potential solution

This entire Codes needs to be revised to simplify assessments against it.

The issue

Hyperlink

The issue

The previous interim schemes provided a hyperlink to definitions, which was handy. The SPPs no longer have this, which means you must scroll through the scheme to find the definitions that you are after, which is timely and frustrating.

Potential solution

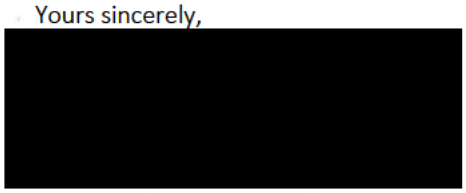
Bring back the hyperlink reference.

In conclusion, we appreciate that the SPPs are extensive, and a great deal of work goes into making them applicable to all areas and development types which is a difficult task.

The advice provided in this letter raises just a few of the issues that ERA have come across in the short time that the SPPs have been in effect. The ongoing relationship, communication, and collaboration between both State and Local Governments and private entities is highly valued and imperative to ensure that the Tasmanian planning system is effective and guides well planned, quality communities.

Again, ERA is appreciative of the opportunity to comment of the scoping of the current SPPs and we look forward to working together again in the future.

Yours sincerely,



Emma Riley, RPIA (Fellow), GAICD
Director

3 August 2022

State Planning Office

Department of Premier and Cabinet

GPO Box 123

Hobart TAS 7001

yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam,

State Planning Provisions review – protection of natural values through Landscape Conservation Zone and application of Priority Vegetation Area overlay

Tasmanian Land Conservancy welcomes the opportunity to put forward suggestions that will improve the State Planning Provisions as they relate to protecting significant natural values through amendments to existing exclusions and deficiencies within the current provisions.

1) The protection and management of natural values on private land is necessary to fulfil objective 1(a) of the Resource Management and Planning System of Tasmania (RMPS), 'to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity'.
   The Landscape Conservation Zone (LCZ) was originally intended to be such a zone, but its application has been inconsistent and generally insufficient. It is the TLC's position that the LCZ should explicitly protect natural values *as well as* scenic values.

2) The Natural Assets Code is also intended to fulfil this objective but needs revision in order to achieve its aims across all zones. In particular, the Priority Vegetation Area (PVA) overlay should apply to the Agriculture Zone in order to adequately protect significant natural values.

Introduction

As an organisation with land and associated partnerships throughout the state, Tasmanian Land Conservancy (TLC) has a strong interest in planning provisions, particularly regarding the recognition and protection of natural assets. Our primary aim is to protect and manage areas with significant conservation values for nature and for the public good, both on our own land and by assisting the broader community with conservation on their land.

The TLC has become one of Tasmania's largest private landholders, with land ownership of over 32,000 hectares. TLC has also been directly involved in a range of conservation covenanting programs in partnership with state and federal government, as well as now running the voluntary

program, Land for Wildlife, and our collaboration in the Midlands Conservation Fund. Together with our own land, TLC has an involvement in total with over 90,000 ha of private land.

By far TLC's greatest involvement in conservation is with interested landholders on their private land, and it is with this perspective that we urge you to improve the Landscape Conservation Zone and the Natural Assets Code to better allow for conservation of natural values on private land.

1) Clarification needed to improve Landscape Conservation Zone application

Landscape Conservation Zone has been inconsistently applied across the state in draft Local Provisions Schedules, with some planning authorities using it widely but most using it hardly at all. It would appear that the current discrepancy between Guideline No.1, which allows for application of LCZ to areas of native vegetation with significant natural values, and the SPP's LCZ Zone Purpose, which provides for 'the protection, conservation and management of landscape values' but does not define 'landscape', has led to vastly different interpretations across the state. This is partly a consequence of the decision to remove the words 'significant natural' from the LCZ Zone Purpose following the Draft SPPs exhibition.

This decision should be reversed, so that it is again clear that LCZ can provide for the protection of significant natural values.

Any other confusions around the LCZ should be clarified with planners, so that they can be addressed and the zone used more widely.

There is no point in having a LCZ that is restricted to duplicating the Scenic Protection Code.

'Landscape' is a term commonly used in ecology (e.g. Wikipedia – "Landscape ecology is the science of studying and improving relationships between ecological processes in the environment and particular ecosystems) and there are scientific journals such as Landscape Ecology (https://www.springer.com/journal/10980). Despite the absence of a definition of 'landscape values' in the SPP, there is good reason to assume that conservation of natural values is nevertheless a primary purpose of the LCZ.

For clarity for authorities and landowners who are not ecologists, the LCZ Zone Purpose and/or the definition of 'landscape values' should be aligned with Guidelines No.1 to clearly include the protection, conservation and management of areas with significant natural values.

The Environmental Management Zone (EMZ) is not generally appropriate for private land, as it does not allow for ordinary uses such as residential, except for (public) reserve management staff accommodation. Permitted Uses all require authority under the *National Parks and Reserved Land Regulations 2009* or the *Crown Lands Act 1976*, which is clearly not suited to private land unless the owner (or the planning authority) only wants to allow Natural and Cultural Values Management and Passive Recreation.

There is a strong need for LCZ to be better worded for conservation of natural values on private land, while providing for (LCZ Zone Purpose 22.1.2) 'compatible use or development that does not adversely impact on the protection, conservation and management' of the landscape (*natural and scenic)* values.

TLC believes that 'maintenance of ecological processes and genetic diversity' (as required for Objective 1(a) of the RMPS) absolutely requires the application of conservation measures across the

wider landscape (both public and private) and that the LCZ should be more widely applied to help achieve this.

An example of the appropriate zoning of land for conservation of both scenic and natural values is our request for Landscape Conservation Zone on our properties, Skullbone Plains, Five Rivers and Silver Plains in the Central Highlands municipality. (Our request was granted in s35F report 7/12/21.) These properties cover some 20,000 ha of the municipality, including some land classified World Heritage, thereby forming very substantial contributions to conservation of natural values, ecological processes and scenery in the district. As private land, it is not appropriate for them to be zoned EMZ (as mentioned above, this requires involvement of Parks regulations and authorities) yet they have importance for vegetation, wildlife, and the scenic landscape for the broader public. As responsible land managers, it is our aim to conserve and manage this land for these public goods.

Other examples are numerous properties which have conservation covenants (currently over 900 across the state, covering over 4% of private land). As planning authorities have been inconsistent in their application of LCZ to covenanted land, many covenant owners have had to request LCZ and generally been granted that by the Tasmanian Planning Commission, as their land so clearly supports significant natural values.

Residential use on covenanted titles in LCZ

Application of Landscape Conservation Zone would be improved if a residential dwelling was permitted where it is not in conflict with the conservation values.

The TLC operates the Revolving Fund program, where properties with high conservation values are bought, and on-title conservation protection established before the land is sold. Small-scale areas are often excluded from the covenant, to be used as a potential building area, identifying a site where disturbance will have the lowest impact on the conservation values that are being protected. This is typical, too, of many conservation covenants under other programs, sometimes defined as a domestic zone within the covenant, for the purpose of allowing appropriate use or development such as a house. A human presence in these natural settings helps to manage the natural values, and the existence of the covenant guarantees the long-term protection of natural values so that there will not be 'development creep'.

Landscape Conservation Zone for this purpose should have Residential Use as Permitted on such covenanted titles. The LCZ Use Table currently states that:

- Residential Use is Permitted if for a '(b) single dwelling located within a building area, if shown on a sealed plan'.

The conservation covenant (which is registered on title and defined in space by a CPR map) could be a "sealed plan", and the area excluded from that, or else zoned within the covenant as a domestic zone, could equate to a "building area", as that is typically the intention at the time of securing the covenant.

Alternatively, the Use Table should specifically allow for Residential Use to be Permitted on a title where a conservation covenant covers the majority of the title, provided the dwelling is located on an area excluded from the covenant, or a defined domestic zone within the covenant.

2) Natural Assets Code needs revision in order to achieve its aims

The Natural Assets Code is critical for conservation of natural values throughout the planning scheme but needs revision to improve its ability to deliver on the objectives of the Resource Management and Planning System.

The Draft State Planning Provisions Explanatory Document acknowledges that the Objectives of the *Land Use Planning and Approvals Act 1993* require that:

> "… effects on the environment are to be considered in planning processes and sustainable development of natural and physical resources along with the maintenance of ecological processes and genetic diversity are to be promoted."

Yet the Draft State Planning Provisions excluded the Priority Vegetation Area (PVA) overlay from 12 of the 23 Zones in the scheme.

Priority Vegetation Area should apply to Agriculture Zone

Of most concern is that one of the largest zones that has been applied on private land, Agriculture Zone, is excluded from the Priority Vegetation Area overlay. This problem was raised repeatedly during the exhibition of the Draft SPPs but was not changed. Since then, 20 out of 29 planning authorities have expressed issues with the exclusion of the Priority Vegetation Area from the Agriculture Zone during the rollout of the draft LPSs, including:

- that the exclusion of the PVA
  - from Agriculture Zone is 'problematic' and creates a 'regulatory gap'
  - from selected zones has no 'policy basis'
  - from any zones creates 'a discontinuity in the identification and context of significant vegetation areas' and is unjustified as 'biodiversity values can occur anywhere'
- there is no explanation why agriculture and the protection of priority vegetation cannot coexist
- having to choose between competing agricultural and biodiversity values when applying zones
- being forced to manipulate the application of zones to allow the application of the PVA which is contrary to the intent of the SPPs

The public reserve estate will never be sufficient alone to protect Tasmania's unique plants and animals as a significant number of vegetation types, ecosystems and whole landscapes are grossly under-represented in the public reserves.

This is because the public reserve system almost exclusively consists of land that was not taken up for agriculture in the 19th and 20th centuries because it was too steep, too rocky, too cold, too infertile or otherwise considered 'worthless lands'. Valley floors, grasslands, open woodlands, and other landscapes considered valuable to European settlers are consequently grossly under-represented in the conservation estate.

The potential to fill gaps in the public estate, to create corridors and stepping stones between public lands and covenanted private land by protecting patches of remnant vegetation on farms, has been severely compromised now that vegetation removal in the Agriculture Zone is exempt from planning assessment regardless of its conservation value.

This is highly likely to result in impacts of developments on listed wildlife dependant on mixed landscapes of grassland, forest and woodland including the eastern quoll, masked owl, eastern barred bandicoot, Tasmanian wedge tailed eagle and Tasmanian devil.

Impact on agriculture

The decision to exclude Priority Vegetation Area from the Agricultural Zone is out of step with best practice management in Australian agriculture endorsed by the National Farmers Federation, most state peak farmer bodies and agribusiness.

Australia's largest rural lender, the National Australia Bank, has adopted Natural Capital accounting criteria in their rural lending practices and risk assessment which includes the management of native vegetation for carbon sequestration and biodiversity.

Agricultural land is increasingly being managed for multiple values including carbon sequestration, biodiversity, water quality and amenity value with land holders directly rewarded for vegetation management through offsets, management agreements and price incentives.

Numerous Australian Government funding programs recognise the long-term productivity benefits of managing native vegetation on farms and actively encourage practices the TPS is undoing by excluding priority vegetation from the Agricultural Zone.

Revision of the provisions of the Natural Assets Code

The Natural Assets Code also needs a full and thorough review to remove the exemptions, omissions, and terminology vagaries. Without a stronger commitment to the protection of our natural assets there will be continued fragmentation and degradation of important habitat.

This has already been elaborated by Meander Valley Planning Authority (MVPA), together with the Local Government Association of Tasmania, in their 35G notice (10/4/2019). TLC supports their comments (section 2.2) that the SPPs as written:

> "(1) fail the objectives of the Act to maintain ecological processes and genetic diversity;
>
> (2) fail to deliver its stated code purpose to 'minimise impacts on identified priority vegetation' and 'to manage impacts on threatened fauna species, by minimizing clearance of significant habitat';
>
> (3) fail to implement a cogent division of responsibility between agencies charged with the responsibility of regulating the management of native vegetation through the interaction between the Forest Practices System and the planning scheme and does not account for the different overarching objectives of scale, the land use practices under each system or a hierarchy of controls;
>
> (4) fail to outline clear responsibilities and expectations for land owners and developers so that in proposing land use and development, it is understood what the code purpose of 'minimising impacts' and 'minimising clearance' actually means. In particular, there is no foundation in data or scientific practice to determine what "unreasonable loss of priority vegetation", the fundamental premise for the operation of Section C7.6.2, actually is. Section C7.6.2 is inoperable, as it is without meaning and has no prospect of measurement. This will inevitably end in confused, inconsistent and inconclusive administration of the planning scheme provision."

As the Tasmanian Planning Commission states, in its opinion about the MVPA 35G notice,

> "The Commission is of the opinion that the general rationale for the alterations proposed by the MVPA has some merit and that the provisions of the SPPs in C7.6.2 and C7.7.2 should be reviewed and altered."

Regular updates to Natural Assets overlays and allowance for cumulative impacts

TLC suggests that the Tasmanian Government, together with councils, should implement a process whereby mapping of the Natural Assets Overlays is continually revised, updated and re-evaluated. This would ensure that planning decisions with the potential to impact on natural assets are informed by up-to-date information.

For example, it is understandable that NRET's Natural Values Atlas and the mapping of threatened native vegetation communities is incomplete or inaccurate, as there is insufficient on-ground survey work.

There should be a process for regular revision of the Natural Assets overlays, to allow for improved knowledge of threatened species habitat, new threatened species listings, threatened vegetation communities, climate change impacts and habitat corridors, and to reflect any changes to legislation.

There should also be performance criteria that include an assessment of **cumulative impacts** of developments on natural assets. While there is no overarching assessment of cumulative impacts, the risk is of "death by a thousand cuts", as each development argues that their impact is not "significant". Note that Western Australia has recently implemented a process for recording and assessing cumulative impacts, built upon a mitigation hierarchy that stresses avoiding impacts rather than mitigating them (such as with offsets) within its "Native Vegetation Policy for Western Australia" (2022 - https://www.wa.gov.au/system/files/2022-05/WANativeVegPol2022.pdf)

In conclusion:

The Landscape Conservation Zone (LCZ) is important to provide for protection and management of natural and scenic values on private land. Application of this zone would be improved if SPPs were reworded to explicitly protect natural values *as well as* scenic values.

The Landscape Conservation Zone's Use Table should specifically allow for Residential Use to be Permitted on a title where a conservation covenant covers the majority of the title, provided the dwelling is located on an area excluded from the covenant, or a defined domestic zone within the covenant.

The Natural Assets Code is critical for conservation of natural values throughout the planning scheme but needs revision to improve its ability to deliver on the objectives of the Resource Management and Planning System.

Excluding the Priority Vegetation Area overlay from the Agriculture Zone diminishes the role of private land in protection of the state's natural assets, increases the level of threat to Tasmania's listed plant and animal species, and runs counter to current industry best practice and national policy.

To remedy this, the Natural Assets Code should be reviewed and revised to ensure it is applied uniformly across all planning zones, including the application of Priority Vegetation Area overlay to the Agriculture Zone. The provisions of the Code should also be clarified and strengthened, including

performance criteria which enable specialist quantitative advice or opinion to be provided to a planning authority on any adverse impacts on native vegetation and fauna as a result of development or subdivision in areas of priority vegetation and how to minimise those impacts.

There should be a process for regular revision of the Priority Vegetation Area overlays, to allow for improved knowledge of threatened species habitat, threatened vegetation communities, climate change refugia and habitat corridors, and to reflect any changes to legislation.

There should be a process that allows for assessment of cumulative impacts.

This is a unique opportunity to apply a landscape-scale, cross-tenure approach that identifies habitat linkages, corridors and climate refugia. Let's not miss the opportunity to ensure that natural assets such as irreplaceable, rare and significant species and vegetation communities are recognised, valued and protected throughout the planning system.

We look forward to the State Planning Provisions being updated to reflect the above important points.

Please do not hesitate to contact me for further discussion.

Sincerely,

James Hattam

Chief Executive Officer

From: [redacted]
To: State Planning Office Your Say
Subject: State Planning Provisions (SPPs) Review Stage 1
Date: Friday, 5 August 2022 7:14:23 AM

To whom it may concern

I endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions (SPPs) including the detailed submissions compiled by expert planners regarding three key areas: the *Natural Assets Code*, the *Local Historic Heritage Code* and the residential standards.

Specifically, I agree with PMAT's identified concerns and support their recommendations regarding the current SPPs in relation to the following issues:

> The right to have a say: the State Government should move quickly to 1. finalise the RAA Review, including the exemptions and applicable standards for proposed use and development in the Environmental Management Zone 2. To implement changes for a more open, transparent and robust process that is consistent with the Tasmanian Planning System Land Use Planning and Approvals Act 1993 objectives. 3. The Environmental Management Zone should be amended to ensure the public has a meaningful right of say and access to appeal rights - in particular by amending what are "permitted" and "discretionary" uses and developments in the Environmental Management Zone.
>
> Climate change/energy: The SPPs be amended to better address adaptation to climate change, by ensuring Tasmania's risk mapping is based on the best available science and up to date data. **2**. The SPPs be amended to better embed sustainable transport, green design of buildings and subdivisions into planning processes, including better protection of solar panels and provision for future solar access.
>
> Community risk management: the SPPs Codes be reviewed and updated to ensure they reflect the best available science about current and likely bushfire, flood and coastal inundation risks. The State Government, through its Tasmanian Planning Scheme, has a responsibility to ensure that the planning system does not allow the building of homes in areas that will become uninsurable. Consideration should also be given in the review as to how the SPPs can ensure that developments and uses approved can be retrofitted to better respond to changing climatic conditions.
>
> Healthy places: I also support the recommendations put forward by the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*.
>
> National Parks & Reserves: **1.** All current Environmental Management Zone Permitted uses should be at minimum *Discretionary*, as this will guarantee public comment and appeal rights on developments on public land such as in our National Parks and Reserves. **2.** There should be setback provisions in the Environmental Management Zone to ensure the integrity of our National Parks and Reserves.
>
> Biodiversity issues: I endorse the recommendations in the 2022 SPP review submission: '*State Planning Provisions Scoping Paper re Landscape Conservation Zone provisions by Conservation Landholders Tasmania'* which calls for a Zone to properly protect natural values on private land. The SPPs must also provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code

Aboriginal Cultural Heritage Issues: The SPPs must provide better consideration of and protection to Aboriginal cultural heritage such as via the creation of an *Aboriginal Heritage Code* and the cross reference and meaningful connection to a new Aboriginal Cultural Heritage Protection Act that will protect Aboriginal Cultural heritage.

Sincerely

Elizabeth Shannon

[redacted]

City of HOBART

Enquiries to: Sandra Hogue
☎: [redacted]
✉: [redacted]
Our Ref: S32-013-07

5 August 2022

Hon Michael Ferguson MP
C/- State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001

Via Email: yoursay.planning.tas.gov.au; stateplanning@dpac.tas.gov.au

Dear Hon Michael Ferguson MP

STATE PLANNING PROVISIONS REVIEW – CITY OF HOBART FEEDBACK

Thank you for the opportunity to provide feedback on the State Planning Policies.

Please refer to the City of Hobart submission provided as an attachment to this letter. This submission was endorsed at the Council meeting on 1 August 2022.

Some of the key issues and suggestions can be summarised as follows:

- All elements of the SPPs should be within the scope of the review, and no part should be omitted from the review.

- The scope of the review should not exclude legislative change where required to adequately support the delivery of outcomes.

- The exemptions require a comprehensive review to ensure matters that should be considered by the scheme are not exempt, and that matters that don't require assessment are exempt.

- A thorough review of the residential standards is supported. The provisions do not currently encourage good outcomes.

- The City of Hobart has a long and successful history of the protection of heritage places and heritage precincts of both local and state value. The Local Historic Heritage Code is considered deficient in many areas. The City's unique built heritage will be eroded because of inappropriate development on and adjacent to listed places and in heritage precincts. The Code is lengthy, not consistent, logically structured and poorly drafted. It requires considerable redrafting to ensure it is consistent with current and good heritage practice and include references to the Burra Charter and to operate in the Hobart context.

City of Hobart officers would be more than happy to assist with drafting a revised Code.

- Consider potential mechanisms and issues for ensuring that development applications that propose improved access facilities to meet the equal access requirements of the National Building Code are taken into account in assessments under the Local Historic Heritage Code or the *Historic Cultural Heritage Act 1995*.

- Significant Trees should be covered by a separate code, not the Historic Heritage Code, as there are many trees that are listed for reasons other than historic heritage significance.

- It is considered that the Natural Assets Code does not provide adequate protection of natural values. This code should be reviewed and updated.

- The Natural Hazards codes require significant review.

- It is suggested that the parking rates within the Parking and Sustainable Transport Code are reviewed and updated.

- Suggest including the Stormwater Management Code from the Southern Region's interim planning scheme into the SPPs. Stormwater will be insufficiently managed via the current SPPs and the Urban Drainage Act as currently proposed.

- There are a number of terms that would benefit from having definitions included within the SPPs, either within Section 3.0 Interpretation, or specifically within Codes. Refer to the attached document for details.

Please also refer to the previous City of Hobart submissions during the initial 2016 consultation phase of the SPPs and the implementation of Planning Directive 8, which provide further detailed issues that are generally still relevant.

If you have any questions relating to this matter, please contact me on [redacted] or [redacted].

Yours faithfully

[redacted]

(Neil Noye)
DIRECTOR CITY PLANNING

Section	Relevant Clause / Provision	CoH Comment
Administration		
3.0 INTERPRETATION	Actively mobile landform	Require further clarity on definition. This term is referred to in the exemptions, and it is very difficult to administer when there is no agreed definition. Refer to report on ambiguous terminology by Chris Sharples: http://www.williamccromer.com/content/uploads/2015/03/SharplesOpinion_CoastalDuneTerminology_PolicyImplications_v3_May2012.pdf
	Climate Change Climate Mitigation (greenhouse reduction) Climate Adaptation Climate Resilience Climate Change hazard Climate vulnerability Mal-adaptation	Climate change related definitions such as those to the left should be added into the scheme if they are used in new provisions to cover whole of climate change risks – see under 'other comments' below.

Section	Relevant Clause / Provision	CoH Comment
	Coincident, cascading, concatenating climate hazard	
	Primary frontage	The definition refers to the shortest frontage, which can cause issues, particularly in cases where multiple dwellings are proposed on corner lots or where a house addresses the longer frontage. Suggest acknowledging the frontage of an existing house addresses/the main entry point faces and in the case of vacant lots, whichever street is referred to in the address of the lot.
	Road	The definition should include 'user roads' which are highway reservations used by the public but are in the title of the property. This definition should also include areas the general public does not have permanent right of passage such as nature strips which are required for location of services, future works and embankments etc.
	Road reserve	This is not defined and should be. Does it include the whole of the highway reservation?
	Secondary residence	The definition of secondary residence should perhaps also include detached strata dwellings, not just single dwellings, as buildings the use can be appurtenant to.
	Site coverage	The definition of site coverage should be changed to incorporate all hard surfaces to achieve better stormwater management outcomes. Solutions may be sod rooves, pervious pavers, on site detention, roof top gardens, etc. Designs that reduce the runoff or temporarily detain runoff.
	Short term vs. Long term accommodation	It is unclear what the difference between 'short term' and 'medium term' (and, indeed, 'long term') accommodation is, under 'serviced apartment' and 'visitor accommodation'. These terms should be defined to avoid ambiguity.

Section	Relevant Clause / Provision	CoH Comment
		There should also be certainty provided as to when a dwelling is considered a 'main place of residence'. The reference to the owner or occupier being on 'vacation' is vague in terms of time limit, and also suggests those away temporarily for reasons other than a 'vacation' and are not subject to the same consideration.
4.0 EXEMPTIONS	General	The exemptions require a comprehensive review to ensure matters that should be considered by the scheme are not exempt, and that matters that don't require assessment are exempt.
	Clause 4.2.4 – Road works	Refers to road reserve, which is not defined in Clause 3.0. The exemption needs to provide for maintenance and repair works to be undertaken within the whole highway reservation.
	Clause 4.2.5 – Vehicle crossings, junctions and level crossings	Vehicle crossings should be required to comply with C2.6.3 A1 and A2 – Number of Accesses for Vehicles.
	Clause 4.3.2 - Internal building and works	All internal building and works are exempt under this clause. Therefore, removal of fireplaces, original staircases, etc. could be exempt from heritage places. The footnote states that approval may be required for THR listed properties, but given that list is dwindling, this could have a significant impact, and could result in heritage 'shells'. Under the Heritage Code, more specific exemptions could be provided ensuring significant elements such as staircases, ceiling roses, fireplaces etc. are retained. Internal works fall within the definition of 'development' under the Act. Note the decision of MA and JM Purton v A and M Jackson [2013] TASRMPAT 99 *31 In the Tribunal's view, the definition of development should not be constrained in the manner contended by solicitors for the Council. Section 3A of LUPAA can be read and indeed ought to be read as the "construction of a building", "the exterior alteration of a building" or the "exterior decoration of a building". The use of the word "or" indicates that the eusdem generis rule ought not to apply and the word "construction" should therefore be given its ordinary meaning. That ordinary meaning includes the erection of internal and external walls and there is no logical basis for a distinction. To suggest that the particular*

Section	Relevant Clause / Provision	CoH Comment
		mention of "exterior alteration" or "exterior decoration" favours the definition of a construction or indicates an intention to exclude internal changes to a building is, with respect, incorrect.
	Clause 4.3.6 - Unroofed decks	What is the purpose of decks not being exempt if they are attached to or abutting a habitable building? It is considered that it shouldn't matter if it is attached or not attached to a habitable building. It is opined that subclause (a) should be deleted and only subclause (b) be retained.
	Clause 4.3.7 - Outbuildings	Some clarity is required where it says "there are not more than 2 on a lot" and "not more than 1 on a lot". For example, if you have an existing dwelling with a carport out the front, and you want to build a shed up to $18m^2$ at the back of the property, are you excluded from doing this under 4.3.7 (b) because there is already an outbuilding on the lot (the carport) which is up to $18m^2$? If the carport is bigger than $18m^2$, would the new shed be exempt under clause 4.3.7 (b) because there isn't an existing outbuilding with "a gross floor area not more than $18m^2$" because the existing outbuilding (the carport) is bigger than $18m^2$?
	Clause 4.3.10 – Demolition of exempt buildings	Only demolition of 'exempt' buildings is exempt, which only covers those circumstances to which an exemption under 4.0 applies. There are no exemptions under 4.0 relating to extensions etc., so demolition of a porch or a small lean-to laundry, etc. would not be exempt. It would perhaps be better to refer to exempt OR no permit required development (aside from whole dwellings/buildings other than outbuildings).
	Clause 4.4.2 – Landscaping and vegetation management	Landscaping and vegetation management – does this include tree removal? If so, (b) should not just apply to those specified in the heritage list. The City of Hobart's list is extensive and it is unrealistic to undertake an exercise to identify all trees of interest. It would be preferable to exclude places and precincts subject to the Local Historic Heritage Code from the exemption, and then provide more detailed exemptions in the code itself, particularly with regard to large trees.
	Clause 4.5.3 – Wind turbines	Wind turbines should not be exempt in the more developed residential zones. Even if it complies with distances at a particular point in time, subdivision and further development could encroach on these setbacks, and it would be inappropriate to use an existing wind turbine as a reason to restrict further development in zones where further development and subdivision is appropriate for densification purposes.

Section	Relevant Clause / Provision	CoH Comment
	Clauses 4.6.3 and 4.6.4 – Fencings within 4.5m of a frontage, and not within 4.5m of a frontage	Requires review. The exemption is considered too generous and generally more than required
	Clause 4.6.8 - Retaining walls	It is not clear why a retaining wall would need to be setback at least 1.5m from a boundary. Retaining walls terracing a garden for example would often run from side boundary to side boundary or a retaining wall could be on a front boundary. Retaining walls below natural ground level should also be exempt under this clause, even if they retain a difference in ground level of >1.0m and even if they are within 1.5m of a boundary. Otherwise a retaining wall under the ground could trigger a front setback discretion, or a building envelope discretion, when the rest of the development is compliant. Ideally, retaining walls shouldn't trigger a building envelope or front setback discretion. On Hobart's sloping sites, it's difficult to avoid a retaining wall in the front setback.
	Outbuildings and garden structures in residential zones	There is no specification of the location of exempt outbuildings in residential zones. They should be required to be behind the main building line, or no less than the relevant Acceptable Solution requirement, whichever is the lesser.
	Create a pathway for multiple	We need a pathway for multiple dwellings to be 'no permit required' exempt, so that development which otherwise meets every acceptable solution, can be NPR exempt, rather than needing a DA. We regularly have to take DAs for minor work at units - low decks, new windows, putting in bi-fold doors, etc., that meet every acceptable solution, but can't be exempted. If

Section	Relevant Clause / Provision	CoH Comment
	dwellings to be 'no permit required'	the same development was proposed on a single dwelling, it would be NPR exempt. This doesn't seem equitable, as multiple dwellings should be assessed in the same way as single dwellings.
	Operative clause	An operative clause is required that states that where an exemption excludes use or development to which a code applies, but then that use or development is specifically exempt from that code, it should be considered to be exempt from requiring a permit under the scheme. Alternatively, the approach taken for the limited exemptions in the interim schemes could be adopted (i.e. only referencing use/development that 'require a permit' under a particular code, thus excluding any use/development that is subsequently exempt from the code). The term 'subject to' a code, used in the TPS exemptions, is not adequately clear whether this only covers scenarios where a permit is required under the code.
General Provisions		
7.0 GENERAL PROVISIONS	Clause 7.1.1	Lack of clarity around whether this clause allows for a change of use from one (prohibited) use to another (prohibited) use, or whether it simply allows for changes to the existing prohibited use. It is preferable to allow going from one prohibited use to another, if that new prohibited use is a better fit for the site/zone.
	Clause 7.3	Subclause (b) relating to only 'minor changes' to lot shapes is currently causing problems in terms of definition and application. There are issues where boundary adjustments made to improve the usability of sites must be categorised as 'subdivision' because of this clause, and in some circumstances this makes them prohibited, which does not result in a positive planning outcome. For example, the amount of land being transferred between a large lot and a small lot may be considered 'minor' in scale to the larger lot involved, but not to the smaller lot and therefore it cannot be considered a boundary adjustment even though the usability is improved or at least not reduced for both lots. Perhaps reference should be made instead to achieving the Zone Purpose Statements/Desired Future Character Statements.
Zones		

Section	Relevant Clause / Provision	CoH Comment
GENERAL COMMENTS	Residential zones	Support residential standards being thoroughly reviewed.
	New Specific Area Plans and application of Particular Purpose Zone	It is considered that the framework for justifying SAPs and PPZs does not provide clear guidance on when these can and should be applied. Some more directive provisions around the application of these would be beneficial.
	General and Inner residential zones	Many Acceptable Solutions don't adequately protect residential amenity/maintaining residential character. An analysis of acceptable solutions is required, such that acceptable solutions shouldn't allow for development that would not meet the performance criteria.
	Subdivision	Reference should be made to the LGAT/IPWEA Tasmanian Standard Drawings and Tasmanian Subdivision Guidelines at a minimum
		Reference should be made to the series of street lighting standards AS1158, earth retaining structures AS4678, vehicle crash barriers AS 1170.1 and safe design of structures code of practice (as adopted under section 274 of the Work Health and Safety Act 2012), Austroad guidelines and Department of State Growth Specifications, at the minimum for subdivisions
		Reference should be made to excavation and structures within the property and supporting the highway reservation (i.e.. building wall of a basement), to not undermine the structural integrity of the highway reservation and be designed in accordance with AS4678 with a design life for major public infrastructure
8.0 GENERAL RESIDENTIAL ZONE	Clause 8.2 – Use Table	General retail and hire - the limitation on local shop prevents other uses which provide a local service such as hairdressers, this limitation applies in the General and Low Density Residential Zone but not in the Inner Residential Zone. This is unreasonably restrictive

Section	Relevant Clause / Provision	CoH Comment
		The qualifications for business and professional services, food services and general retail and hire are seriously inadequate - there should be qualifications to prevent displacement of residential uses in residential zones. it is not sufficient to rely on the zone purpose statements to prevent a proliferation of commercial uses in residential zones, particularly as it would be difficult to assess each individual application in relation to how many other applications for non-residential use have been approved, and if the application met all zone standards it would be difficult to refuse on the basis of proliferation of non-residential use.
	Clause 8.4.2 – P2 -Setbacks and building envelope for all dwellings	The primary issue for this PC should not be whether the new garage or carport is compatible with existing garages/carports in the street (which may include some highly undesirable garages/carports), but whether the development maintains or improves the quality of the streetscape. [this should also be changed for other residential zones and also for provisions relating to non-residential garages and carports]
	Clause 8.4.3 – P1 and P2 - Site coverage and private open space for all dwellings	P1 and P2 should have the option for no private open space to be provided where *'the projected requirements of the occupants are considered to be satisfied by public open space in close proximity'* to allow for adaptive reuse of existing buildings for multiple dwellings that may not have sufficient private open space on site, but are in very close proximity to a public park.
	Clause 8.6 - Development Standards for Subdivision	The Southern Interim Schemes contain a standard related to the appropriate provision of ways and public open space in the residential zones. The omission of this standard for residential subdivision with no alternative consideration of pedestrian links and open space is inconsistent with Southern Tasmanian Regional land Use Strategy (STRLUS) objectives: *ROS 1.6 - Ensure subdivision and development is consistent with principles outlined in 'Healthy by Design: A Guide to Planning and Designing Environments for Active Living in Tasmania.*

Section	Relevant Clause / Provision	CoH Comment
		ROS 1 - Plan for an integrated open space and recreation system that responds to existing and emerging needs in the community and contributes to social inclusion, community connectivity, community health and well-being, amenity, environmental sustainability and the economy.
	Clause 8.6.2 - Roads	What is the definition and scope of the "road network plan", it would be useful to have some guidance to provide greater consistency. . There needs to be a default alternative should a road network plan not be in existence (i.e. Austroads, IPWEA Standard drawings or similar guidance documents). P1 (g) refers to facilitating walking, cycling and public transport but is silent on the provision of suitable and appropriate bus stops , or bus routes. P1 (h) refers to bicycle on new arterial and collector roads –should also include link roads. These issues are also relevant in other zones where similar standards are used.
9.0 INNER RESIDENTIAL ZONE	Clause 9.2 – Use Table	Food services (except for drive through take aways) and general retail and hire are discretionary without qualification. For example, new shops and shops in existing houses would have the same status as a change of use to a shop from an existing office. It is unreasonable to allow unconditional spread of commercial businesses on vacant sites or in existing houses in residential zones. If a mixed use environment is desired for a particular area, the mixed use zone should be applied. Inner residential zones are by definition only located close to existing services anyway, so they wouldn't necessarily need an unqualified increase in additional services within the zone itself, and it is likely that non-residential uses will start to proliferate in these inner-city zones and compromise the intent of the inner residential zone to primarily provide for high density residential accommodation.
	Clause 9.4.1 - Residential density for multiple dwellings	There is no maximum site area per dwelling or maximum permitted lot size (under 9.6.1) in the zone, which will not assist in increasing dwelling densities as required under the STRLUS. There is nothing in the zone actively encouraging higher density, although this is the target zone for increased dwelling density. The zone is very unlikely to achieve the density required through the land use strategies if inefficient utilisation of land is allowed as permitted development.
	Clause 9.4.3 - Site coverage	P1 and P2 should have the option for no private open space to be provided where 'the projected requirements of the occupants are considered to be satisfied by public open space in close proximity' to allow for adaptive reuse of existing

Section	Relevant Clause / Provision	CoH Comment
	and private open space for all dwellings	buildings for multiple dwellings that may not have sufficient private open space on site, but are in very close proximity to a public park.
10.0 LOW DENSITY RESIDENTIAL ZONE	Clause 10.2 - Use Table	In a similar issue to the other residential zones, Business and Professional Services uses should not displace residential uses, and neither should local shops. It is particularly inappropriate that food services (other than drive through take aways) are discretionary without qualification. It is preferred that this use be prohibited in this zone, but at the very least it should include the qualification as proposed under the General Residential Zone.
	Clause 10.4.3 - Setback	Frontage setback of 8m is excessive, many of the existing setbacks in the current Low Density Zone under the HIPS are less than this, it is suggested that the current 5.5m setback remain or there are likely to be numerous unnecessary discretionary applications required.
11.0 RURAL LIVING ZONE	Clause 11.2 - Use Table	Food Services being discretionary up to 200m2, regardless of whether in an existing commercial building or displacing a residential use, is considered to be inappropriate in this zone and should be prohibited. At the very least, the qualification as described under the General Residential Zone should be added. General Retail and Hire should include the qualification as suggested under the General Residential Zone.
	Clause 11.4.2 - Building height, setback and siting	A2 the frontage setback of 20m is excessive and will result in unnecessary discretionary applications, it is suggested that the current 10m setback in the HIPS be retained.
13.0 URBAN MIXED USE ZONE	Clause 13.4.6 - Dwellings	The only issues dealt with in relation to dwellings are private open space and storage areas. It is considered that there is merit in having slightly higher protection for residential amenity for dwellings in this zone, as it is a mixed use zone and not purely a business related zone. For example, the side setback provisions could also apply to adjoining lots with a residential

Section	Relevant Clause / Provision	CoH Comment
		use, and there could be consideration of overshadowing and privacy to adjacent residential dwellings in the performance criteria relating to height.
		There is a lack of residential and visitor accommodation amenity standards. CoH would like to see amenity standards introduced, and could be done so either via the Urban Mixed Use zone or through an amenity standards Code.
	Clause 13.5 - Development Standards for Subdivision	There are no standards for new roads in subdivisions in this zone, the reason for this is not apparent. This also applies many other zones where new roads as part of subdivision are a possibility.
14.0 LOCAL BUSINESS ZONE	Clause 14.2 - Use Table	Business and professional services are NPR with no qualifications. Under the HIPS, only consulting room, medical centre and post office are permitted, other uses in this class are discretionary. It is not appropriate to have general offices as NPR in a local business zone as offices don't tend to serve the local community directly. The local business zones in Hobart (and presumably other areas of the State) are not extensive and should prioritise higher order local services. Business and professional services uses other than those mentioned should be discretionary, and perhaps only if above ground floor level.
		Food services with drive through facilities should not be NPR in the zone.
		Hotel industry should be discretionary rather than permitted, as these zones are generally small and surrounded by residential zones, and such uses can have a significant impact.
		Equipment and machinery sales and hire, manufacturing and processing, service industry, storage are all discretionary under the TPS but are currently prohibited under the HIPS. These uses are generally not appropriate for local service zones and can be land intensive and of limited local benefit but with more significant amenity impacts.
	Clause 14.5.1 - Lot design	A2 provides for a 3.6m frontage which would allow internal lots which are generally not appropriate in Local Business Zones, wider frontages are required for businesses to front the street and create an attractive shopping environment.
	Clause 15.4.6 - Dwellings	Dwellings in business zones should perhaps include sound insulation requirements to lessen potential future use conflicts.

Section	Relevant Clause / Provision	CoH Comment
15.0 GENERAL BUSINESS ZONE	Clause 15.5.1 - Lot design	A2 provides for a 3.6m frontage which would allow internal lots which are generally not appropriate in General Business Zones, wider frontages are required for businesses to front the street and create an attractive shopping environment.
16.0 CENTRAL BUSINESS ZONE	General	Support a thorough review of the use and development standards. Many are not considered appropriate for this zoning.
		The City of Hobart proposes to override many of the standards in this zone with a Specific Area Plan as they not appropriate for the Hobart CBD. The SAP will address matters such as the current active frontage overlay, pedestrian priority streets, and pedestrian links and height standards.
	Clause 16.2 - Use table	Allowing bulky goods sales at ground floor level as a permitted use in any central business area is inconsistent with the zone purpose to provide for a concentration of higher-order business and encourage activity at pedestrian levels with active frontages and shop windows offering interest and engagement to shoppers. Bulky Goods Sales includes uses such as garden and landscape suppliers, rural suppliers, timber yards, trade suppliers and motor vehicle, boat or caravan sales.
	Clause 16.4.6 - Dwellings	Dwellings in the Central Business Zone should perhaps include sound insulation requirements to lessen potential future use conflicts.
	Clause 16.5.1 - Lot design	Provides for a 3.6m frontage which would allow internal lots which are generally not appropriate in Central Business Zones, wider frontages are required for businesses to front the street and create an attractive shopping environment. The HIPS2015 currently has a minimum frontage of 4m in this zone.
22.0 LANDSCAPE CONSERVATIO N ZONE	General	Given the permitted lot size in the Rural Living Zone is 1ha/2ha/5ha/10ha, there is a significant gap between that zone and the Landscape Conservation Zone with a permitted lot size of 50ha. There is no zone to apply to larger lot bushland residential areas somewhere in between. Suggest reintroducing the Environmental Living Zone.
	Clause 22.2 - Use Table	Food Services less than 200m2 are discretionary, as is General Retail and Hire associated with tourism. It is questioned whether these are appropriate uses in a zone mainly focussed on visual and conservation issues.
	Clause 22.3.1 - Community Meeting and	Domestic Animals, Resource Development, Sports and Recreation and Tourist Operations should be included in this use standard. It is not clear why you apply standards for something relatively benign like home-based childcare but not for the above uses which could have far greater impact?

Section	Relevant Clause / Provision	CoH Comment
	Entertainment, Food Services, and General Retail and Hire uses	
26.0 UTILITIES ZONE	Clause 26.2 - Use Table	Provide for sale of compost / mulch (Bulky Goods Sales) and General Retail and Hire uses such as the Tip Shop as these are often associated with recycling and waste disposal uses.
CODES		
C1.0 SIGNS CODE	Exemptions	Exemptions should be standalone, not require assessment against the whole code to determine if the exemption applies or not.
	Table C1.4	There are less exempt sign types – notably Above Awning Sign, Below Awning Sign, horizontal projecting wall sign, internal sign, transom sign, wall mural and wall sign have no exemptions. This may be overly restrictive and increase the number of unnecessary applications the planning authority must process. There should be controlled circumstances that allow for unobtrusive signs, limited in number, to be exempt.
		Fuel Price Signs, newspaper day bill signs, open/closed signs, reserve signs, screen signs, street number and umbrella sign are not defined signs in the TPS, but are in the HIPS, and are exempt. It is worth retaining a specific exemption for these as otherwise they would have to be classed as another sign type which may cause them to require a permit.
	Clause C1.6 - Development Standards for Buildings and Works	'Discretionary' status has been removed for signs in particular zones and now sign types are either permitted in 'applicable zones' if they meet the standards, or discretionary if in applicable zones and don't meet the standards. This is simpler than the matrix of the HIPS, but removes the concept that a sign type can be generally discretionary based on the zone it is in. The table could be amended to include two applicable zone columns – one for zones where the sign type is permitted and one for zones where the sign type is discretionary.

Section	Relevant Clause / Provision	CoH Comment
	Clause C1.6.3 - Third party sign	Third party signs in the form of poster panels (billboards) are generally unnecessary, create visual clutter and adversely affect the visual qualities of the built and natural environment in Tasmania and should be prohibited. The billboards adjacent to the Tasman Highway in the vicinity of the Hobart Airport are a prime example of this.
	Table C1.6	Generally review sign types in zones, seems unnecessarily restrictive for some sign types compared to the current Southern Interim Planning Schemes. If it is possible to have a use in a zone that requires signage then an appropriate range of sign types should be possible. For example food services and local shop are discretionary in the General Residential Zone but it is not possible to have an above awning sign or a building fascia sign. Also there is a need to review the consistency of sign types possible in zones, e.g. awning fascia is possible in all zones, above awning only possible in 8 zones not including the Local Business Zone.
C2.0 PARKING AND SUSTAINABLE TRANSPORT CODE	General	The City of Hobart's Development Engineering department has concerns regarding the suitability of the Code being applied to Hobart, and its future effects on development planning within the municipality.
		Call for a detailed review of the Code, as its Use and Development standards appear to be significantly deficient compared to what is the currently available within the Hobart Interim Planning Scheme 2015. A review will allow the City of Hobart's Development Engineering department to propose a Local Provision Schedule specific to Code 2.0 to address the gaps identified.
		There is an inability to consider on-site turning under the Code.
	Clause C2.5.1 - Car parking numbers / Table C2.1 - Parking space requirements	Parking rates need a comprehensive review. They are over stated, onerous, and unsustainable.
		A maximum parking rate should also be specified for commercial uses in order to prevent over provision of parking consistent with the STRLUS objectives.
	Clause C2.5.5 - Number of	A1 (a) should relate to whichever is the 'lesser' rather than whichever is the greater.

Section	Relevant Clause / Provision	CoH Comment
	car parking spaces within the General Residential Zone and Inner Residential Zone	
	Clause C2.6.3 - Number of accesses for vehicles	The provision relating to number of access points should also have a qualification relating to Parking Precinct Plans. Hobart has areas where no new vehicle access points are appropriate, or where they are appropriate only in certain circumstances.
	Clause C2.6.7 - Bicycle parking and storage facilities within the General Business Zone and Central Business Zone	There should be requirements for end of trip facilities such as showers and lockers with the bicycle parking standards consistent with the following STRLUS objective: *LUTI 1.12 Include requirements in planning schemes for end-of-trip facilities in employment generating developments that support active transport modes.*

Section	Relevant Clause / Provision	CoH Comment
	Table C2.1 – Parking Space Requirements	Bicycle parking requirements for multiple dwellings (where in an apartment building) need to be included in Table C2.1.
	Clause C2.6.8 - Siting of parking and turning areas	The General Residential Zone should be included in the list of zones where parking should be behind the building line where possible.
C3.0 ROAD AND RAILWAY ASSETS CODE	General	Increased traffic at an existing access or junction cannot be considered under the Road and Railway Assets Code E5.0. Refer to South Hobart Progress Association v Hobart City Council and S Giameos [2017] TASRMPAT 5 and B Paterson, C Larkman, B & S Drake, D & S Reid and K Kam v Hobart City Council and Tasmania Wild Experience Pty Ltd [2020] TASRMPAT 24)
		Addition of a provision that considers the intensification that multiple developments have on the surrounding junctions and accesses would be beneficial.
C6.0 LOCAL HISTORIC HERITAGE CODE	General	Concerns with several areas including its application, definitions, omissions and structure.
		The Local Historic Heritage Code includes some significant changes compared to E13.0 Historic Heritage Code in HIPS 2015. This includes removing the application of the Code to places that are listed on the Tasmanian Heritage Register. This removes the opportunity for the City of Hobart who have actively managed heritage places over many decades to make important decisions and assessments in order to retain heritage values and consider streetscape, historic patterns of development, the height and bulk of buildings and to make thorough and holistic planning assessments under LUPAA. It is inappropriate to filter 'local' values from 'state' values or vice versa for the City of Hobart. Hobart's Community Vision (July 2018) recognises our shared sense of ownership of its unique heritage and unwillingness to compromise on our Hobart identity and character.

Section	Relevant Clause / Provision	CoH Comment
		The Tasmanian Heritage Council will not take into consideration of local heritage values, wider streetscape issues, historic and significant areas such as Battery Point and Sullivans Cove.
		Places are heritage listed for a range of reasons, including local and historic but also within a wider context of other heritage values. For example the Hobart Town Hall or Government House in Hobart are significance for heritage values such as aesthetics, creativity and archaeological. They are also significant for their place within a wider landscape, townscape and/or streetscape setting.
		The Burra Charter 2013 has been adopted by the peak body of heritage professionals working in heritage conservation in Australia. It continues to reflect best heritage practice in heritage and conservation management by setting out a standard of practice for those who provide advice and make decisions about places of heritage value. It is a relevant and appropriate document to be reflected in the SPP. While it is positive to see the principle of adaptive reuse referenced in the Commentary on the General Provisions (see table 7.0.1, p.28), the Burra Charter is not a document from which only selected passages are taken and must be used as whole. The SPP should be consistent in the use of Burra Charter definitions, principles and practices.
		Consider potential mechanisms and issues for ensuring that development applications that propose improved access facilities to meet the equal access requirements of the National Building Code are taken into account in assessments under the Local Historic Heritage Code or the *Historic Cultural Heritage Act 1995*.

	Clause C6.2.2 & Clause 6.2.3	*C6.2.2 If a site is listed as a local heritage place and also within a local heritage precinct or local historic landscape precinct, it is only necessary to demonstrate compliance with the standards for the local heritage place unless demolition, buildings and works are proposed for an area of the site outside the identified specific extent of the local heritage place.* *C6.2.3 This code does not apply to a registered place entered on the Tasmanian Heritage Register, unless for the lopping, pruning, removal or destruction of a significant tree as defined in this code.* Local Heritage Listed Places located within Heritage Precincts or Cultural Landscape Precincts only require assessment against standards for Heritage Places. The reasons for this policy position are unclear and would not appear to meet contemporary heritage protection requirements or address wider townscape / streetscape values for which the site may be included in a heritage precinct such as groupings of houses with matching features, the collective character of heritage precinct settings, the historic pattern of development, and other significant elements that are recognised within a wider heritage precinct environ. Some parts of Hobart feature areas with condensed place listing for example Battery Point - a large percentage of the Battery Point 1 Precinct is covered with THR and CoH listed places, leaving little protection for the wider streetscape, townscape, settlement patterns, and unique Battery Point features to have no assessment requirements under the heritage precinct provisions. For example Arthurs Circus is highly significant for its consistent single storey streetscape, unique street layout, it is one of Australia's first subdivisions made up of 16 cottages, and the only circus street layout in Australia. Many of these unique streetscape qualities will fail to be assessed or taken into consideration under individual place provisions. The assessment of planning applications for THR properties cannot be relied upon to achieve heritage outcomes that consider streetscape, heritage precinct or wider townscape settings. RMPAT decisions are a corroboration that the City of Hobart have appropriately considered heritage precinct values in assessments involving bulk, height and streetscape values, in contrast to the narrow place approach under the *Historic Cultural Heritage Act 1994*: • S Solvyns v Hobart City Council & Ors [2017] TASRMPAT 8 53 Runnymede Street, Battery Point • S Visagie v Hobart City Council and Ors [2017] TASRMPAT 2 - 141 Hampden Rd, Hobart • Hexa Pacific Pty Ltd v Hobart City Council and Ors [2020] TASRMPAT 1 - 58 Harrington Street, 59 Davey Street, 61 Davey Street and adjacent Road Reserve

This dismissal of the Heritage Code is inconsistent with LUPAA. In particular, Schedule 1 - Objectives Part 1 (e) and Objectives Part 2 (a) and (g).

It is requested that the SPPs allow for assessment against ALL relevant heritage provisions in C6 to provide a more holistic heritage assessment and that Clause C6.2.3 be removed.

	Clause C6.2.3	The Code at present is unclear if the City of Hobart is able to assess archaeology on THR listed sites? The current Place of Archaeological Potential (defined in HIPS 2015) covers many early sites within the city. The THR only has a small number of sites listed specifically for archaeological potential. Council's overlay has led to many archaeological discoveries that have enhanced public knowledge and contributed to an understanding history of early Hobart settlements and sites. These important archaeological sites with the potential to yield new historical information will go unprotected, unrecorded or interpreted. An amendment of C6.2.3 is required to allow for assessment of THR listed properties under C6.8 Development Standards for Places or Precincts of Archaeological Potential.
	C6.4.1 - Exempt Development (e) maintenance and repairs that do not involve removal, replacement or concealment of any external building fabric.	Exemption (e) does not allow for "like for like" repairs and maintenance, The current like for like exemption in HIPS *E13.4.1 (b) maintenance and minor repair of buildings, including repainting, re-cladding, re-roofing and re-stumping where like-for-like materials and external colours are used* - allows for a greater scope for exempting works such as roof replacements, or maintenance of cladding such as replacing damaged timber weatherboards or rotting window frames in a 'like for like manner'

	Clause C6.8.1 - Building and works	C6.8 Development Standards for Places or precincts of Archaeological Potential P1 does not include any provisions for meaningful public benefit / interpretation. C6.8 P1 should include a provision similar to HIPS E13.10.1 (d) measures proposed to realise both the research potential in the archaeological evidence and a meaningful public benefit from any archaeological investigation;
	Clause C6.6.1 - Demolition	The provisions are poorly drafted. (f) and (g) essentially refer to the same thing. Whilst (h) is highly ambiguous 'any' economic considerations, an individual's economic considerations is should not be a planning scheme consideration. The wording from HIPS 2015 E13.7.1 Demolition P1 (a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place - should be utilized in the SPPs and (h) of C6.6.1 should be removed.
	Clause C6.6.5 Fences for Listed Places provision ;	*New fences and gates must be compatible with the local historic heritage significance of a local heritage place, having regard to:…* *(c)the dominant fencing style in the setting;…* *(e) the proposed height and location of the fence* (c) is problematic in that the dominant fencing style in the setting may be a detracting element of the surrounding streetscape, and be full of high solid fences that were not approved under recent planning schemes. The fencing provisions for places make no mention of fencing materials. Yet the heritage precinct provisions for fencing refer to height, form, style, and materials. Remove provision (c) from C6.6.5. Include the use of the word material in (e) the proposed height, (material), and location of the fence

	Clause C6.9 - Significant Tree Provisions	Concerns with including Significant Trees within the Heritage Code as it is not a logical or an ideal place. There are many trees in the Hobart Significant Tree list that are not listed for their heritage values but for other values such as aesthetic reasons, for their value to a local community or because they are rare examples, unusual in their form, provide genetic diversity and so on. Refer to this recently written article on COH trees: https://www.fortysouth.com.au/environment/the-whos-who-of-trees The assessment used by the City of Hobart of significant trees falls across 10 categories. A copy of these categories can be provided separately. A wider appreciation of the rational for significance listings is required within a separate code with appropriate definitions including 'tree protection zone' which is a welcome addition. It is noted that the explanatory document provided states that it is not considered appropriate to include a separate code that is only applicable to 3 or so planning authorities. However, this document also acknowledges that many significant trees are listed for reasons other than heritage related reasons. It is also possible other municipal areas will take up the code over time.
C7.0 NATURAL ASSETS CODE	General	General review and rework of the Code required.
		The code addresses threatened flora species. Dealing with individual threatened species is a duplication of the Threatened Species Protection Act 1995 (TSPA), and has the capacity to cause issues. For example, it would only be possible to identify the species with a survey which may need to be completed for each proposal, and given the code is overlay-based this causes issues with identifying individual species.

		The Natural Assets Code does not provide adequate protection of natural values through exemption of the code in a range of zones. Priority vegetation is often found in these zones. Apply the Natural Assets Code to all zones
	Clause C7.4 - Development Exempt from this Code	The exemptions under this Code are very broad , and not consistent with biodiversity conservation, scenic protection, or best practice vegetation management across all land tenures (e.g. clearance and conversion or disturbance of priority and non-priority vegetation, works to protect water or coastal assets that may adversely impact locally rare species such as Little Penguin, or have unintended consequences).
		Include so that soil disturbance and removal of vegetation in a private garden within the bed and banks of a watercourse is not exempt, as this could contravene the code purpose. Riparian and coastal vegetation (native or exotic) has important functions even in private gardens (e.g. managing erosion, providing habitat). If it is going to be retained, at least include a definition.
	Clause C7.6.1 - Buildings and works within a waterway and coastal protection area or a future coastal refugia area	The standards for Class 4 streams are inadequate given they can be allocated to Class 4 purely on the basis of zoning.
	Clause C7.6.2 - Clearance within a priority	The standards in this section are unlikely to achieve the stated objectives. Further loss of priority vegetation will in many cases be unreasonable. It should be noted that these values are already in jeopardy and therefore require the highest level of protection practicable.

	vegetation area	
C8.0 SCENIC PROTECTION CODE	General	It is uncertain why the code does not apply to certain zones (e.g. Recreation, Major Tourism, Community Purpose, etc.)
	Clause C8.4 - Use or Development Exempt from this Code	8.4.1 (a) – Should replace 'exotic' with 'introduced' – this provision effectively makes redundant the inclusion of the Agricultural Zone as a zone to which the code may be applicable.
		C8.4.1 (e) exempting 'subdivision not involving works' could have significant effects on scenic areas. This exemption for subdivision would override the subdivision provisions in the zones. Codes in general should not allow for a subdivision that was not possible under the relevant zone provisions. (Refer E10.8.1 in the HIPS for an example).
		C8.4.1 (f) – this exempts not just maintenance of existing roads, but construction of new roads, which could have a very significant impact on scenic values.
C9.0 ATTENUATION CODE	Table C9.1 - Attenuation Distances	A 200m attenuation distance seems excessive for small bakeries. Suggest 100m like milk processing works.
		Suggest including music and other performance venues, particularly those that operate late at night. An attenuation distance of 100-150m is probably appropriate.
C10.0 COASTAL EROSION HAZARD CODE	General	Use Standards are confusingly detailed, but development standards are minimal. There are no Acceptable Solutions other than for subdivision, and the Performance Criteria all rely on a coastal erosion hazard report, which puts a lot of cost onto the applicant. There is no environment and coastal processes protection, no foreshore access protection and no references to ecological processes, coastal dynamics and climate change – the code is generally lacking in its application.

	Clause C10.3 Definition of Terms	'Tolerable Risk' - Poor definition. What are the risk criteria to evaluate whether the risk is tolerable? While the wording is unclear, it suggests that 'as low as reasonably practicable' is ok regardless of the actual level of risk.
		Manifest quantity' needs to be defined.
		'Coastal protection works are defined in 3.1.3 just as '*means structures or works aimed at protecting land adjacent to tidal waters from erosion or inundation'*. No scale or public authority etc. The HIPS15 definition includes '*considered necessary by an agency or council that have been designed by a suitably qualified person'* and distinguishes '*initiated by the private sector'*, and this should be retained.
	Clause C10.5.3 Critical use, hazardous use or vulnerable use	What is a coastal erosion event? And under P2 (b), what does *locations external to the immediate impact* mean? These need to be better clarified/defined.
	Clause C10.6.2 Coastal protection works within a coastal erosion hazard area	P1 - 'Kept to a minimum' is vague. Perhaps replace with 'the minimum required to adequately mitigate the risks to 2100'.
C11.0 COASTAL INUNDATION HAZARD CODE	General	The inundation code has been largely adapted from the landslip code (i.e. reliance on "tolerable risk") however lacks the supporting framework to make it able to be applied in an objective fashion.

		Tolerable risk is poorly defined. What are the risk criteria to evaluate whether the risk is tolerable? While the wording is unclear, it suggests that 'as low as reasonably practicable' is ok regardless of the actual level of risk. What is an 'unacceptable' level of risk?
		'Hazardous use' and 'Manifest quantity' need to be defined.
		Coastal and Riverine Inundation areas are often concurrent and the risk must be assessed as such. Why does the Inundation Code not apply in Coastal flooding areas (C12.2.5)?
	Clause C11.6.2 Coastal protection works within a coastal inundation hazard area	This is considered unreasonable for existing uses in non-urban zones. Why shouldn't they have the possibility of coastal protection as well?
C12.0 FLOOD-PRONE AREAS HAZARD CODE	Clause C12.4 Use or Development Exempt from this Code	There are concerns with these exemptions. Development associated with these uses (particularly outbuildings, landfilling and other obstructions) could have a significant impact upon inundation of other land. Suggest a conservative limit on the size of structures within the flood zone as qualifications if these exemptions are to be retained.
	Clause 12.7.1 - Subdivision within a flood-prone hazard area	C12.7.1.b provides an Acceptable Solution pathway for creation of lots for existing buildings- regardless of whether the existing building footprint is flooded. Many buildings were not assessed under the current flood legislation, and the risk associated with their use not quantified. It does not specify these buildings are dwellings and assessed for risk for residential use. There is a risk that a Lot will be created which is unsuitable for residential use or development of a replacement building. Due to changes in LG(BMP), it appears s109 h (a

		minimum Lot size free from inundation) would not apply in this case as a secondary protection. All subdivisions should be discretionary. C12.7.1 A1b to be either removed or at least limited to dwellings approved under this Scheme.
C13.0 BUSHFIRE-PRONE AREAS CODE	General	This code should go back to applying to use and development in bushfire prone areas, not just subdivision. It's problematic for it to apply to development at the building stage, but not the planning stage. The exclusion of habitable buildings from this Code may have negative implications for developers who require hazard management areas in order to meet the required BAL under the building system (max. BAL-29) or the BAL standards that they can realistically afford. Many will (particularly during the early stage of introduction) need to go back for further planning approval to have vegetation clearing approved sufficient to achieve their required/desired BAL level. This will likely end up being more inefficient than the previous process for some applicants.
C14.0 POTENTIALLY CONTAMINATED LAND CODE	General	Concerns with the application of the Contaminated Land Code (e.g. land upslope from a potentially contaminated area, needing to take applications for very small areas of land disturbance).
	Clause C14.3 Definition of Terms	'Site history' - The words 'if a site is likely to have been impacted by a potentially contaminating activity' are unclear. Is this just a site history that confirms that potentially-contaminating activities did not occur on the site or adjoining land or a site history and technical assessment that there was no contamination impact to a site as a result of potentially-contaminating activities?
C15.0 LANDSLIP HAZARD CODE	General	The peak body for such matters in Australia (AGS) use the term 'landslide' not 'landslip'. The Code should use the accepted terminology.
		'Hazardous use' - Include definition of 'manifest quantity'.

	Clause C15.3 Definition of Terms	'Landslip hazard report' - The correct term is a 'landslide risk management report' – refer to AGS guidelines.
		'Tolerable risk' - Poor definition.
Other		
	Protection for linear bicycle and walking infrastructure on public land	The scheme has provided for road and railway asset protection, along with other major linear infrastructure protection i.e. Road and Railway Assets Code, Electricity Transmission Infrastructure Protection Code, however there is no code or provisions for protection for linear bicycle and walking infrastructure on public land. Such assets are deserving of the same level of protection as other linear community assets.
	Climate change	Assessments need to be able to be undertaken at the whole of risk level, rather than at an individual development. For example a sea wall may be approved by an engineer who consider its function / performance at an individual development level rather than a whole of hazard level which may lead to maladaptive outcomes or transfer impacts elsewhere Capacity of Planning Schemes to consider future and/or unknown climate risk and hazard, and to avoid 'green-washing' (through technical responses) Overall deficiencies within the natural assets code Codes should be developed for heat and extreme storm events Planning zones should include – ' adaptation pathway zones'
	Protection of infrastructure	The ability to request further information, condition and/or refuse an application on the basis of impact to existing public infrastructure should be included.

	Local Government (Building and Miscellaneous Provisions) Act 1993	The *Local Government Building and Miscellaneous Provisions Act* currently only require Public Open Space (POS) contributions to be made for subdivisions. Stratum developments are not required to contribute, which is leading to considerable deficiency and contribution towards future funding for public open space providing public amenity with new unit developments. This is particularly evident in the inner city of Hobart, and inner suburbs (Inner Residential Zones, Mixed use). It also needs to be increased from 5% to 10% to be consistent with interstate developer contributions
	Infrastructure Contributions	Implement the findings of the LGAT Infrastructure Contributions Discussions Paper - April 2022.

Our Ref: LP.PLA.13

Enquiries: Michelle Riley
Phone : (03) 6323 9300

5 August 2022

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

By email: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam

Submission on the State Planning Provisions Review Scoping Paper

Thank you for the opportunity to provide input into the review of the State Planning Provisions (SPPs).

West Tamar Council have been operating under the Tasmanian Planning Scheme since January 2022. During this time a number of policy and operational issues have become apparent.

Staging the review

As this is the first significant review of the SPPs, a staged approach to the review is supported. It is recommended that the review be undertaken in stages being:

- **Operational issues** to improve effectiveness and more consistent interpretation; and
- **Policy issues** – that require a more rigorous process of engagement with local government to resolve. Depending of the timing of the development of the Tasmanian Planning Policies (TPPs), amendments to reflect the TPPs could also be included in this stage.

This would provide short term benefits to address operational issues rather than delay these outcomes to deal with more complex matters.

Section 8A Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application

The review of the SPPs should also include a review of *Section 8A Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application*. These guidelines are an important tool in implementing the SPPs. The wording and application of the guidelines require review to ensure they are consistent with the intent of the SPPs as amended and are written in such a way that good planning outcomes can be achieved.

Legislative changes

It is noted that section 2.1 of the Scoping Paper excludes consideration of the broader planning framework within *Land Use Planning and Approvals Act 1993* (LUPAA) and associated legislation from the review.

This is considered pre-emptive given the issues that may need to be resolved have not been fully scoped and there may be necessary amendments to the legislation to resolve those issues. While it is accepted that the focus of the review is on the SPPs, consequential amendments to LUPAA should not be out of scope this early in the process.

Future consideration should also be given to modernising the planning legislation and the broader Resource Management and Planning System.

Specific issues

The following attachments provide additional, and more specific issues to address through the SPPs review:

- Attachment 1 – additional operational issues
- Attachment 2 – additional policy issues
- Attachment 3 – West Tamar Council comments on issues previously raised and summarised by the State Planning Office.

West Tamar Council are supportive of the review and offer any support that can be provided, including representation in working groups to further the process.

If you would like to discuss this matter further please contact Michelle Riley, Municipal Planner on 6323 9300 or via email at [redacted]

Yours faithfully

[redacted]

Michelle Riley
MUNICIPAL PLANNER

Attachment 1 - Additional operational issues for consideration

<table>
<tr><th>Section</th><th>Clause/Provision</th><th>Issues Raised</th></tr>
<tr><td>3.0 Interpretation</td><td>Table 3.1 Planning Terms and Definitions

Sensitive use</td><td>The punctuation in the definition of Sensitive Use introduces ambiguity. Suggest amending the definition to:

<table><tr><td>Sensitive Use</td><td>means a residential use or a use involving the presence of people for extended periods except in the course of their employment<u>.</u> <u>Examples include</u> <s>such as</s> a caravan park, childcare centre, dwelling, hospital or school.</td></tr></table>
This will add certainty that uses like Visitor Accommodation are sensitive uses.</td></tr>
<tr><td>3.0 Interpretation</td><td>Table 3.1 Planning Terms and Definitions

Secondary residence</td><td>The definition requires that the secondary dwelling ‘shares with the single dwelling access and parking, and water, sewerage, gas, electricity and telecommunications connections and meters’.

In circumstances where a proponent wishes the development to be off-grid and not connect to standard linear infrastructure, or where it is not practical to share an onsite wastewater treatment system or rainwater tanks there is no flexibility embedded in the definition.

It is recommended that alternative wording be considered to allow for this circumstance.

There are likely other clauses in the SPPs that would benefit from review with a climate adaptation lens to minimise unnecessary regulation where alternative approaches to infrastructure provision are proposed.</td></tr>
<tr><td>4.0 Exemptions</td><td>4.2.4 road works</td><td>The exemption should include building new roads by or on behalf of the road authority.

The Local Government (Highways) Act 1982 requires suitable standards to be met.

The exclusion of new roads from the exemptions unnecessarily restricts road authorities by requiring, in some circumstances, a discretionary application for infrastructure they are responsible for building and maintaining.</td></tr>
</table>

<table>
<tr><th>Section</th><th>Clause/Provision</th><th>Issues Raised</th></tr>
<tr><td>6.0 Assessment of an Application for Use or Development</td><td>6.1 Application Requirements</td><td>Under section 51(1AC) of LUPAA, a valid application contains all relevant information required by the planning scheme with section 51(1AB) providing further guidance on owners consent.

Clause 6.1.2 of the SPPs details the minimum requirements for an application.

To ensure applications are well made and provide planning authorities with sufficient information to assess applications in a timely and efficient manner it is recommended that section 6.1.2 be amended to include a requirement for an application to include a statement about how the proposed development addresses the Tasmanian Planning Scheme requirements. This is particularly relevant for discretionary applications where the proposal seeks to depart from the acceptable solutions.</td></tr>
<tr><td>6.0 Assessment of an application for use or development</td><td>6.2 Categorising Use or Development

Table 6.2 Use Classes</td><td>Definition of Animal Breeding, Boarding or Training – should be refined to be for commercial purposes. There is a risk that interpretation of ‘kennels’ as they apply under the Dog Control Act could be any person with 3 or more dogs.

<table><tr><td>Domestic Animal Breeding, Boarding or Training</td><td>use of land for breeding, boarding or training domestic animals <u>for commercial purposes</u>. Examples include an animal pound, cattery and kennel.</td></tr></table></td></tr>
<tr><td>7.0 General Provisions</td><td>7.3 Adjustment of a Boundary

Subdivision standards in relevant zone provisions</td><td>Under clause 7.3.1, a boundary adjustment is permitted where:

(a) no additional lots are created;

(b) there is only minor change to the relative size, shape and orientation of the existing lots;

(c) no setback from an existing building will be reduced below the relevant Acceptable Solution setback requirement;

(d) no frontage is reduced below the relevant Acceptable Solution minimum frontage requirement;

(e) no lot is reduced below the relevant Acceptable Solution minimum lot size unless already below the minimum lot size; and</td></tr>
</table>

Section	Clause/Provision	Issues Raised
		(f) no lot boundary that aligns with a zone boundary will be changed. Under the West Tamar Interim Planning Scheme, the zone provisions included performance criteria for boundary adjustments that do not meet the above criteria. These were included in the General Residential, Low Density Residential, Rural Living, Village, Rural Resource zones and others. These provisions are necessary to allow boundary adjustments where the minor change criteria isn't met, or where the zone boundary may intersect with a proposed lot as in (f) above. A recent example in West Tamar involved two lots in two different zones, however the fence had historically been built on the incorrect alignment. Adjusting the boundary would not have resulted in a poor planning outcome and would have provided a simple solution for the two landowners who were in agreement with the change, however, as the lots were below the minimum lot size, a planning scheme amendment would have been required to facilitate an approval. The expense and complexity of this process made this approach unfeasible. Removal or refinement of item (f) would assist in these situations. There are many instances where one of the criteria in 7.3.1 cannot be achieved, and the SPP subdivision provisions prevent a boundary realignment that would otherwise be sensible and achieve better planning outcomes. The Rural Zone is a good example of this, where, for example, two properties of say 40ha each are adjacent to one another. One property is seeking additional land to facilitate a viable farming enterprise, however clause 7.3.1 prevents a boundary adjustment as the minor criteria cannot be justified and the subdivision provisions do not support boundary adjustments where no additional lots are created. The requirement to enter into a section 71 agreement that a dwelling cannot be built on the vacant lot is too restrictive and would make most subdivisions unfeasible and impractical. It also does not appear to be necessary in the Rural Zone. Another example is in the Agriculture Zone. Boundary adjustments under 7.3.1 are not permitted if the 200m setback from a sensitive use is not achievable (clause 21.4.2 A1). This prevents boundary adjustments occurring where there are 2 houses less than 400m apart on lots. While the subdivision provisions under clause 21.5.1 P1(b) anticipates boundary reorganisation, it again requires sensitive uses to achieve a 200m setback. However if you were to apply for a new sensitive use you can reduce the 200m setback through 21.4.2, P2. A modification to clause 21.5.1, P1(b)(iii) to delete the reference to A1 and A2 would

<table>
<tr><th>Section</th><th>Clause/Provision</th><th>Issues Raised</th></tr>
<tr><td></td><td></td><td>make this provision more practical and workable.

It is also recommended that the boundary adjustment provisions be reinstated into all of the zoning provisions to facilitate good planning outcomes and allow sensible development to occur.</td></tr>
<tr><td>Zones</td><td>Use tables</td><td>Emergency Services are identified as discretionary in the Agriculture, Utilities, Recreation and Open Space Zones. Consideration should be given to making Emergency Services Permitted in these zone to reduce the regulatory burden of providing an essential community service.

Further, Emergency Services are prohibited in the Future Urban Zone. A prohibition is not considered appropriate. The performance criteria in the Future Urban Zone provisions will ensure a use like emergency services does not compromise the future development of the land, however it would be appropriate for the emergency services to have the ability to establish to meet the future demand from growth. It is recommended that the use table for the Future Urban Zone be amended to include Emergency Services as a discretionary use.</td></tr>
<tr><td>8.0 General Residential Zone</td><td>8.4.2 Setbacks and building envelope for all dwellings</td><td>Clarify whether 8.4.2 A3(b)(ii) is supposed to refer to the rear boundary as well, or only the side boundary.</td></tr>
<tr><td>8.0 General Residential Zone</td><td>8.4.8 Waste storage for multiple dwellings</td><td>With an increase in infill development, there is often not capacity for standard kerbside waste collection when multiple dwellings are developed. That is, there is not sufficient space on the footpath to place bins for collection.

Similar to the role of a road authority in providing advice about access to a road, it is recommended that an additional acceptable solution and performance criteria be added, for example:

<table><tr><td>A2

Where the local authority advises that it is impractical to provide a standard kerbside waste collection, a waste collection area is to be provided on site that is serviced by an independent waste services provider where the</td><td>P2

Waste management is safe, convenient and efficient having regard to:

(a) Access to the bin storage and collection areas;</td></tr></table></td></tr>
</table>

Section	Clause/Provision	Issues Raised
		waste collection vehicle can enter and exit the site in a forward direction. (b) Acoustic, odour or visual impacts on the development, surrounding properties and the streetscape; (c) Practical and efficient supply and servicing of bins; (d) Safety of road users; and (e) Topography of the site.
10.0 Low Density Residential Zone	**10.4 Development standards for dwellings**	Multiple Dwellings are discretionary in the zone. While the density is one dwelling per 1500m^2 (or 2500m^2) and site coverage is 30%, there is no requirement that the dwellings must be evenly spaced on the land. Consider including provisions in relation to privacy and private open space to ensure minimum amenity standards are considered.
10.0 Low Density Residential Zone	**10.3.2 Visitor Accommodation**	Visitor Accommodation is a permitted use in the Low Density Residential Zone. There are no provisions that restrict Visitor Accommodation being established on the same site as a single dwelling. As the acceptable solution allows a gross floor area up to 200m^2, this could have the appearance of two dwellings on a site. A strata title could also be approved with separate titles for both uses. Not only does this change the appearance and intended density outcomes in the Low Density Residential Zone there is a high potential for Council's to be faced with regulatory compliance when the visitor accommodation is occupied long term. Multiple dwellings in the Low Density Residential Zone are required to meet minimum density standards under clause 10.4.1. The same density standards, for visitor accommodation in separate buildings, should be applied to visitor accommodation on the same site as a dwelling to ensure character and servicing is considered appropriately.
18.0 Light Industrial Zone	**18.2 Use Table**	Educational and Occasional Care is prohibited in the Light Industrial Zone unless it is for alterations or extensions to an existing use for this purpose. It is practical and appropriate for some training centres to be located in the Light

<table>
<tr><th>Section</th><th>Clause/Provision</th><th>Issues Raised</th></tr>
<tr><td></td><td></td><td>Industrial Zone, particularly where the training relates to industrial activities, such as mechanics or trades. The impacts from such a use would be similar to those anticipated in the Light Industrial Zone.

In the General Industrial Zone, it is discretionary if for an employment training centre.

It is recommended that a similar approach be taken in the Light Industrial Zone applying the following qualification:

<table><tr><td>Educational and Occasional Care</td><td>if for an employment training centre or a trade / technical training centre.</td></tr></table>
Note that proposed changes to the definition of employment training centre included in the summary of issues previously raised (and included in Attachment 3) would incorporate the trade / technical training centre aspect.</td></tr>
<tr><td>20.0 Rural Zone</td><td>20.3.1 Discretionary use</td><td>Single dwellings are discretionary in the Rural Zone.

There are many existing vacant lots in the Rural Zone. Having a residence on the property is known to improve land management outcomes relating to weed management and bushfire mitigation.

An assessment category of discretionary is considered to unnecessarily regulate the use of the land for a single dwelling. Inclusion in the Rural Zone rather than the Agriculture Zone is an acknowledgement that non-agricultural uses are appropriate. Single dwellings on existing lots are appropriate for a rural location.

It is recommended that a single dwelling be no permit required or permitted in the Rural Zone.</td></tr>
<tr><td>20.0 Rural Zone

20.1 Agriculture Zone</td><td>20.3 Use Standards

21.3 Use Standards</td><td>The Rural Zone and Agriculture Zone provisions do not include standards that address potential environmental impacts from proposed activities.

There is a wide range of permitted and discretionary uses in the zones that should appropriately be located in these areas because of their size, impacts or association with rural activities. However, the potential environmental impacts cannot be fully considered under the zone provisions.

For example, unless works are within a waterway and coastal protection area, there are no clear provisions to address potentially contaminated run off or how waste</td></tr>
</table>

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<tr><th>Section</th><th>Clause/Provision</th><th>Issues Raised</th></tr>
<tr><td></td><td></td><td>
from the use will be managed. This could include effluent or hard waste.

The Attenuation Code addresses impacts on sensitive uses, but not impacts on the land or receiving water. The Attenuation Code is also restricted to impacts from activities listed in tables C9.1 and C9.2 which does not anticipate all potential activities.

Permitted and Discretionary uses can result in environmental impacts that are not addressed through the Attenuation Code and are more appropriately managed through a Planning Permit than through an Environment Protection Notice.

It is recommended that an additional use standard that would apply to permitted and discretionary uses be included that addresses impacts on the environment. The draft provisions below are included as an example of how this matter could be addressed.

20.3.2 and 21.3.2 Impacts on the environment
<table>
<tr><td>Objective:</td><td>The location, scale and intensity of uses avoids or mitigates harm to the natural environment and adjacent sensitive land uses.</td></tr>
</table>
<table>
<tr><th>Acceptable Solutions</th><th>Performance Criteria</th></tr>
<tr><td>A5

Uses, excluding Residential or Resource Development (where not intensive animal husbandry):

(a) occupy a maximum site area of 50%;

(b) do not include a new discharge point or increase the volume of discharge into a watercourse, wetland, lake or dam; and

(c) waste, including effluent, is removed from site or managed on site through an appropriate</td><td>P5

Uses:

(a) do not cause environmental harm to any surface water, groundwater or waterways; and

(b) do not cause significant impact on soil resources;

(c) Minimise impacts on sensitive uses such as noise, dust and lighting; and

(d) are located on lots of sufficient size to provide necessary infrastructure</td></tr>
</table>
</td></tr>
</table>

Section	Clause/Provision	Issues Raised
		wastewater treatment and disposal system. | to service the use.
20.0 Rural Zone **20.1 Agriculture Zone**	**20.4.3 Access for new dwellings** **21.4.3 Access for new dwellings**	New dwellings in the Rural Zone and Agriculture Zone are required to have access to a road maintained by a road authority. Where this is not available, 20.4.3 P1 and 21.4.3 P1 require '*legal access, by right of carriageway to a road maintained by a road authority*'. There are many situations were an existing lot does not have access to a maintained road but would have access via unmade roads which are Crown Land. While it is acknowledged that a right of carriageway can be purchased over Crown Land it is an expensive and lengthy process. It is recommended that alternative options be investigated, such as an access license and whether that would provide sufficient certainty that the dwelling has a legal right to use the crown land to access the property and is considered sufficient to satisfy the intent of the provision.
21.0 Agriculture Zone	**21.2 Use Table**	Multiple dwellings are discretionary in the Agriculture Zone. This may be appropriate provided the multiple dwellings are required to support the agricultural activities on the site, for example, manager's residence or farm workers accommodation. There does not appear to be strong grounds to refuse an application for multiple dwellings, particularly if on a lot that is not big enough to support a sustainable farming enterprise or where the land does not have high agricultural values. If the intent was to support multiple dwellings, appropriate provisions should be included to limit development as suggested above.

Section	Clause/Provision	Issues Raised
21.0 Agriculture Zone	**21.3.1 Discretionary Uses, P4**	The following provision applies to single dwellings in the Agriculture Zone: P4 A Residential use listed as Discretionary must: (a) be required as part of an agricultural use, having regard to: (i) the scale of the agricultural use; (ii) the complexity of the agricultural use; (iii) the operational requirements of the agricultural use; (iv) the requirement for the occupier of the dwelling to attend to the agricultural use; and (v) proximity of the dwelling to the agricultural use; or (b) be located on a site that: (i) is not capable of supporting an agricultural use; **(ii) is not capable of being included with other agricultural land (regardless of ownership) for agricultural use; and** (iii) does not confine or restrain agricultural use on adjoining properties. There does not seem to be any opportunity to construct a dwelling on a small agricultural lot (which is not viable in its own right for farming) if it is surrounded by a larger viable farm even if the ownership is different due to 21.3.1 P4 (b)(ii). P4(b)(ii) is not reasonable as ownership will restrict how a property can be included with other agricultural land. It is expected that in only very limited circumstances would the landowner of the larger farm seek to purchase the smaller title, and yet this is the only scenario that would allow a dwelling to be built on the smaller title. It is recommended that the statement 'regardless of ownership' be deleted.

Section	Clause/Provision	Issues Raised
21.0 Agriculture Zone	**21.3.1 Discretionary Uses**	Visitor Accommodation is a discretionary use in the Agriculture Zone. It would appear to be very challenging for Visitor Accommodation to meet the use standards under 21.3.1. It is recommended that specific provisions be included for Visitor Accommodation to facilitate activities like farm stays. The range of discretionary uses should be reviewed against the criteria to consider if the intent of the list of discretionary uses and the relevant provisions is appropriate.
C2.0 Parking and Sustainable Transport Code	**C2.6.1 Construction of parking areas**	C2.6.1 A1 (c) requires parking, access ways, maneuvering and circulation spaces to be sealed. This is partly stated to be to minimise entry of water to the pavement. While this provision is appropriate in urban areas with stormwater networks, it is not suitable for zones like the Low Density Residential Zone or the Rural Living Zone. Gravel driveways can assist in managing stormwater runoff and have limited impacts as a result of dust and other debris. Driveways can also be quite long in these zones given minimum lot sizes are up to 10ha. The cost of construction would add considerably to the development of a dwelling. The provision may also be interpreted as requiring all maneuvering areas to be sealed, even if servicing additional car parking spaces to the minimum requirement. For example, a property in the General Residential Zone with a double garage attached to the house satisfies the minimum car parking space requirements. The owners build an additional shed in the backyard to park additional vehicles – technically the access from the front to the back of the property should be sealed. It is unclear if this is the intent. Given these requirements might make a no permit required development discretionary, clarifying their intent and application would be useful to minimise unnecessary delays and expense. Another example where the provision may not be necessary or appropriate is Flinders Island. Most driveways are unsealed. This clause means the majority of applications for dwellings that are no permit required will become discretionary. It is recommended that the provision be refined to address the broad variety of situations across the state. This may include: • Amending C2.6.1 A1 (c) to not apply in the Low Density Residential and Rural

Section	Clause/Provision	Issues Raised
		Living Zones; or • Only require the access from the sealed road surface to the property boundary to be sealed which would minimise damage to the edge of the road surface and reduce transfer of debris onto the road surface.
C2.0 Parking and Sustainable Transport Code	**C2.6.2 Design and Layout of parking areas**	C2.6.2 A1.1 – clarify the intent of this clause with regard to additional car parking spaces provided on site for residential uses. For example, a single dwelling requiring 2 parking spaces, but 5 are provided. Is it intended that this clause applies to all 5 parking spaces, including parking bay dimensions, access and maneuvering dimensions, and whether all vehicles can enter and exit in a forward direction, even though the parking numbers exceed the minimum requirement? Furthermore, if the required number of bays are provided in one part of the site, and additional bays are provided in another part of the site, does the access to these additional bays need to be assessed under C2.6.1 (particularly whether the access is sealed) and C2.6.2? To reduce unnecessary regulation, it is recommended that single dwellings be excluded from this requirement.
C2.0 Parking and Sustainable Transport Code	**Table C2.1 Parking Space Requirements**	Residential car parking requirements are divided into requirements in the General Residential Zone and then all other zones. In relation to a single dwelling in the General Residential Zone, a maximum of two car parking spaces are required regardless of the number of bedrooms. A single dwelling in any other zone must provide one space per bedroom or two spaces per three bedrooms. For a four bedroom dwelling, which is not uncommon, this would require a minimum of 3 car parking spaces. Was this distinction intended to apply, and is it necessary for single dwellings in other than the General Residential Zone?
C4.0 Electricity Transmission Infrastructure Protection Code	**C4.6.1 Buildings or works within an electricity transmission corridor**	C4.6.1 A1 does not permit buildings or works within an inner protection area or a registered electricity easement. In some circumstances, TasNetworks have provided advice that they have no objection to the proposed development in these locations, however a discretionary application is still triggered. A part (c) could be added to the clause which aligns with the approach taken in

Section	Clause/Provision	Issues Raised
		clause C3.5.1 A1.2 and A1.3 where written consent to the development is provided by the electricity entity. This could avoid unnecessary discretionary applications with no additional administrative burden on TasNetworks.
C7.0 Natural Assets Code	**C7.2 Application of this Code**	C7.2.1 (c) should be clarified to state 'clearance of native vegetation within a priority vegetation area…' The Priority Vegetation Area mapping includes areas that are cleared or do not contain native vegetation (eg fields of gorse). The code should only be applied where native vegetation is proposed to be removed.
C7.0 Natural Assets Code	**Future Coastal Refugia**	The concept of future coastal refugia is not widely understood. The code would require reports from suitably qualified people to address performance criteria, however additional guidance is required to understand what the suitable qualifications are and the matters that should be addressed in a report.
C9.0 Attenuation Code	**C9.4 Use or Development Exempt from this Code**	In situations where the Attenuation Code has been considered at subdivision stage, where that subdivision would be for a sensitive use, an exemption should be applied for the subsequent development of a residential use.
C9.0 Attenuation Code	**Table C9.1 Attenuation Distances**	The Horse Stables category should be expanded to include yarded horses (not kept in a stable building) that are primarily fed by importing food from outside the animal enclosure. These may be kept at high densities without being confined to buildings and cause impacts such as odour, noise and dust. It may be appropriate to include a density of horses that are yarded as the trigger for applying the attenuation code.
C10.0 Coastal Erosion Code	**C10.5 Use Standards**	C10.5.4 applies to uses in the coastal erosion investigation area. P1 does not include provisions for use that: • Is in an urban zone; and • Within a low or medium coastal erosion hazard band. As a use in these circumstances cannot meet the performance criteria, an LPS amendment to introduce a site specific qualification would be required to facilitate development. There are numerous urban zoned areas, such as parts of Kelso and Gravelly Beach, that are identified as Coastal Erosion Investigation Areas that would be affected by

Section	Clause/Provision	Issues Raised
		this omission. It is recommended that C10.5.4 P1 be replaced with a similar provision to C10.6.3 P1 which does not differentiate between urban and non-urban zones.
C11 Coastal Inundation Hazard Code	**C11.6.2 Coastal protection works within a coastal inundation hazard area**	*From WTC section 35G report:* P1(a) requires coastal protection works within a non-urban zone to be for the protection of a use that relies on a coastal location to fulfil its purpose. Several coastal settlements in Tasmania are within the medium or low coastal inundation areas. If the predictions about sea level rise occur, coastal protection works may be considered or required to protect existing infrastructure and dwellings. The majority of coastal protection works which may be required in the municipality would be located in the Environmental Management Zone and be required to primarily protect residential uses. As the Environmental Management Zone is a non-urban zone, the works would need to be required to protect a use that relies on a coastal location. As the residential use class is not reliant on a coastal location, the works could not be approved. The requirement unnecessarily constrains the construction of protection works, which would more likely be constructed by a council or state government to ensure property and assets are appropriately protected should sea level rise predictions come to fruition. **Recommendation** Amend C11.6.2 P1 to: Coastal protection works within a coastal inundation hazard area must be appropriately located, fit for purpose and kept to a minimum, having regard to: ~~**(a) if within a non-urban zone, the works are for the protection of a use that relies upon a coastal location to fulfil its purpose;**~~ (**a**) the advice contained in a coastal inundation hazard report that:

Section	Clause/Provision	Issues Raised
		(i) there will not be an increased risk of coastal inundation from a 1% annual exceedance probability coastal inundation event in 2100 on the site, on adjacent land or public infrastructure; and (ii) the risks from coastal inundation in a 1% annual exceedance probability coastal inundation event in 2100 can be mitigated; (**b**) the need for arrangements to be made, including with the applicant, to meet the cost of construction and ongoing maintenance of the coastal protection works; and (**c**) any advice from a State authority, regulated entity or a council.

Attachment 2 - Additional policy issues for consideration

Section	Clause/Provision	Issues Raised
Section 8A Guideline No. 1		The guidelines should be reviewed to be written and applied as guidelines rather than a prescriptive set of rules. For example the Rural Living Zone guidelines are very restrictive in relation to applying the zone to land not previously in a Rural Living Zone and determining the appropriate minimum lot size. They are aimed towards limiting future subdivision and do not take into account the best use of land or taking a sensible approach to zoning properties, that, for all intents and purposes, are Rural Living. Achieving sensible planning outcomes should be the intent, without the need for extensive background reports to justify what can be minor changes.
Section 8A Guideline No. 1	**The List mapping**	The List contains the 'authorised version' of the Local Provisions Schedule maps, which are relied on to apply and interpret the SPPs. However, the List maps are not consistent with the requirements included in Guideline No. 1. The Guideline No. 1 standards mean the maps are easily interpreted, for example differentiation between the different hazard bands. It is recommended that the List mapping be updated to be consistent with Guideline No. 1.

Section	Clause/Provision	Issues Raised
Codes	**LPS vs SPP mapping**	Most of the LPS code overlay maps are developed using state derived data. With 29 local government areas, where there are updates to the mapping, particularly affecting more than one local government area, multiple LPS amendments would be required. While the process may be shortened to exclude public exhibition, it still involves resources from each local government, the TPC and potentially the Minister to complete an amendment. State derived and maintained maps should not be the responsibility of local government Planning Authorities to maintain or amend. The LPS should only include the mapping where they are seeking to vary the State derived maps, for example if a local study provides an alternative Future Coastal Refugia Area. It is also recommended that a process similar to that for interim planning directives be reinstated. This would allow for urgent matters to be addressed with the formal assessment and consultation processes occurring while the interim directive is in place. For example, this would allow for the quick replacement of hazard mapping where new information becomes available, such as active landslips. As these mapping layers are also used to assess applications made under the *Building Act 2016*, and for private building surveyors to complete assessments, it is important that up to date information is available to prevent potential risk to life and property. Amendments to the SPP, Guideline No. 1 and LUPAA may be required to facilitate this and potentially allow for a shortened process for amendments relating to mapping. Consequential amendments to other legislation, such as the *Building Act 2016* may also be required.

Section	Clause/Provision	Issues Raised
Codes	**C10.0 Coastal Erosion Hazard Code** **C11.0 Coastal Inundation Hazard Code** **C15.0 Landslip Hazard Code**	Council is concerned about the approach taken to managing natural hazards between the SPP and the *Building Act 2016*, in particular landslip hazard. The SPP has been drafted to remove most assessments for works in low and medium hazard bands to the building permit stage. However, at building permit stage there is no requirement for a landslip risk assessment – they may be taken into account but are not a requirement. This introduces a high level of risk as matters like vegetation clearing and site drainage may not be fully considered. Further, landslip risk assessments are highly specialised and it places a high degree of responsibility on building surveyors to decide when a risk assessment should be provided and to interpret the requirements. The changes in approval processes for proposed development in declared landslip areas is also concerning given the declarations are made by State Government when high risk of landslip occurs. The responsibility for determining applications for building permits in these locations now rests with the Permit Authority or the General Manager. This does not provide the benefit of formal advice for Mineral Resources Tasmania or other State Government expertise. The methodology for determining hazard bands should also be reviewed, particularly the medium-active hazard band, alongside the development controls linked to building on known and current active landslip areas where additional consideration should be given to these active landslides being included within the high hazard band. It is recommended that a review of the regulation of risks associated with natural hazards be undertaken to fully explore appropriate regulation to ensure the risks to life and property are properly managed. West Tamar Council has recent experience in managing active landslips and could provide a practical contribution to such a review.

Attachment 3 - State Planning Office Summary of issues previously raised on the SPPs – with WTC comments

Section	Clause/Provision	Issues Raised	WTC Comments
General	**Various – Operation of Performance Criteria in use and development standards**	Suggestions to review how Performance Criteria work in the SPPs following the Resource Management and Planning Appeal Tribunal (RMPAT) decision on *Henry Design & Consulting v Clarence City Council & Ors* [2017] TASRMPAT 11 and other associated decisions on interim planning schemes. The RMPAT decisions outlined that the Performance Criteria is a freestanding test having no relationship to the Acceptable Solution. This means that the corresponding Acceptable Solution cannot be used as a consideration or 'starting point' for undertaking an assessment against the Performance Criteria.	Unsure how this may be applied or affect other provisions, however generally support the intent.

Section	Clause/Provision	Issues Raised	WTC Comments
	Various – Operation of Performance Criteria by requiring use or development to be 'compatible' with what is existing	Concerns raised with the meaning of 'compatible' in assessments against Performance Criteria in interim planning schemes. While this issue relates to interim planning schemes, it has implications for the SPPs as some Performance Criteria require use or development to be 'compatible' with existing use or development in the surrounding area. In the RMPAT decision on *Henry Design & Consulting v Clarence City Council & Ors* [2017] TASRMPAT 11, 'compatible' is taken to mean "not necessarily the same… but at least similar to, or in harmony or broad correspondence with the surrounding area".	Supported. Review of the use of the following terms is also recommended to improve clarity: • having regard to • unreasonable / reasonable • minor. Similarly, the definition of 'amenity' should be clarified so that there is more clarity about the range of aspects this might address, such as whether views should be considered.
	Various – Alignment with building regulations	Suggest reviewing the SPPs for improved consistency with the *Building Act 2016* and the Director's Determinations, such as the building regulations for retaining walls.	Supported – WTC section 35G report
	Various - Local area objectives	Suggest amending all use and development standards to allow for the consideration of Local Area Objectives or provide a general ability to consider Local Area Objectives for any use and development standard.	Unclear what is intended. Local area objectives are currently only assessed for discretionary use or development. The nature of how the objectives are written would not make them suitable for the assessment of no permit required or permitted use or development as they are not prescriptive.

Section	Clause/Provision	Issues Raised	WTC Comments
	Various – Subdivision and requirement for public open space	Suggest revising the subdivision requirements in the SPPs to manage the requirements for the public open space rather than relying on the requirements in the *Local Government (Building and Miscellaneous Provisions) Act 1993*.	Supported – this would provide clarity and transparency about when public open space is required and the minimum standards.
	Various – Landscaping requirements	Landscaping is critical for a high quality built environment and liveable communities and needs to be a development standard in the SPPs for all multiple unit, commercial and industrial development and subdivision with new roads. Suggest including landscaping provisions similar to those existing in the commercial zones and Parking and Access Code in the Southern Region Interim Schemes in the Subdivision Standards for the following SPPs zones: • General Residential; • Inner Residential; • Low Density Residential; • Village; • Urban Mixed Use; • Local Business General Business; • Central Business; • Commercial; • Light Industrial; • General Industrial	Care should be taken to ensure landscaping requirements consider the relative cost of providing landscaping for development, including the loss of otherwise useable land, maintenance, safety and urban design.

Section	Clause/Provision	Issues Raised	WTC Comments
	Various- subdivision lot design access and road provisions for all residential zones	Suggest including a requirement in the subdivision standards of all residential zones to ensure adequate vehicular access onto a lot, not just from the road to the lot.	Unclear if this is more about refining the criteria for the suitability of lots for development (ie they are too steep for development).
	Various - Road connectivity provisions in subdivision standards	Suggest including threshold standards to determine if additional road connectivity is required in a subdivision proposal.	Unclear how the thresholds may be established, however road connectivity is an important consideration for subdivisions and should have a greater emphasis in the SPP. Further, incorporating additional urban design criteria into the subdivision standards to ensure there are a variety of lot sizes, well designed streetscapes and sufficient infrastructure to support walking, cycling and public open space should be considered.
	Various - siting and scale of outbuildings in residential environments	Suggest including provisions similar to those in the Southern Region's interim planning schemes for large or high outbuildings in residential areas.	Generally supported in the Low Density Residential Zone. Consider amending the performance criteria to ensure bulk, scale and character impacts are adequately considered when the site coverage requirements are not met.
	Various – retaining walls and land filling	There are no requirements for retaining walls or land filling beyond the exemption.	Supported – WTC section 35G report

Section	Clause/Provision	Issues Raised	WTC Comments
	Various – Stormwater management	Suggest including the Stormwater Management Code from the Southern Region's interim planning scheme into the SPPs.	Generally supported – WTC section 35G report. Acknowledge that how stormwater quality and quantity regulations are incorporated into the SPP is a policy issue that will require additional consideration and consultation with Local Government.
	Various – Water quality management	Suggest reviewing the SPPs to improve water quality management outcomes from development and the subsequent impacts on nearby aquatic environments.	Supported – WTC would be appreciate the opportunity to be part of a working group to work through how stormwater and water quality management can be managed through the SPPs.
	Various – Light pollution	Suggest including provisions for management of light pollution impact on sensitive/significant or iconic landscapes.	Would need a better understanding of what a sensitive/significant or iconic landscape would include.
	Aboriginal heritage	Suggest including a separate Aboriginal Heritage Code in consultation with the aboriginal community.	Supported – subject to appropriate consultation with the aboriginal community.

Section	Clause/Provision	Issues Raised	WTC Comments
	Land filling and excavation	Suggest introducing a Filling and Excavation Code addressing: • impacts on character and amenity; • stability and appearance; • environmental impact; • flooding and drainage; • management of stockpiles; and • impacts on infrastructure, public utilities and easements.	Supported – WTC section 35G report
	Application requirements	In some interim planning schemes, an application requirements section was included in all Codes and Specific Area Plans to provide clarity on what was required for all, or some, applications that are assessed under that Code. Suggest including an application requirements section for each Code in the SPPs and in the template for Specific Area Plans.	Not supported – this is not considered necessary. Clause 6.1.3 states '*a planning authority may, in order to enable it to consider an application, require such further or additional information as the planning authority considers necessary to satisfy it that the proposed use or development will comply with any relevant standards and purpose statements in the zone, codes or a specific area plan, applicable to the use or development…'.* This is considered sufficient to require supporting reports if required to satisfy performance criteria. It may be unreasonable in some instances to require a specialist report when the performance criteria can be addressed in a different way.

Section	Clause/Provision	Issues Raised	WTC Comments
3.1 Planning Terms and Definitions	**Tolerable risk**	Definition needs further clarification.	Unsure – consultation with relevant professionals required.
	Private garden	Definition requires clarification as it is unclear how far a private garden extends. Implications for vegetation clearing exemption.	Improved clarity is supported, however care should be taken in potentially making the definition too prescriptive.
	Employment training centre	Suggestion to broaden the definition to also allow for "training in specialised or technical skills".	Supported.
	Secondary residence	Suggest limiting secondary residences to single storey buildings and deleting the reference to laundry facilities.	Not supported. Zones contain maximum height standards and limiting them to a single storey is unnecessary. While the reference to laundry facilities may be unnecessary, it does provide certainty that they can be included given previous planning schemes did not permit laundry facilities in a secondary residence.
	Additional term and definition – brewery	Suggest an additional definition for brewery.	No objection.
	Additional term and definition – passive surveillance	Suggest an additional definition for the term 'passive surveillance'. The term is used in front fence performance criteria and would provide more clarity to developers.	No objection.
	Additional clarification of terms and definitions – access, access ways, driveway, vehicle crossing	Suggest additional definitions for 'access', 'access ways', 'driveway', amending the definition for 'vehicle crossing' and clarifying the use of term 'access' throughout the SPPs.	No objection. A review of the use of all these terms throughout the SPP should be made to ensure consistency would also be beneficial.

Section	Clause/Provision	Issues Raised	WTC Comments
	Additional definitions - café and restaurant	Suggest additional definitions for café and restaurant.	No objection – however unclear how the uses would be separately defined as the intent is very similar.
4.0 Exemptions	**Various exemptions**	The following exemptions in the SPPs should include full range of limitations as expressed in Planning Directive No. I (e.g. heritage, scenic, threatened vegetation, wetlands and watercourses, potentially contaminated land, salinity and landslip): • 4.2.3 irrigation pipes • 4.2.4 road works • 4.2.7 minor infrastructure • 4.2.8 navigation aids • 4.3.5 temporary buildings and works • 4.3.6 unroofed decks • 4.3.7 outbuildings • 4.3.8 outbuildings in the Rural Living Zone, Rural Zone or Agriculture Zone • 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone • 4.3.11 garden structures • 4.4.2 landscaping and vegetation management	Under Planning Directive 1, the full range of limitations identified do not appear to have applied to all of the development or uses listed. Care should be taken in amending the limitations to avoid unnecessary assessment.
	4.0.3 actively mobile landforms	Unclear what actively mobile landforms are, particularly in limiting the exemptions.	Supported.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.1.4 home occupation	Concerned with removing the limitation of 'occasional visitors' as it could cause significant amenity impacts (e.g. yoga classes or lessons or therapy with traffic and noise impacts). Limited to a 'dwelling' therefore cannot be in a shed, outbuilding or garden.	Supported. The exemption also does not include a restriction on the storage of hazardous materials which was previously included in the Interim Planning Scheme. Note that the definition of a dwelling includes an outbuilding.
	4.1.5 markets	Exempting markets is problematic if insufficient parking is provided.	Not supported. The qualification means markets are only exempt if on public land and local and state government have other avenues to regulate use of that land without requiring a planning permit.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.2.4 road works	Lack of clarity in terminology – 'including' does not provide exhaustive list, 'carriageway' not defined, refers to 'maintenance repair and upgrading' and also 'making, placing and replacement' Unclear where the 3m distance is measured from (e.g. title boundary or road reserve or existing road shoulder). There is potential for significant impacts on native vegetation, sensitive environments and waterways. It could allow for the replacement of heritage bridges. The term 'upgrade' is broad; the scope of upgrade should be defined as the exemption for maintenance, repair and upgrades of roads may extend up to 3m outside the road reserve including the replacement of bridges in the same or adjacent position.	General support for improved clarity, however a reduction in the scope of the exemption is not supported.
	4.3.2 internal building and works	Suggest inserting a column headed 'Significant Interior' to LPS Table C6.1 Local Heritage Places. Amend the wording of 4.3.2 in the SPPs to read: "All internal building and works unless identified as a Significant Interior in Table C6.I Local Heritage Places" (retaining the footnote relating to places entered on the Tasmanian Heritage Register as is). (pp.8-9)	Does not affect WTC as there are no Local Heritage places.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.3.6 unroofed decks	The exemption should apply to all unroofed decks, including those attached to, or abutting, a habitable building. Decks should be permeable and not require the removal of trees.	Supported. The maximum 1m above natural ground level is important to retain.
	4.3.7 outbuildings	The exemption for outbuildings requires clarification, particularly in relation to existing outbuildings and for larger outbuildings. SPO Note: The exemption is being clarified as a minor amendment of the SPPs.	Supported.
	4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone	The exemption for "agricultural works" should exclude works subject to the Natural Assets Code.	Further investigation required in relation to the potential implications of such a change.
	4.3.10 demolition **7.9 Demolition**	Suggest revising 4.3.10 to: Demolition of buildings - unless the Local Historic Heritage Code applies and requires a permit for the use or development; and The general provision relating to demolition can then be deleted.	Supported – WTC section 35G report Note that a footnote or reference to the Tasmanian Heritage Register would also be appropriate.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.4.1 vegetation removal for safety or in accordance with other Acts	Under clause 4.4.l(f), vegetation removal within 2m of lawfully constructed buildings and infrastructure for maintenance and repair could allow private landowners to remove significant trees or heritage gardens. The provisions do not allow protection of vegetation protected under other parts of the SPPs, including the Scenic Protection Code, Local Historic Heritage Code and the Natural Assets Code.	No objection however safety should be given a high priority.
	4.4.2 landscaping and vegetation management	Unclear whether the landscaping and vegetation management exemption allows for the clearing of vegetation on a site. Concerned with landscaping and vegetation management occurring in private gardens with very few exceptions as it could remove significant vegetation that is normally managed through codes.	Improved clarity supported, however care should be taken to ensure planning permits are not required for general maintenance, particularly in urban areas. It is also recommended that the following exceptions are listed to ensure important vegetation is not inappropriately removed: *Unless the management is incidental to general maintenance or the:* • *Coastal Erosion Hazard Code;* • *Local Historic Heritage Code;* • *Natural Assets Code;* • *Scenic Protection Code; or* • *Landslip Hazard Code* *applies and requires a permit for the use or development.* An administrative definition of general maintenance may also assist in interpretation.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.5.1 ground mounted solar energy installations	Concerned there is no height limit for ground mounted solar energy installations, with potential amenity and solar access issues for neighbours, and no heritage considerations.	Supported. May need consequential changes to the zone provisions as otherwise would be assessed against the relevant zone development standards which, for example, in the General Residential Zone would be the building envelope and a maximum of 8.5m. Consideration of whether this is appropriate is required.
	4.6.2 use or development in a road reserve or on public land	No consideration of impacts of outdoor seating and impacts on car parking requirements. Unclear why reference to council by-laws have been removed.	Not supported. Local and state government have other avenues to regulate use of that land.
	4.6.3 fences within 4.5m of a frontage	Exemption fences should be limited to 1.2m in height. Concerned that a fence up to 1.8m with 30% transparency will result in poor outcomes. Suggest incorporating an exception to the exemption for and any applicable standard in a Particular Purpose Zone or Specific Area Plan. This could enable an LPS to address front fencing as appropriate to an area.	Not supported.
	4.6.5 fences for security purposes	Whilst there may be reasons for a security fence to be solid, solid fences have a significant impact on the streetscape and should not be exempt. A solid fence also directly conflicts with the objective for landscaping in clauses I9.4.3 and I8.4.5 of the SPPs.	No objection.

Section	Clause/Provision	Issues Raised	WTC Comments
	4.6.6 fences in the Rural Zone or Agriculture Zone	The exemption should be amended to avoid solid fences. Solid fencing in these zones has a significant impact on the rural character, particularly if above 1.2m and across large frontages. The exemption should not allow native vegetation to be removed.	Further consideration required. Boundary fences should be provided with exemptions for vegetation removal. Potentially review the exemption for vegetation removal for internal fences in the Rural Zone however this adds complexity for both the proponent and in managing compliance with the provisions and potentially impacts farming practices. It is also noted that native vegetation includes all vegetation, including grasses.
	Exemptions – restrictions for protecting electricity infrastructure corridors	TasNetworks has identified the following SPP exemptions as requiring revision to exclude development within the electricity transmission corridor due to the potential impacts on electricity infrastructure: • 4.3.6 unroofed decks • 4.3.7 outbuildings • 4.3.8 outbuildings in Rural Living Zone, Rural Zone or Agriculture Zone • 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone • 4.3.11 garden structures • 4.5.I ground mounted solar energy installations • 4.5.2 roof mounted solar energy installations • 4.6.8 retaining walls • 4.6.9 land filling • 4.6.13 rain-water tanks • 4.6.14 rain-water tanks in Rural	Recommend that TasNetworks completes an audit of completed planning referrals to determine the scale of development they have concerns with to clarify if the exemptions listed will materially affect their assets.

Section	Clause/Provision	Issues Raised	WTC Comments
		Living Zone, Rural Zone, Agriculture Zone or Landscape Conservation Zone • 4.6.15 fuel tanks in the Light Industrial Zone, General Industrial Zone, Rural Zone, Agriculture Zone or Port and Marine Zone • 4.6.16 fuel tanks in other zones	
	New exemption – maintenance and improvements to existing fire trails and other fire protection infrastructure	Suggest an exemption for routine maintenance and improvements to existing fire trails and other fire protection infrastructure. Fire trails are not covered by the current exemption in clause 4.2.4 of the SPPs for road works as a fire trail does not meet the definition of a 'road'. The exemption could require works to be in accordance with a plan for fire management endorsed by the Tasmania Fire Service or the other entities involved in fire management (e.g. Sustainable Timbers Tasmania, Parks and Wildlife Service and councils).	Supported.
6.0 Assessment of an Application for Use or Development	**6.1.2 Application requirements**	All Councils have direct access to all title information and therefore no title information should be required. The provision of title information makes that information public and there is no public benefit or need for that.	No objection.
	6.1.3 Application requirements	Local historic heritage is absent from clause 6.1.3 that lists the categories that planning authorities can require additional information in relation to.	No objection.

Section	Clause/Provision	Issues Raised	WTC Comments
7.0 General Provisions	**7.1 Changes to an Existing Non-conforming Use**	Unclear if you can change to another non-conforming use.	Improved clarity supported if required.
	7.3 Adjustment of a boundary	Suggest quantifying the change in lot size that is allowable for a minor boundary adjustment to avoid confusion.	General support however care should be taken to ensure this provides sufficient flexibility to consider the individual circumstances. See the WTC issues raised in Attachment 1 in relation to this clause.
	7.4 Change of Use of a Place listed on the Tasmanian Heritage Register or a Local Heritage Place	Should require the preparation of a heritage impact statement and conservation management plan.	Further consideration required. This may not be necessary for all proposals.
	7.6 Access, and Provision of Infrastructure Across Land in Another Zone	Suggestion for bushfire protection works to also be included to allow for a bushfire hazard management area or perimeter fire trail within an adjoining zone that prohibits a particular use class to which the works relate (e.g. residential)	No objection.

Section	Clause/Provision	Issues Raised	WTC Comments
	7.12 Sheds on vacant sites	Need to clarify how sheds on vacant sites are intended to be assessed if they do not meet the requirements in clause 7.I.2. Also unclear how this provision works with regard to the use of the shed. This provisions should also apply to the General Residential Zone.	Supported Clause 7.12 Provides for a shed in certain zones as a permitted application however it does not clarify what the use of that shed should be. There is also no clear pathway for sheds on vacant lots that don't comply with the criteria. For example (f) requires that all relevant acceptable solutions are complied with. If the setbacks are not complied with, the proposal would therefore not be permitted. A shed on a vacant lot is defined as Storage. Storage is prohibited in the Low Density Residential Zone, Rural Living Zone and Landscape conservation zone. Residential is defined as 'use of land for self-contained or shared accommodation'. As a class 10 shed on a vacant site is not habitable and not associated with a dwelling, it cannot be considered residential. Note that applying the clause in the General Residential Zone is not supported.
	New general provision – subdivision	Some interim planning schemes made it clear at clause 9.10 (special provisions) which subdivision were discretionary, particularly referencing the requirements of the Local Government (Building and Miscellaneous Provisions) Act 1993.	This does not appear to be necessary.

Section	Clause/Provision	Issues Raised	WTC Comments
	New general provision – subdivision along zone boundaries	Suggest a new general provision to allow subdivision to occur along lot boundaries, particularly for instances where it creates lots that are below the minimum required for that zone.	Intent of this suggestion is unclear.
Zones	**General – fence requirements**	Front fencing requirements should be provided in all residential and commercial zones.	No objection however the existing exemptions are supported.
	General – vegetation requirements	Suggest including vegetation clearing requirements in the Rural Living Zone and Rural Zone.	Intent of this suggestion is unclear as the priority vegetation areas apply in both zones.
10.0 Low Density Residential Zone	**10.2 Use Table**	Suggest including maximum floor area standards for the General Retail and Hire Use Class in the Low Density Residential Zone.	The qualification refers to a local shop which is defined as having a maximum floor area of 200m^2.
	10.4 Development Standards for Dwellings -10.4.3 A2 setback	The 5m side and rear setback requirement is excessive. Suggest staggered side and rear boundary setbacks for the Low Density Residential Zone, such as: • 1.5m if less than 1200m^2; • 3m if between 1200 and 2500m^2; and • 5m otherwise.	Supported. Smaller lots in the Low Density Residential Zone often require discretion of the 5m setback requirements which are generally supported.

Section	Clause/Provision	Issues Raised	WTC Comments
	10.4 Development Standards for Dwellings -10.4.4 P1(b) Site Coverage	Suggest expanding the performance criteria for site coverage to include reference to the capacity of the site to manage wastewater in addition to runoff.	Supported. A1 requires a maximum site coverage of 30%. In some areas, there are historic lot sizes in the Low Density Residential Zone less than 1000m^2 where a discretion of the site coverage limit is often sought – for example at Greens Beach. This often makes the provision of onsite wastewater treatment unfeasible, however the SPPs do not provide scope for this to be a consideration under 10.4.4 P1. It is recommended that an additional criteria be added which states 'can be provided with adequate on-site wastewater disposal and water supply'. This is consistent with the approach taken under clause 10.4.1 P1.2(b). Similarly, consideration should be given to applying this clause to 10.5.1 P4 and in the Rural Living Zone 11.4.1 P1 as some lots will contain constraints or be smaller than the minimum lot sizes specified.

Section	Clause/Provision	Issues Raised	WTC Comments
General Residential Zone and Inner Residential Zone		**Issues raised on the General Residential Zone and Inner Residential Zone are included in the *Review of Tasmania's Residential Development Standards – Issues Paper.***	Many of the issues raised are also relevant to West Tamar. Particular consideration should be made in relation to: • infill development in established residential areas and the impact on character, amenity and infrastructure capacity; • private open space requirements; and • housing diversity.
11.0 Rural Living Zone	**11.4.2 A4(b) – setbacks for sensitive uses**	Suggest this should be limited to "an existing building **for a sensitive use on the site** is within 200m"	Supported for consistency with wording applied in other zones.
	11.5.1 Lot design	Suggestion to include a 5000m^2 minimum lot size for subdivision. Question whether the 10ha minimum lot size is necessary.	A review of the Rural Living Zone minimum lot sizes and requirements included in Guideline No. 1 is supported.
	New standard – building design	Suggest including design standards to maintain character and minimise visual impact of development.	Not supported. A Specific Area Plan can be proposed in areas of special character.
	New standard – natural and landscape values	Suggest introducing provisions for protection of existing natural and landscape values in the Rural Living Zone as there are no design standards in this zone for regulating these values.	Not supported. A Specific Area plan can be proposed in areas of special character or consider applying the Landscape Conservation Zone.

Section	Clause/Provision	Issues Raised	WTC Comments
Industrial Zones (Light Industrial Zone and General Industrial Zone)	**New development standard - fencing**	A fencing standard should also be inserted into the Light Industrial Zone and General Industrial Zone similar to those in the interim schemes for those zones.	No specific objection, however interested in how this would be applied.
	New development standard – building design	There should be building design requirements to deliver quality design for industrial buildings.	Generally supported however care should be taken that these requirements do not add considerably to the cost of development. Industrial Zones are major employers in the state and development requirements should not adversely impact potential investment.
Rural Zone and Agriculture Zone		Concerned that the Rural Zone and Agriculture Zone provide for an unlimited number of sheds.	Further consideration required as to how this might be regulated given the broad exemptions that apply.
	20.4.3 & 21.4.3 Access for new dwellings	The standard should allow for legal access to a dwelling via a Crown Reserved Road.	Supported – see also comments in Attachment 1.
21.0 Agriculture Zone	**21.3.1 Discretionary uses**	Further guidance should be provided for when a dwelling is appropriate in the Agriculture Zone.	Supported – noting that this should be practical and not make establishing dwellings more difficult.
	21.5.1 Lot design	Suggest excluding the ability for the excision of Visitor Accommodation and dwellings in the Agriculture Zone.	Generally supported.
22.0 Landscape Conservation Zone	**22.4.4 Landscape protection**	Clauses 22.4.4 A1 and 22.4.4 A2 both reiterate "Building and works must be located within a building envelope, if shown On a sealed plan". Unclear why this is repeated in both requirements?	The provisions appear to deal with different matters, and may not require changes.

Section	Clause/Provision	Issues Raised	WTC Comments
	New standards- Residential amenity	There is no consideration of residential amenity and the potential impacts of Discretionary use to established residential amenity in the zone standards.	Unclear how this issue may be resolved. Further information required.
23.0 Environmental Management Zone	**23.2 Use Table**	The Permitted qualifications in the use table avoids public involvement in decisions on public land which is inconsistent with the objectives of the LUPA Act.	Should confirm the processes required to provide authority under the *National Parks and Reserve Management Regulations 2019* as this may require public involvement in the process.
C1.0 Signs Code	**Table C1.3 Real estate sign**	There are no dimensions limiting the size of exempt real estate signs. With real estate agents being extremely competitive, real estate signs are getting bigger and more plentiful and creating excessive visual clutter with a number of complaints received. Suggest limiting them to an area of 3m2.	Generally supported.
	C1.4 Development exemption from this Code	Limitation should be included in the Signs Code exemptions to restrict signs being changed to a third party sign.	Supported. An extra item could be added to C1.4.3 to achieve this.
	C1.6.1 A3 Design and siting of signs	Unclear how many signs are permitted for each business. How can you have one for each window when under A3(a) only one "Window Type sign' is permitted?	Table C1.6 could be clarified to ensure it is clear that each window can have a window sign.
	C1.6.2 - Illuminated signs	Suggest changes to performance criteria in subclause C1.6.2 PI(j): whether the sign is visible from the road and if so the impact on drivers of motor vehicles and other road users as assessed by a suitably qualified person.	Generally support. Unsure if the requirement for assessment by a suitably qualified person is required.

Section	Clause/Provision	Issues Raised	WTC Comments
	C1.6.3 & Table C 1.6	Issues regarding number of ground-based signs per frontage: Table C1.6 allows 1 ground-based sign per 20m of frontage. Clause C1.6.1 A3 (d) allows six signs per business if the frontage is more than 20m in length; not reasonable for Rural Zone or Agriculture Zone.	Support review to ensure clarity– this is potentially a lot of signs. Perhaps this should link to the number of tenancies.
	C1.6.4 - Signs on local heritage places and in local heritage precincts and local historic landscape precincts	Suggest inserting a new clause in clause C1.2 of the Signs Code to clarify that clause C1.6.4 does not apply to a registered Place entered on the Tasmanian Heritage Register'. Suggest replacing the term 'unacceptable impact' in clause C1.6.4 with 'adverse impact'.	Unsure if this is necessary. Perhaps a footnote at C1.6.4 otherwise it clearly refers to local heritage places. 'Adverse impact' could have a very broad interpretation. Unacceptable or unreasonable is preferred.
	Table C1.6 Blade sign	A blade sign should not be prohibited in the Rural zone and Agriculture zones. A blade sign is often the most sophisticated of signage designs.	Supported. Pole signs should also be removed from the prohibitions.
C2.0 Parking and Sustainable Transport Code	**General – car parking space requirements**	Concern that the car parking space requirements are excessive and do not encourage other forms of sustainable transport (e.g. public transport and active transport) and impacts on liveability.	As the SPPs apply state wide care should be taken to consider locations where public transport is not as available. Cars parking on the street is often raised as an issue for areas where multiple dwellings are proposed.
	C2.6.2 Design and layout of parking areas	Clause C 2.6.2 A1.1 should be reviewed as there are many parts of it that are ambiguous and confusing. For example, there are parts of A1.1(a) that do not pick up important features of the Australian Standard. However, the way it is worded (i.e. (a) or (b)) means that necessary parts of the AS aren't included in (a).	Supported.

Section	Clause/Provision	Issues Raised	WTC Comments
	C2.5.1 - Use Standards	Suggest new clauses under clause C2.5.1 requiring provision of accessible parking to link with the development standards in clauses C2.6.2 A1.2 and C 2.6.5 A1.2.	Requires further review. Also consider how the *Building Act 2016* requires accessible parking.
	C2.6.2 and Table 2.3	Technical issues - the design for parking in clause C2.6.2, which refers to Table C2.3 for width and length of car parking spaces and aisles, is different to AS2890.1 figures 2.2 and 2.5.	Supported – should be consistency.
	Table C2.1- Parking Space Requirements	Suggest car parking ratios for café and restaurant be consistent of I space per I5m2 as currently the number of car parking required for café is unreasonable compared to that for restaurant.	Supported.
	Table C2.2 - Internal Access Way Widths for Vehicles	The widths specified for access ways are inconsistent with the bushfire requirements and with the Australian standards. For uses that require 1 to 5 spaces, the passing bay width is not wide enough for two vehicles to pass.	Requires further review.
C3.0 Road and Railway Assets Code	**C3.2 – application of the code**	Suggest applying the noise attenuation provisions in the Code based on mapped overlays or more accurate on- ground information for situations where road infrastructure has been upgraded.	Support the concept, however this would appear to require council's to produce an additional code map with the attenuation distances mapped. Given the number of activities listed, it would not be feasible for Council's to produce or maintain accurate mapping.
C6.0 Local Historic Heritage Code	**Application of Code - significant trees**	Suggest creating a standalone Code for Significant Trees.	Unsure if this would be beneficial.

Section	Clause/Provision	Issues Raised	WTC Comments
	Application of Code – places listed on the Tasmanian Heritage Register (THR)	Suggest modification to ensure that places listed both locally and on the THR are only required to be assessed by the Tasmanian Heritage Council.	No objection.
	C6.6.1 - Demolition	Suggested changes: • In C6.6.1 Objective and the P1 preamble, replace the words 'unacceptable impact' with 'adverse impact'. • Delete C6.6.1, P1 (g) whether demolition is a reasonable option to secure the long-term future of a building or structure. • Delete C6.6.1, P1 (h) any economic considerations.	Concern with use of phrase 'adverse impact' that it would be interpreted as any adverse impact.
C7.0 Natural Assets Code	**General**	Suggest reviewing Natural Assets Code to: • recognise the Regional Ecosystem Model as the basis for the Priority Vegetation overlay. • review the composition of the Regional Ecosystem Model to ensure it provides a suitable data base to deliver the functions and protections of the Natural Assets Code, RMPS and the Act; and • have State take on ownership and maintenance of the REM as part of the Natural Assets Code. Suggest revision of the LPS mapping to include all species and vegetation communities listed under the Threatened	Generally support a review of the methodology for preparing a Priority Vegetation Overlay, noting that many council's would not have the additional resources to undertake this work. As raised in Attachment 2 above, there should be a consideration of where the mapping resides, either as SPP or LPS mapping.

Section	Clause/Provision	Issues Raised	WTC Comments
		Species Protection Act 1995, Nature Conservation Act 2002 and Environment Protection and Biodiversity Conservation Act 1999, and revision of the Priority Vegetation layer.	
	C7.2 Application of this Code	Suggest allowing the priority vegetation overlay to apply to the Agriculture Zone and provide suitable exemptions for agricultural use in accordance with a Forest Practices Plan.	Supported - WTC section 35G report Also requires amendment to Guideline No. 1.
		Suggest not applying the Future Coastal Refugia area provision to the Open Space zone as it will constrain future use and development of existing Key community facilities.	The Future Coastal Refugia mapping and provisions require significant review to ensure appropriate areas are identified and the provisions are appropriate.
	C7.3 Definition of terms – clearance of native vegetation	Suggest inserting a definition of 'clearance of native vegetation' to clarify the scope of assessment under the Natural Assets Code and avoid confusion with definition of 'clearance and conversion'.	Generally support. The definition of 'clearance and conversion' in the *Forest Practices Act 1985* does not appear to align with the intent of the Code.
	C7.3 Definition of terms – priority vegetation	Suggest deletion of the definition of 'priority vegetation'. There is no need to define the term due to the priority vegetation area overlay being an expression of the aggregated data – the provisions should express the action without a further question being raised on the meaning of 'priority vegetation' within the operation of the standards.	Supported

Section	Clause/Provision	Issues Raised	WTC Comments
	C7.4 Use or development exempt from this Code	The SPPs should close the substantive loophole for certified forest practices plans in the Code exemption. The purpose of the exemption is to avoid assessment duplication, but fails to take account of the different appreciation of scale of forestry practices compared to development practices and the differing assessment models. This should be discussed further with relevant agencies and resolved.	Noted, however care should be taken that the assessment process is not essentially duplicated.
	C7.6.1 Buildings and works within a waterway and coastal protection area or a future coastal refugia area	Suggest removing the prohibition on development that is not reliant on a coastal location. It does not allow an applicant to demonstrate that the development is in accordance with the other requirements in clause C7.6.2 P2.1.	Supported – WTC section 35G Report
	C7.6.2 Clearance within a priority vegetation area	Clause C7.6.2 does not deliver the stated objectives and gives no guidance on the underlying policy or intended outcome. Clause C7.6.2 P1.1 and P1.2 should not limit the purpose of the vegetation clearance, instead it should answer the simple question of whether the native vegetation should be cleared and the maintenance of habitat to provide for the ongoing survival of priority species. Suggest the code establish an approach of 'avoid, minimise, and offset' based on the scarcity of the vegetation community similar to the Southern Region's interim planning schemes.	Support a review of the priority vegetation provisions

Section	Clause/Provision	Issues Raised	WTC Comments
	C7.6.2 Clearance within a priority vegetation area (offsets)	There is a question of law over whether planning schemes can regulate off-site biodiversity offsets – offsets should also be a last resort. Offset principles are operated within other systems such as dam and forestry assessment and the matter may be worthy of consideration for development assessment. SPO Note: Clause C7.6.2 P1.2 only refers having regard 1o 'on-site' biodiversity offsets.	Matter should be investigated further to resolve issue.
	C7.7.2 Subdivision within a priority vegetation area	Clause C7.7.2 does not deliver the stated objectives and give no guidance on the underlying policy or intended outcome.	As above, a review of the priority vegetation provisions is supported.

Section	Clause/Provision	Issues Raised	WTC Comments
	Table 7.3 – Definition of Waterway and Coastal Protection Areas	The definition means that the protection area needs to be physically measured each time, rather than relying on the buffers included in the mapping. Suggest amending the definition as below. means land: (a) shown on an overlay map in the relevant Local Provisions Schedule as within a waterway and coastal protection area; or (b) within the relevant distance from a watercourse, wetland, lake or the coast that is not mapped in the Local Provisions Schedule shown in the Table C7.3 below, but does not include a piped watercourse or piped drainage line. The depiction of a watercourse, or a section of a watercourse on an overlay map in the relevant Local Provisions Schedule, is definitive regardless of the actual area of the catchment.	Supported - WTC section 35G report
C8.0 Scenic Protection Code	**C8.6.1 Development within a scenic protection area**	Suggest modifying provisions to allow for the protection to scenic coastal and rural areas, not just ridgelines and skylines.	Support, however the scenic values detailed in the LPS would identify these as important.
	General	Suggest fully revising C8.0 Scenic Protection Code addressing the particular issues: • A focus on skylines and not all scenic landscapes, in that the Code does not adequately provide for landscapes in coastal areas, river estuaries, or highly scenic rural areas. There is also no definition for skyline.	Generally Support

Section	Clause/Provision	Issues Raised	WTC Comments
		• Improve the ability of the code to comply with strategies identified in the Regional Land Use Strategies for management of scenic resources and the Objectives of the Resource Management and Planning System and the LUPA Act for sustainable development, management of resources and consideration of intergenerational impacts. • There are difficulties in interpreting and applying the Scenic Road Corridor provisions, and limited ability to provide scenic protection in any instance. • There is limited scenic protection within Rural and Agricultural Zones. • The intent to protect hedgerows and exotic trees close to scenic road corridors under the Code is effectively removed by the vegetation removal exemption at Clause 4.4.1 or Clause 4.4.2. • Consider the impacts of the exemptions on the function and purpose of the Code. • Provide recognition for the significance of scenic values (such as national, state and local) and the impacts of development on them. • provide recognition for the significance of scenic values (such as national, state and local) and the impacts of development on them.	

Section	Clause/Provision	Issues Raised	WTC Comments
C9.0 Attenuation Code	**C9.2 Application of the Code**	Suggest insertion of the following: C9.2.5 The code does not apply to sensitive uses, or subdivision if it creates a lot where a sensitive use could be established, within an attenuation area, where there are existing sensitive uses located between the use or development and the activities listed in Tables C9.1 and C9.2.	Supported – WTC section 35G report
	C9.4.1 Use or Development Exempt from this Code	Suggest adding a part (c) under clause C9.4.1: (c) Development for uses which are no permit required or permitted in the subject zone where development is proposed.	Generally support however should test the potential impact. For example residential zones in close proximity to Sewerage Treatment Plants. Any dwelling would be exempt from the code within the attenuation distance.
C11.0 Coastal Inundation Hazard Code	**C11.4 Use or development exempt from the code**	Suggest amending clause C11.4.1 to insert: use of land within a low or medium coastal inundation hazard band and in an urban zone, excluding for a critical use, hazardous use or vulnerable use.	Supported - WTC section 35G report Also recommended amending section C11.4.1 (c) to: (c) alterations or extensions to an existing building located within a **medium or** high coastal inundation hazard band, if: (i) the site coverage is not increased by more than 20m^2 from that existing at the effective date; and (ii) not for a critical, hazardous, or vulnerable use;

Section	Clause/Provision	Issues Raised	WTC Comments
	C11.5 Use Standards **C11.6 Development Standards for Buildings and Works**	Redraft clauses C11.5 and C11.6 to: • remove requirements for uses to rely on a coastal location to fulfil its purpose in non-urban zones; • align the drafting with the approach to managing landslip hazards.	Supported – WTC section 35G report
C12.0 Flood Prone Areas Hazard Code	**General**	Suggest introducing Acceptable Solutions to the Flood Prone Areas Hazard Code standards to enable a Permitted pathway for use and development within a flood prone hazard areas overlay map.	Supported.
	C12.2.5 Application of the Code	Clause C12.2.5 should be deleted. It is critical that the Flood-Prone Hazard Code and Coastal Inundation Hazard Code are considered together if they overlap. A combined flooding and inundation event could increase the risk significantly and it would be negligent not to consider one of these factors when assessing future use and development.	Full implications of this change should be considered, particularly as every development is discretionary if the Flood Prone Areas Hazard Code applies.
C13.0 Bushfire Prone Areas Code	**General**	Suggest the Code should not require a Bushfire Hazard Management Plan to consider the suitability for a house where the subdivision is not to facilitate residential use.	A Bushfire Hazard Management Plan may be required for other uses, such as Industrial activities.
C14.0 Potentially Contaminated Land Code	**C14.0 Potentially Contaminated Land Code**	Suggest that a mapped overlay is not a reasonable approach to apply the Potentially Contaminated Land Code; a non-statutory mapped overlay published to LIST map is preferable.	Agree this would be a difficult map to keep updated given the LPS amendment process.

Section	Clause/Provision	Issues Raised	WTC Comments
C15.0 Landslip Hazard Code	**General**	Suggest there will be unnecessary risk and no tangible benefits allowing private Building Surveyors in decision making for areas of known risk. Suggest reviewing the requirement for mapping that is developed and maintained by the State Government to be part of the Local Provisions Schedule and consider if some mapping should be part of the State Planning Provisions.	Supported – WTC section 35G report It is also noted that many Landslide Risk Assessments include recommendations that are not within the scope of a building assessment, such as limiting clearing of vegetation.
	C15.4 Use or Development Exempt from this Code	Suggest amending clause C15.4.1 item (c)(iv) to: (c) Utilities, excluding a hazardous use. Suggest amending clause C15.4.1 item (d) to: (d) development on land within a low hazard band that requires authorisation under the Building Act 2016.	Supported – WTC section 35G report
	C15.6.1 Building and works within a landslip hazard	Suggest inserting under Cl5.6.1 A1: A Geotechnical Practitioner has issued a Form D Geotechnical Declaration Minor Impact prepared under the Australian Geomechanics Society – Practice Note Guidelines for Landslide Risk Management 2007 for the building and/or works.	Supported – WTC section 35G report
LP1.0 Local Provisions Schedule Requirements	**LP1.7.5 Natural Asset Code**	The prescribed data requirements for the priority vegetation overlay map in clause LPI.7.5(c) are too broad and unworkable.	A review of the priority vegetation provisions is supported.

Section	Clause/Provision	Issues Raised	WTC Comments
LPS Appendix A – Local Provisions Schedule Structure	**Table C6.4 Places or Precincts of Archaeological Potential**	Suggest inserting a column in Table C6.4 to identify THR Number of places or precincts of archaeological potential.	No objection.

State Planning Office
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12 August 2022

To Whom It May Concern,

RE: State Planning Provisions (SPPs) Review - Scoping Issues

I thank you for the opportunity to comment on the review of the SPPs, noting that ALL SPPs are up for review. I also welcome the opportunity to recommend new provisions i.e. new codes and/ zones.

My submission covers:

- Who I am and why I care about planning;
- A summary of the SPP Review process;
- An overview of where the SPPs sit in the Tasmanian Planning Scheme;
- My concerns and recommendations regarding the SPPs; and
- Related general comments/concerns regarding the SPPs.

My concerns and recommendations regarding the SPPs cover 22 broad issues. I also endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions including which includes detailed submissions compiled by expert planners regarding three key areas: the *Natural Assets Code*, the *Local Historic Heritage Code* and the residential standards. Each of the three detailed submissions, have also been reviewed by a dedicated PMAT review subcommittee involving a total of 15 expert planners, environmental consultants and community advocates with relevant expertise.

I note that the *State Planning Provisions Review Scoping Paper* states that the State Planning Office will establish reference and consultative groups to assist with detailed projects and amendments associated with the SPPs. I request in the strongest possible terms that we should take part in these reference/consultative groups because I'm alarmed by what the provisions have allowed in my home town of Westbury so far and it is vital to have a community voice in these processes.

Overall I am calling for the SPPs to be values-based, fair and equitable, informed by PMAT's Platform Principles, and for the SPPs to deliver the objectives of the *Land Use Planning and Approvals Act 1993*.

Planning affects every inch of Tasmania, on both private and public land, and our well-being: our homes, our neighbour's house, our local shops, work opportunities, schools, parks and transport corridors. Planning shapes our cities, towns and rural landscapes. Well thought through strategic planning can build strong, thriving, healthy and sustainable communities.

Yours sincerely,

Anne-Marie

Mrs Anne-Marie Loader
[redacted]

I acknowledge and pay respect to the Tasmanian Aboriginal people as the traditional and original owners of the land on which we live and work. We acknowledge the Tasmanian Aboriginal community as the continuing custodians of lutruwita (Tasmania) and honour Aboriginal Elders past and present. lutruwita milaythina Pakana - Tasmania is Aboriginal land.

I care about Planning

Over the last few years, particularly the last two I have attended several Meander Valley Council Meetings where development applications have been decided on. I've seen the little town of Westbury with its many narrow, one-laned streets suddenly have to take on the extra pressure of sardine-style developments. I've seen small blocks that once had a handful of driveways soar in number from eight dwellings to 28 dwelling (Dexter Street between William and Franklin Streets) and then have a further seven dwelling approved on top of that.

I've listened to the elected Councillors at the public council meetings basically say that because the development complies with the rules and regulations it must be approved.

There is no local voice in planning decisions with the current provisions. It is one-sided towards the developers with little heed for the people who live in the area. These sardine style developments are to create maximum profit but with no thought to the future. People are crammed in. The streets remain narrow. Some street drainage has been upgraded as an afterthought, but there appears to be no forward planning so we live with the same infrastructure but with lots more dwellings and people.

This is not the Westbury that I moved to. Our way of life is being eroded by greedy development. Why put two or three units on a block, when you can cram in eight to ten? This appears to be the mentality.

I own a small house built in c1896 that is on a large block with two titles. I've received correspondence from Sydney based developers urging me to allow them to 'help' me get the full potential of my home. Actually, I do already, thanks. I don't want to jam in multiple little, cheaply built units that aren't in keeping with the amenity and heritage of the village. I don't want to hear my neighbours flush the toilet, thanks. I like space. That is why I moved here.

I am alarmed that, I as a local, can have very little influence on the development of my home town. It's all the way of developers and not for locals. They make their profits and leave us with the social consequences of inappropriate developments. And this will be a legacy for generations to come. I am so sad to see Westbury's iconic five-acre blocks cut up for development. I've heard the pleas of neighbours and while the Councillors who decide on the planning application are obviously moved, the current provisions do not allow them to make decisions that fit the local community. This is wrong. I want my opinions to be heard and considered in the decision-making process. The Planning Provisions need to be changed to allow for much greater local input in decision maker.

Another distressing part of these provisions is the ability for developers to ruin our wild places with little to no input from the community. All of Tasmania owns our wild places, our reserves and national parks. They are not for developers to ruin with buildings and infrastructure. Leave our parks alone. Change the provisions to protect the wild places. The Minister can't have all the say. The community's voice must be more powerful.

Please design and implement a planning system that is not driven by growth at all costs but by local community considerations. Don't ruin Tasmania simply to create wealth for developers. We want thoughtful development that is in keeping with the amenity of the area in which it is to sit. For Westbury, don't jam in the maximum number, allow for space to breath. Create planning rules that allow for the enhancement of our way of life, not the degradation. Let's look after Tasmania, our towns, cities and wild places for generations to come; let's not line the pockets of developers at the expense of this beautiful place.

SPP Review Process

The Tasmanian Government is currently seeking input to help scope the issues for the five yearly review of the State Planning Provisions (SPPs) in the Tasmanian Planning Scheme, which will be conducted over two stages.

The current review of the SPPs is the best chance the community has now to improve the planning system. The SPPs are not scheduled to be reviewed again until 2027.

As per the State Planning Office website '*The SPPs are the statewide set of consistent planning rules in the Tasmanian Planning Scheme, which are used for the assessment of applications for planning permits. The SPPs contain the planning rules for the 23 zones and 16 codes in the Tasmanian Planning Scheme, along with the administrative, general, and exemption provisions.* ***Regular review of the SPPs is best practice ensuring we implement constant improvement and keep pace with emerging planning issues and pressures.'***

The SPPs are now operational in 14 of Tasmania's 29 local council areas.

The State Planning Provisions Review Scoping Paper outlines the six steps of the review of the SPPs. Broadly speaking the review will be conducted in two stages as outlined below.

SPP Review - Stage 1 – SPP Scoping Issues

Public consultation is open from 25 May to 12 August 2022. This review or scoping exercise phase is known as Stage 1.

The aim of Stage 1 is to identify the State Planning Provisions that may require review, as well as if there is a need for any new State Planning Provisions. E.g. new Zones and/or Codes.

Stage 1 may include some amendments to the SPPs, before Stage 2 goes on to consider more substantive issues and the consistency of the SPPs with the Tasmanian Planning Policies. The State Planning Office may characterise those amendments to the SPPs which occur in Stage 1 (or step 3 in the Scoping paper diagram) as minor amendments not requiring public consultation. I am very interested as to how a "minor amendment" is defined and made.

SPP Review - Stage 2 – SPP Amendments

There is a legislative requirement for the State Planning Provisions to be revised for consistency with the Tasmanian Planning Policies, once approved.

The current Stage 1 scoping exercise, along with the approved Tasmanian Planning Policies, will inform draft amendments to the SPPs, which will be considered through the SPP amendment process prescribed under the *Land Use Planning and Approvals Act 1993*.

This process includes a 42 day period of public exhibition and independent review by the Tasmanian Planning Commission and may also include public hearings. I consider such public hearings facilitated by the Tasmanian Planning Commission are essential if the Tasmanian community is to be involved and understand our planning laws.

See flowchart for the SPP amendment process here. This review phase is known as Stage 2 and is likely to occur in 2023.

An overview of where the SPPs sit in the Tasmanian Planning Scheme

The State Government's new single statewide planning scheme, the Tasmanian Planning Scheme, will replace the planning schemes in each of the 29 local government areas. The Tasmanian Planning Scheme is now operational in 14 of Tasmania's 29 local government areas.

The new Tasmanian Planning Scheme has two parts:

1. A single set of State Planning Provisions (SPPs) that apply to the entire state on private and public land (except Commonwealth controlled land); and
2. Local planning rules, the Local Provisions Schedule (LPS) which apply the SPPs to each municipal area on both private and public land.

1. State Planning Provisions (SPPs)

The SPPs are the core of the Tasmanian Planning Scheme, they set the new planning rules and in my view are blunt planning instruments that are more likely to deliver homogenous and bland planning outcomes. The SPPs state how land can be used and developed and outline assessment criteria for new use and development. These rules set out 23 zones and 16 codes that may be applied by Councils under their LPSs. Not all zones or codes will be relevant to all Councils, for example in Hobart there will be no land zoned Agriculture, and in the Midlands there will be no land subject to the Coastal Inundation Hazard Code.

Read the current version of the SPPs here.

- **The Zones**: the 23 zones set the planning rules for use and development that occurs within each zone (i.e. applicable standards, specific exemptions, and tables showing the land uses that are allowed, allowable or prohibited - No Permit Required, Permitted, Discretionary or Prohibited). The zones are: General Residential, Inner Residential, Low Density Residential, Rural Living, Village, Urban Mixed Use, Local Business, General Business, Central Business, Commercial, Light Industrial; General Industrial, Rural, Agriculture, Landscape Conservation, Environmental Management Zone, Major Tourism, Port and Marine, Utilities, Community Purpose, Recreation, Open Space; and the Future Urban Zone.
- **The Codes:** the 16 codes can overlay zones and regulate particular types of development or land constraints that occur across zone boundaries, and include: Signs, Parking and Sustainable Transport, Road and Railway Assets, Electricity Transmission Infrastructure Protection, Telecommunications, Local Historic Heritage, Natural Assets, Scenic Protection, Attenuation, Coastal Erosion Hazard, Coastal Inundation Hazard, Flood-Prone Areas Hazard, Bushfire-Prone Areas, Potentially Contaminated Land, Landslip Hazard and Safeguarding of Airports Code.

In addition to the zone and code provisions, the SPPs contain important information on the operation of the Tasmanian Planning Scheme, including Interpretation (Planning Terms and Definitions), Exemptions, Planning Scheme Operation and Assessment of an Application for Use or Development. These up-front clauses provide important context for the overall planning regime as they form the basis for how planning decisions are made. The terminology is very important, as often planning terms do not directly align with plain English definitions.

2. Local Planning Rules/Local Provisions Schedule (LPS)

The local planning rules, known as the Local Provisions Schedule, are prepared by each Council and determine where zones and codes apply across each municipality. The development of the LPS in each municipality is the last stage in the implementation of the Tasmanian Planning Scheme. Once the LPS for a municipality is signed off by the Tasmanian Planning Commission, the Tasmanian Planning Scheme becomes operational in that municipality.

The LPS comprise:

- maps showing WHERE the SPP zone and codes apply in a local municipal area; and
- any approved departures from the SPP provisions for a local municipal area.

View the Draft LPS approval process here.

If Councils choose to apply a certain zone in their LPS (e.g. Inner Residential, Rural Living or Agriculture Zone), the rules applying to that zone will be the prescriptive rules set out in the SPPs and are already approved by the State Government. **Councils cannot change the SPPs which will be applied. Councils only have control over where they will be applied through their LPS.**

Site Specific Local Planning Rules

If a Council or local community decides that areas within its municipality are not suited to one of the standard 23 zones then they may consider applying one of three site specific local planning rules. These three local planning rules are the only tool the Council/Community has to protect local character. However, from a community point of view, they are disappointingly difficult to have applied (see example outlined under point 8 in the section below entitled '*Related General Comments/Concerns regarding the SPP*').

The three planning tools are:

- **Particular Purpose Zone (PPZ)** – is a zone that can be created in its own right. It is a group of provisions consisting of (i) a zone that is particular to an area of land; and (ii) the provisions that are to apply in relation to that zone. It usually will apply to a particular land use (e.g. UTAS Sandy Bay campus or a hospital, Reedy Marsh, Dolphin Sands, The Fisheries).
- **Specific Area Plan (SAP)** - being a plan consisting of (i) a map or overlay that delineates a particular area of land; and (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs. SAPs are specific to that site and sit over the top of a zone. For example, a proposed Coles Bay SAP would have sat over the underlying Low Density Residential Zone and the SAP rules would have allowed for a broader scope of new non-residential uses across the whole of Coles Bay. SAPs can be used for greenfield residential subdivision to allow higher density housing, to plan for roads and to protect areas of vegetation and open space (e.g. SAPs are also proposed for Cambria Green, Huntingfield, Jackeys Marsh, Blackmans Bay Bluff).
- **Site Specific Qualification (SSQ)** is used to facilitate particular types of activities at certain sites (e.g. New Town Plaza Shopping Centre) and sit over the top of a zone.

My concerns and recommendations regarding the SPPs

In PMAT's view the State Government's Tasmanian Planning Scheme fails to adequately address a range of issues, which will likely result in poor planning outcomes. A planning system that deals effectively with these issues is essential for Tasmania's future and for the well-being of communities across the state.

The SPP review is thus critically important and is a particular priority for me as it is the best chance we have to improve planning outcomes until 2027.

My key concerns and recommendations cover the following topics:

1. Ensuring the community has the right to have a say;
2. Climate Change Adaptation and Mitigation;
3. Planning, Insurance and climate risks;
4. Community connectivity, health and well-being;
5. Aboriginal cultural heritage;
6. Heritage buildings and landscapes (Local Historic Heritage Code);
7. Tasmania's brand and economy;
8. Housing;
9. Residential issues;
10. Stormwater;
11. Onsite wastewater;
12. Rural/Agricultural issues;
13. Coastal land issues;
14. Coastal waters;
15. National Parks and Reserves (Environmental Management Zone);
16. Healthy Landscapes (Landscape Conservation Zone);
17. Healthy Landscapes (Natural Assets Code);
18. Healthy Landscapes (Scenic Protection Code);
19. Geodiversity;
20. Integration of land uses;
21. Planning, Loss of Character Statements and Good Design;
22. Other various issues with the SPPs.

1. Ensuring the community has the right to have a say

Land use planning is the process through which governments, businesses, and residents come together to shape their communities. Having a right of say is critical to this.

The current SPPs however, with fewer discretionary developments, and more exemptions, significantly reduce the community's right to have a say and in many instances also removes appeal rights, weakening democracy. More and more uses and development are able to occur without public consultation or appeal rights. Without adequate community involvement in the planning process, there is a risk of more contested projects, delays and ultimately less efficient decision-making on development proposals.

The reduction in community involvement is clearly demonstrated by how developments are dealt with in our National Parks and Reserves and residential areas.

National Parks and Reserves and right of say

Commercial tourism development can be approved in most National Parks and Reserves without guarantee of public consultation, and with no rights to appeal. This means that the public has no certainty of being able to comment and no appeal rights over public land covering almost 50% of Tasmania. The State Government has repeatedly stated that that this issue will be dealt with through the review of the Reserve Activity Assessment (RAA) process.

The RAA process is the internal government process by which developments in national parks and reserves are assessed. However, the review has stalled with no apparent progress for at least five years[1].

Community stakeholders are unable to obtain clear information on the review progress, timelines and the formal process regarding consultation. It appears that the State Government has abandoned this critically important review of the Reserve Activity Assessment. I am concerned that proposed developments can be approved under the existing deeply flawed process without any opportunity for public comment and involvement. This is inconsistent with three of the most fundamental of the objectives of the *Land Use Planning and Approvals Act 1993*: "(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity… (c) to encourage public involvement in resource management and planning; and (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State*."

There is a current Petition (closing 4 August 2022) before the Tasmanian Parliament: 'Inadequate processes for assessing and approving private tourism developments in Tasmania's national parks' which has already attracted 2609 signatures and demonstrates the level of community concern. Amongst other concerns, the petition draws to the attention of the Tasmanian Parliament that '*The Reserve Activity Assessment (RAA) process is flawed, opaque and lacks genuine public consultation*' and calls on the '*Government to abandon the Expressions of Interest process and halt all proposals currently being considered under the Reserve Activity Assessment process until a statutory*

[1]Page 11 of the *Minister's Statement of Reasons for modifications to the draft State Planning Provisions* here which states '*…in response to matters raised during the hearings* [of the draft SPPs] *the Government agrees that a review of the RAA (Reserve Activity Assessment) be undertaken*'.

assessment and approval process for private tourism developments in Tasmania's national parks is implemented'.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, identified the level of public concern regarding the Reserve Activity Assessment process.

In 2017, the then Planning Minister Peter Gutwein acknowledged that the RAA process "needs review", but made no amendments to the SPPs in relation to developments in national parks.

In 2019 eleven community groups were so frustrated they could not obtain clarity on the RAA review they resorted to lodging a Right to Information (RTI) request to seek transparency. See PMAT Media Release: Has Hodgman abandoned the review of RAA process for developments in national parks and reserves?

Recommendation: That the State Government move quickly to **1.** finalise the RAA Review, including the exemptions and applicable standards for proposed use and development in the Environmental Management Zone **2.** To implement changes for a more open, transparent and robust process that is consistent with the Tasmanian Planning System *Land Use Planning and Approvals Act 1993* objectives. **3**. The Environmental Management Zone should be amended to ensure the public has a meaningful right of say and access to appeal rights - in particular by amending what are "permitted" and "discretionary" uses and developments in the Environmental Management Zone.

Residential areas and right of say

PMAT commissioned an architectural planning study (Figures 1 and 2) to demonstrate what is permitted in the General Residential Zone to visually demonstrate what can be built without public comment, appeal rights and notification to your adjoining neighbour.

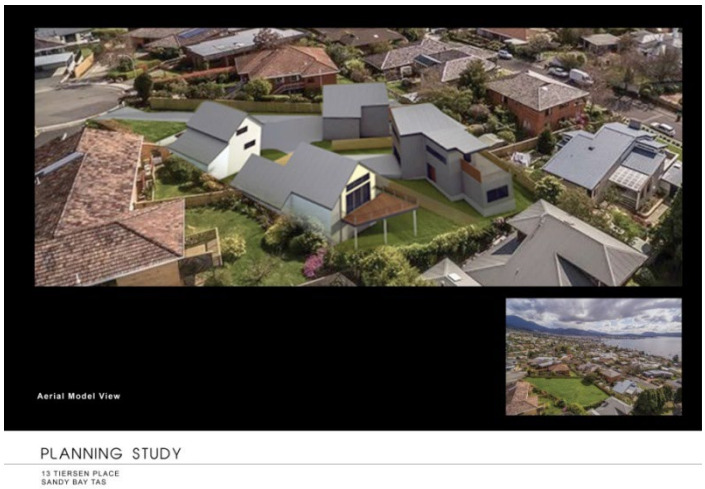

Figure 1 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment, and no appeal rights.

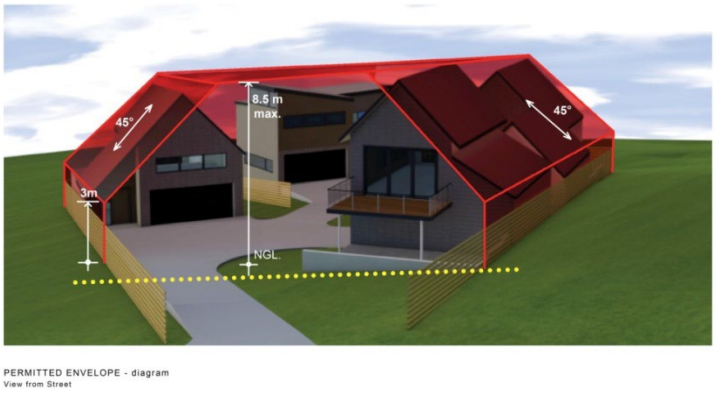

Figure 2 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment and no appeal rights.

PMAT's planning study helps highlight issues that have led to confusion and anxiety in our communities including lack of say about the construction of multiple and single dwellings(especially by adjoining neighbours), bulk, height, overshadowing, loss of privacy, loss of sunlight/solar access, loss of future solar access for Solar PV arrays and Solar Hot Water panels on, north-east, north, and north-west -facing roofs, lack of private open space and inappropriate site coverage, overlooking private open space and blocking existing views

Recommendation: The SPPs should be amended to ensure the public has a meaningful right of say and access to appeal rights across the residential zones, in particular by amending what is "permitted" and "discretionary" use and development. Our planning system must include meaningful public consultation that is timely effective, open and transparent.

2. Climate Change Adaptation and Mitigation

Adaptation

Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, I am seeking amendments to the SPPs which better address adaptation to climate change. We need planning which ensures people build out of harm's way.

Mitigation

Climate Change Mitigation refers to efforts to reduce or prevent emissions of greenhouse gases. I would like to see increased opportunity for mitigation by for example embedding sustainable transport, 'green' (i.e. regenerative) design of buildings and subdivisions in planning processes. One current concern is that across residential zones solar panels on adjoining properties are not adequately protected nor the foresight to enable future rooftop solar panel installations with unencumbered solar access.

On the subject of renewable energy, which will become increasingly important as the world moves to Net Zero, we are concerned that there appears to be no strategically planned Wind Farm designated area. I do not want open slather wind farms right across the state industrialising our scenic landscapes but would like to see appropriately placed wind farms, decided after careful modelling of all environmental data. This is especially important as based on the *200% Tasmanian*

Renewable Energy Target, **I/we understand that this could equate to approximately 89 wind farms and over 3000 wind turbines**. The new target aims to double Tasmania's renewable energy production and reach 200 per cent of our current electricity needs by 2040.

Recommendation: 1. The SPPs be amended to better address adaptation to climate change, by ensuring Tasmania's risk mapping is based on the best available science and up to date data. **2**. The SPPs be amended to better embed sustainable transport, green design of buildings and subdivisions into planning processes, including better protection of solar panels and provision for future solar access. **3**. Strategic thinking and modelling to decide where best to allow wind farms. The SPPs could include a new *No Go Wind Farm Code.*

3. Planning, Insurance and Climate Risks

This year, the Climate Council, an independent, crowd-funded organisation providing quality information on climate change to the Australian public, released a report entitled Uninsurable Nation: Australia's Most Climate-Vulnerable Places and a climate risk map.

Key findings of the Report concluded climate change is creating an insurability crisis in Australia due to worsening extreme weather and sky-rocketing insurance premiums. It is my understanding that the modelling found that approximately 2% of homes in Tasmania would be effectively uninsurable by 2030 due to the effects of climate change. The major risk to the areas of the state are the north east and the east - in Bass, 3.7% of homes and in Lyons, 2.8% of homes.

Risks include flooding, storm surges and wildfires. The SPPs deal with these risks under the following Codes:

- Coastal Erosion Hazard Code
- Coastal Inundation Hazard Code
- Flood-Prone Areas Hazard Code
- Bushfire-Prone Areas Code
- Landslip Hazard Code

However, I understand that the code risk mapping is based on conservative climate data. There is also a concern that the State Government's risk mapping and the insurance sector's risk mapping are inconsistent.

Recommendation: the SPPs Codes be reviewed and updated to ensure they reflect the best available science about current and likely bushfire, flood and coastal inundation risks. The State Government, through its Tasmanian Planning Scheme, has a responsibility to ensure that the planning system does not allow the building of homes in areas that will become uninsurable. Consideration should also be given in the review as to how the SPPs can ensure that developments and uses approved can be retrofitted to better respond to changing climatic conditions.

I would like to know the status of *Tasmania's Climate Change Action Plan 2017-2021* which contained a proposal for: "…***land-use planning reforms*** *to manage natural hazards and climate impacts. Instruments under development include a Tasmanian Planning Policy on Hazards and Environmental Risks, and State Planning Provisions for natural hazards."*

4. Community connectivity, health and well-being

The SPPs currently have limited provisions to promote better health for all Tasmanians, such as facilitation of walking and cycling opportunities across suburbs, ensuring local access to recreation areas and public open space and addressing food security.

Recommendation:

Liveable Streets Code – I endorse the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' which calls for the creation of a new '*Liveable Streets Code*'. In their representation they stated '*In addition to, or as alternative, the preferred position is for provisions for streets to be included in a Liveable Streets code. Such a code would add measurable standards to the assessment of permit applications. An outline for a Liveable Streets code is included at Annexure 1 as at this stage such a code requires further development and testing. For this representation the concept of a Liveable Streets code is advocated as a foreshadowed addition to the SPPs*.' *Annexure 1 – Draft for a Liveable Streets Code* (page 57) of the '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016'* sets out the code purpose, application, definition of terms, street design parameters, Street connectivity and permeability, streets enhance walkability, streets enhance cycle-ability, and streets enhance public transport. Our streets are also corridors for service infrastructure – such as telecommunications, electricity and water. It is important that placement of these services does not detract from liveable streets design, for example through limiting street trees.

Food security – I also endorse the recommendations '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' for amendments to the State Planning Provisions to facilitate food security.

Public Open Space – I recommend we create tighter provisions for the Public Open Space Zone and /or the creation of a Public Open Space Code. The planning system must ensure local access to recreation areas with the provision of public open space. Public open space has aesthetic, environmental, health and economic benefits. The *2021 Australian Liveability Census,* based on over 30,000 responses, found that the number 1 *'attribute of an ideal neighbourhood is where 'elements of the natural environment' are retained or incorporated into the urban fabric as way to define local character or uniqueness. In the 2021 Australian Liveability Census 73% of respondents selected this as being important to them. That is a significant consensus.'*

I am seeking mandatory provisions and standards for public open space and riparian and littoral reserves as part of the subdivision process. We understand these are not mandated currently and that developers do not have to provide open space as per for example the voluntary Tasmanian Subdivision Guidelines.

It may be that mandated provisions of Public Open Space can be addressed adequately in the Open Space Zone already in the SPPs. Very specifically, I am seeking the inclusion of requirements for the provision of public open space for certain developments like subdivisions or multiple dwellings.

I understand that a developer contribution can be made to the planning authority in lieu of the provision of open space and that those contributions can assist in upgrading available public open space. However, there appears to be no way of evaluating the success of this policy.

Neighbourhood Code - I recommend we create a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 *Residential issues* section below as a tool to protect/enhance urban amenity.

5. Aboriginal Cultural Heritage

The current SPPs have no provision for mandatory consideration of impacts on Aboriginal Heritage, including Cultural Landscapes, when assessing a new development or use that will impact on Aboriginal cultural heritage.

This means, for example, that under current laws, there is no formal opportunity for Tasmanian Aboriginal people to comment on or object to a development or use that would adversely impact their cultural heritage, and there is no opportunity to appeal permits that allow for adverse impacts on Aboriginal cultural heritage values.

While I acknowledges that the Tasmanian Government has committed to developing a new Tasmanian Aboriginal Cultural Heritage Protection Act to replace the woefully outdated *Aboriginal Heritage Act* 1975 (Tas), it is unclear whether the proposed "*light touch*" integration of the new legislation with the planning system will provide for adequate protection of Aboriginal Cultural heritage, involvement of Tasmanian Aboriginal people in decisions that concern their cultural heritage, and consideration of these issues in planning assessment processes.

Indeed, it is unclear if the new Act will "*give effect to the Government's commitment to introducing measures to require early consideration of potential Aboriginal heritage impacts in the highest (State and regional) level of strategic planning, and in all assessments of rezoning proposals under the LUPA Act to ensure major planning decisions take full account of Aboriginal heritage issues*."[2]

One way that the planning scheme and SPPs could ensure Aboriginal cultural heritage is better taken into account in planning decisions, is through the inclusion of an Aboriginal Heritage Code to provide mandatory assessment requirements and prescriptions that explicitly aim to conserve and protect Aboriginal cultural heritage. Assessment under this code could serve as a trigger for assessment under a new Tasmanian Aboriginal Cultural Heritage Protection Act. Until that Review is complete, it will be unclear how the new Act will give effect to the objective of cross reference with the planning scheme. **The planning scheme should therefore set up a mechanism that ensures maximum assessment, consideration and protection of Aboriginal heritage.**

I recognise this is an imperfect approach in that the proposed Aboriginal Heritage Code may not be able to fully give effect to the *United Nations Declaration of the Rights of Indigenous Peoples* by providing Tasmanian Aboriginal people the right to free, prior and informed consent about developments and uses that affect their cultural heritage or give them the right to determining those applications.

However, while the Tasmanian Government is in the process of preparing and implementing the new Aboriginal Cultural Heritage Protection Act, it will at least allow for consideration and protection of Aboriginal cultural heritage in a way that is not presently provided under any Tasmanian law.

[2] Jaensch, Roger (2021) *Tabling Report: Government Commitment in Response to the Review Findings, Aboriginal Heritage Act 1975: Review under s.23* – see here: https://nre.tas.gov.au/Documents/Tabling%20Report%20-%20Review%20of%20the%20Aboriginal%20Heritage%20Act.pdf

Recommendation: The SPPs must provide better consideration of and protection to Aboriginal cultural heritage such as via the creation of an *Aboriginal Heritage Code* and the cross reference and meaningful connection to a new Aboriginal Cultural Heritage Protection Act that will protect Aboriginal Cultural heritage.

6. Heritage Buildings and Heritage Landscape Issues (Local Historic Heritage Code)

I/we/community group name considers that limited protections for heritage places will compromise Tasmania's important cultural precincts and erode the heritage character of listed buildings. I/we understand that many Councils have not populated their Local Historic Heritage Codes as they are resource and time limited and there is a lack of data.

PMAT engaged expert planner Danielle Gray of Gray Planning to draft a detailed submission on the Local Historic Heritage Code. The input from Gray Planning has provided a comprehensive review of the Local Historic Heritage Code and highlights deficiencies with this Code. There is considerable concern that the wording and criteria in the Local Historic Heritage Code will result in poor outcomes for sites in Heritage Precincts as well as Heritage Places that are individually listed. There is also a lack of consistency in terminology used in the Local Historic Heritage Code criteria that promote and easily facilitate the demolition of and unsympathetic work to heritage places, Precinct sites and significant heritage fabric on economic grounds and a failure to provide any clear guidance for application requirements for those wanting to apply for approval under the Local Historic Heritage Code. The Local Historic Heritage Code also fails to provide incentives for property owners in terms of adaptive reuse and subdivision as has previously been available under Interim Planning Schemes. It is considered that the deficiencies in the current Local Historic Heritage Code are significant and will result in poor outcomes for historic and cultural heritage management in Tasmania.

A summary of the concerns and recommendations with respect to the review of the Local Historic Heritage Code by Gray Planning is outlined below.

Gray Planning - Summary of concerns and recommendations with respect to the Local Historic Heritage Code

- The name of the Local Historic Heritage Code should be simplified to 'Heritage Code'. This simplified naming is inclusive of historic heritage and cultural heritage rather than emphasising that heritage is about historic values only.
- Definitions in the Local Historic Heritage Code are currently brief and inexhaustive and do not align with definitions in the Burra Charter.
- There are no clear and easily interpreted definitions for terms repeatedly used such as 'demolition, 'repairs' and 'maintenance'.
- Conservation Processes (Articles 14 to 25) as outlined in the Burra Charter should be reflected in the Local Historic Heritage Code Performance Criteria. Issues covered in the Burra Charter are considered to be very important to maintaining historic and cultural heritage values such as setting, context and use are not mentioned in the Local Historic Heritage Code at all.
- The Local Historic Heritage Code does not deal with any place listed on the Tasmanian Heritage register and there is a hard line separate of local and state listed places. This fails to recognise the complexity of some sites which have documented state and local values.

- Failure to also consider state and local heritage values as part of the Local Historic Heritage Code will result in important issues such as streetscape and setting and their contribution to heritage values not being considered in planning decisions.
- The SPP Code does not provide a summary of application requirements to assist both Councils and developers. This approach results in a failure to inform developers of information that may be required in order to achieve compliance.
- The Objectives and Purpose of the Local Historic Heritage Code is too limited and should align with the *Historic Cultural Heritage Act 1995* in terms of purpose.
- The Exemptions as listed in the Local Historic Heritage Code are in some cases ambiguous and would benefit greatly from further clarification and basic terms being defined under a new Definitions section.
- Previously, some Interim Planning Schemes included special provisions that enabled otherwise prohibited uses or subdivision to occur so long as it was linked to good heritage outcomes. Those have been removed.
- Development standards for demolition are concerning and enable the demolition of heritage places and sites for economic reasons.
- Development standards use terminology that is vague and open to misinterpretation.
- The words and phrases 'compatible' and 'have regard to' are repeatedly used throughout the Local Historic Heritage Code and are considered to be problematic and may result in unsympathetic and inconsistent outcomes owing to their established legal translation.
- Performance criteria do not make definition between 'contributory' and 'non contributory' fabric. This may result in poor heritage outcomes where existing unsympathetic development is used as justification for more of the same.
- The Local Historic Heritage Code as currently written will allow for unsympathetic subdivision to occur where front gardens can be subdivided or developed for parking. This will result in loss of front gardens in heritage areas and contemporary development being built in front of and to obstruct view of buildings of heritage value.
- The Local Historic Heritage Code as currently written does not place limits on extensions to heritage places which enables large contemporary extensions that greatly exceed the scale of the heritage building to which they are attached to.
- Significant tree listing criteria are not always heritage related. In fact most are not related to heritage. Significant trees should have their own separate code.
- Currently there is no requirement for Councils to populate the Local Historic Heritage Code with Heritage Precincts of Places. Failure to do so is resulting in buildings and sites of demonstrated value being routinely destroyed.

Recommendation:

Burra Charter: I recommend that the *Local Historic Heritage Code* in the Tasmanian Planning Scheme should be consistent with the objectives, terminology and methodology of the Burra Charter. I also endorse Gray Planning's recommendations regarding the *Local Historic Heritage Code as outlined above.*

Significant trees: Consistent with the Tasmanian Planning Commission's 2016 recommendations on the draft SPP's outlined on page 63[3] '*a stand-alone code for significant trees to protect a broader range of values be considered as an addition to the SPPs*'.

7. Tasmania's Brand and Economy

I support the Tasmanian brand noting that a planning system which protects Tasmania's cherished natural and cultural heritage underpins our economy, now and into the future. We consider that the current SPPs threaten Tasmania's brand, as they place our natural and cultural heritage and treasured urban amenity at risk. The current planning system may deliver short-term gain but at the cost of our long-term identity and economic prosperity.

As Michael Buxton, former Professor of Environment and Planning, RMIT University, stated "*The Government argues the new [planning] system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.*" Source: Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016 (attached in Appendix 1).

As per Brand Tasmania's 2019-2024 Strategic Plan, it could be argued that the SPPs are inconsistent with Brand Tasmania's main objectives which are to: '*To develop, maintain, protect and promote a Tasmanian brand that is differentiated and enhances our appeal and competitiveness nationally and internationally; To strengthen Tasmania's image and reputation locally, nationally and internationally; and To nurture, enhance and promote the Tasmanian brand as a shared public asset.*'

Recommendation: A brand lens should be placed over the top of the SPPs to ensure they are consistent with the objectives of Brand Tasmania. This consistency could also be facilitated via the Tasmanian Planning Policies.

8. Housing

I understand the critical need for housing, including social and affordable housing. Disappointingly the Tasmanian Planning Scheme contains no provisions to encourage affordable or social housing.

I believe that good planning, transparent decision making and the delivery of social and affordable housing need not be mutually exclusive. Indeed good planning can result in delivery of both more and better housing.

Instead of managing housing through Tasmania's key planning document, the Tasmanian Planning Scheme, in 2018 the Tasmanian Government introduced a fast track land rezone process called the Housing Land Supply Orders (e.g. Housing Order Land Supply (Huntingfield). Taking this approach compromises strategic planning and transparent decision making. For example, the State Government is the proponent and the assessor. Fast-tracking planning, such as through Housing Land Supply Orders for large subdivisions, will not assist with community cohesion and/or trust in both the planning system or social/affordable housing projects.

[3] *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016 – see page 63.*

Taking zoning and planning assessments outside the Tasmanian Planning System risks an ad hoc approach to housing that makes an integrated approach more difficult. This works against delivering quality housing outcomes.

I support policies and SPPs which encourage development of well-planned quality social and affordable housing. As mentioned above there is no provision for affordable or social housing within the SPPs. We understand this is also the case with the Subdivision Standards. I am/We are concerned that there are no requirements in the SPPs which require developers to contribute to the offering of social and affordable housing. For example, in some states, and many other countries, developers of large subdivisions or multiple dwellings in certain inner city zones, are required to offer a certain percentage of those developments as affordable housing, or pay a contribution to the state in lieu of providing those dwellings.

Recommendation:

Need to encourage delivery of social and affordable housing: New developments should contain a proportion of social and/or affordable housing.

Best practice house and neighbourhood design: should be adopted so that housing developments not only provide a place for people to live but result in better amenity, health and environmental outcomes. Plus we need to ensure that consideration is given to local values in any new large developments.

Provision of infrastructure to support communities: including transport, schools, medical facilities, emergency services, recreation and jobs should be part of the planning process and not an afterthought.

9. Residential Issues

One of my/our main concerns is how residential density is being increased with minimal to no consideration of amenity across all urban environments. I/we understand that the push for increasing urban density is to support the Tasmanian Government's growth plan to grow Tasmania's population to 650,000 by 2050. In our view, we are not doing density or the provision of public open space well.

Currently infill development in our residential zones is not strategically planned but "as of right", and Councils cannot reject Development Applications even though they may fail community expectations. I/we consider the residential standards are resulting in an unreasonable impact on residential character and amenity. Additionally, they remove a right of say and appeal rights over what happens next door to home owners, undermining democracy. People's homes are often their biggest asset but the values of their properties can be unduly impacted due to loss of amenity. This also impacts people's mental health and well-being.

Specifically, the SPPs for General Residential and Inner Residential allow smaller block sizes, higher buildings built closer to, or on site boundary line, and multi-unit developments "as of right" in many urban areas as per the permitted building envelope. In the Low Density Residential Zone multiple dwellings are now discretionary (i.e. have to be advertised for public comment and can be appealed), whereas in the past they were prohibited by some Councils such as Clarence City Council.

The Village Zone may not be appropriate for purely residential areas, as it allows for commercial uses and does not aim to protect residential amenity.

Neighbourhood amenity and character, privacy and sunlight into backyards, homes and solar panels are not adequately protected, especially in the General and Inner Residential Zones. Rights to challenge inappropriate developments are very limited. Subdivisions can be constructed without the need for connectivity across suburbs or the provision of public open space. Residential standards do not encourage home gardens which are important for food security, connection to nature, biodiversity, places for children to play, mental health/well-being and beauty.

The permitted building envelope, especially in the General Residential Zone, for both single and multiunit developments, for example has led to confusion and anxiety in the community (as seen by examples in the video PMAT commissioned in Clarence Municipality – see here) with regards to overshadowing, loss of privacy, sun into habitable rooms and gardens, the potential loss of solar access on an adjoining property's solar panels, height, private open space and site coverage/density. Neighbourly relations have also been negatively impacted due to divisive residential standards.

Since the SPPs were created in 2017, PMAT has done a lot of work on the residential standards which reflects the level of community concern and the need for improvement. This work includes:

- PMAT plays an important role as a contact point and referral agent for individuals and community groups regarding planning issues, including residential issues, within the Tasmanian community. PMAT is contacted very regularly regarding residential issues.
- PMAT Launched two TV ads focusing on planning issues during the 2018 State election, including one on the residential issues of the Tasmanian Planning Scheme. Watch here at the end of the video the TV ad will play.
- PMAT commissioned a video highlighting residential standard planning issues. Watch video here.
- PMAT ran the largest survey of candidates for the 2018 Local Government elections. The survey demonstrated a majority of the candidates surveyed take the planning responsibilities of local government very seriously and believe Councils should have greater capacity to protect local character, amenity and places important to their local communities. There was strong candidate sentiment for local government planning controls that protect local character, sunlight and privacy for our homes. Candidates also agreed with increased public involvement in planning decisions in national parks and reserves.

I/we also concur with government agencies that have also raised concerns regarding our residential standards:

- In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended to the State Government that the Residential Provisions should be reviewed as a priority. **The Tasmanian Planning Commission recommended a comprehensive review of development standards in the General Residential and Inner Residential Zones (i.e. the standards introduced by Planning Directive 4.1) to assess whether the provisions deliver greater housing choice, encourage infill development, or unreasonably impact on residential character and**

amenity. The Minister acknowledged the recommendation, but deferred any review until the five year review of the SPPs.

- In 2018 the Local Government Association of Tasmania's pushed for review of the residential standards, which it says '*have led to confusion and anxiety in our communities with overshadowing, loss of privacy, solar access, height, private open space and site coverage to name a few. A review will highlight these concerns across the State and give the community some expectation of change that can ensure their concerns are heard*.'
- See Appendix 2 which is a story of "Mr Brick Wall' which demonstrates the tragic failing of the residential standards and was submitted as a submission to the darft SPPs in 2016.

Recommendation:

I also endorse PMAT's detailed submission regarding the residential zones and codes which has been prepared by expert planner Heidi Goess of Plan Place. The detailed submission has also been reviewed by PMAT's *Residential Standards Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience.

I endorse how the detailed PMAT submission advocates for improved residential zones/codes in the Tasmanian Planning Scheme in order to:

- Adapt to the impacts of climate change in urban and sub-urban settings
- Increase residential amenity/liveability
- Improve subdivision standards including strata title
- Improve quality of densification
- Improve health outcomes including mental health
- Provide greater housing choice/social justice
- Improve public consultation and access to rights of appeal
- Improve definitions and subjective language used in TPS
- Benchmark the above against world's best practice community residential standards (e.g. The Living Community Challenge).
- Review exemptions to see if they deliver on the above dot points.

Neighbourhood Code – I would also like to see the introduction of a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 Residential issues section below as a tool to protect/enhance urban amenity.

10. Stormwater

The current SPPs provide no provision for the management of stormwater.

In 2016, the Tasmanian Planning Commission recommended the Planning Minister consider developing a stormwater Code, to ensure Councils have the capacity to consider stormwater runoff implications of new developments. That recommendation was not accepted. The Minister considered that Building Regulations adequately deal with that issue, despite Council concerns that stormwater run-off was a planning issue, not just a building development issue.

I consider that stormwater needs to be managed as part of the SPPs. For example, there is a State Policy on Water Quality Management with which the SPPs need to comply. Relevant clauses include the following:

31.1 - Planning schemes should require that development proposals with the potential to give rise to off-site polluted stormwater runoff which could cause environmental nuisance or material or serious environmental harm should include, or be required to develop as a condition of approval, stormwater management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

31.5 Planning schemes must require that land use and development is consistent with the physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised.

Recommendation: The SPPs should include a new *Stormwater Code*.

11. On-site Waste Water

The current SPPs provide no provision for on-site waste water.

Waste water issues are currently dealt with under the Building Act. This is an issue that needs to be addressed in the Tasmanian Planning Scheme to ensure that water quality management issues arising from onsite waste water treatment are properly considered earlier at the planning stage. That is, if a site does not have appropriate space or soils for on-site waste water treatment system, a use or development that relies on this should not be approved by the planning authority.

Recommendation: On-site waste water issues need to be properly addressed in the Tasmanian Planning Scheme.

12. Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which I consider will further degrade the countryside and Tasmania's food bowl. Commercial and extractive uses are not always compatible with food production and environmental stewardship. Food security, soil health and environmental and biodiversity issues need to be 'above' short-term commercial and extractive uses of valuable rural/agricultural land resources.

Recommendation: I urge a re-consideration of the rural/agricultural zones with regards to the permitted commercial and extractive uses.

13. Coastal land Issues

I consider that weaker rules for subdivisions and multi-unit development will put our undeveloped beautiful coastlines under greater threat. For example, the same General Residential standards that apply to Hobart and Launceston cities also apply to small coastal towns such as Bicheno, Swansea and Orford. The SPPs are not appropriate for small coastal settlements and will damage their character.

Recommendation: I urge stronger protections from subdivision, multi-unit development and all relevant residential standards that cover Tasmania's undeveloped and beautiful coastlines and small coastal settlements.

14. Coastal Waters

The SPPs only apply to the low water mark and not to coastal waters. The SPPs must be consistent with State Policies including the *State Coastal Policy 1996*. The *State Coastal Policy 1996 states that it applies to the 'Coastal Zone' which 'is to be taken as a reference to State waters and to all land to a distance of one kilometre inland from the high-water mark.'*[4] *State waters are defined as the waters which extend out to three nautical miles*[5].

Recommendation: The SPPs should again apply to coastal waters e.g. the Environmental Management Zone should be applied again to coastal waters.

15. National Parks and Reserves (Environmental Management Zone)

The purpose of the Environmental Management Zone (EMZ) is to '*provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value',* and largely applies to public reserved land. Most of Tasmania's National Parks and Reserves have been Zoned or will be zoned Environmental Management Zone. My main concerns regarding the Environmental Management Zone is what is permitted in this zone plus the lack of set-back provisions that fail to protect the integrity of for example our National Parks.

Permitted Uses

The EMZ allows a range of *Permitted* uses which I consider are incompatible with protected areas. ***Permitted* uses include:** Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Pleasure Boat Facility, Research and Development, Residential, Resource Development, Sports and Recreation, Tourist Operation, Utilities and Visitor Accommodation.

These uses are conditionally permitted, for example they are permitted because they have an authority issued under the *National Parks and Reserves Management Regulations 2019*, which does not guarantee good planning outcomes will be achieved and does not allow for an appropriate level of public involvement in important decisions concerning these areas.

Set Backs

There are no setback provisions for the Environmental Management Zone from other Zones as is the case for the Rural and Agricultural Zones. This means that buildings can be built up to the boundary, encroaching on the integrity of our National Parks and/or coastal reserves.

Recommendation: I recommend: **1.** All current Environmental Management Zone Permitted uses should be at minimum *Discretionary*, as this will guarantee public comment and appeal rights on developments on public land such as in our National Parks and Reserves. **2.** There should be setback provisions in the Environmental Management Zone to ensure the integrity of our National Parks and Reserves. Further to my **submission we also endorse the recommendations made by the Tasmanian National Parks Association as outlined in their submission to the 2022 SPP review here.**

16. Healthy Landscapes (Landscape Conservation Zone)

[4] https://www.dpac.tas.gov.au/__data/assets/pdf_file/0010/11521/State_Coastal_Policy_1996.pdf
[5] *https://www.ga.gov.au/scientific-topics/marine/jurisdiction/maritime-boundary-definitions*

The purpose of the Landscape Conservation Zone (LCZ) is to provide for the protection, conservation and management of landscape values on private land. However, it does not provide for the protection of *significant natural values* as was the original intent of the LCZ articulated on p 79 of the Draft SPPs Explanatory Document. With a Zone Purpose limited to protecting 'landscape values', LCZ is now effectively a Scenic Protection Zone for private land.

Recommendation: I endorse the recommendations in the 2022 SPP review submission: '*State Planning Provisions Scoping Paper re Landscape Conservation Zone provisions by Conservation Landholders Tasmania'* which calls for a Zone to properly protect natural values on private land.

17. Healthy Landscapes (Natural Assets Code - NAC)

The Natural Assets Code (NAC) fails to meet the objectives and requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA) and does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

A key objective of LUPAA is to promote and further the sustainable development of natural and physical resources, and as an integral part of this, maintain ecological processes and conserve biodiversity. More specifically, s15 of LUPAA requires the SPPS, including the NAC, to further this objective.

As currently drafted, the NAC reduces natural values to a procedural consideration and undermines the maintenance of ecological processes and conservation of biodiversity. As a result, the, NAC fails to adequately reflect or implement the objectives of LUPAA and fails to meet the criteria for drafting the SPPs.

There are also significant jurisdictional and technical issues with the NAC, including:

- poor integration with other regulations, particularly the Forest Practices System, resulting in loopholes and the ability for regulations to be played off against each other;
- significant limitations with the scope of natural assets and biodiversity values considered under the NAC, with landscape function and ecosystem services and non-threatened native vegetation, species and habitat largely excluded;
- wide-ranging exemptions which further jurisdictional uncertainty and are inconsistent with maintenance of ecological processes and biodiversity conservation;
- extensive exclusions in the application of the Natural Assets Code through Zone exclusion relating to the Agriculture, Industrial, Commercial and Residential Zones and limiting biodiversity consideration to mapped areas based on inaccurate datasets which are not designed for this purpose. As a consequence, many areas of native vegetation and habitat will not be assessed or protected, impacting biodiversity and losing valuable urban and rural trees;
- poorly defined terms resulting in uncertainty;
- a focus on minimising and justifying impacts rather than avoiding impacts and conserving natural assets and biodiversity
- inadequate buffer distances for waterways, particularly in urban areas; and
- watering down the performance criteria to 'having regard to' a range of considerations rather than meeting these requirements, which enables the significance of impacts to be downplayed and dismissed.

As a consequence, the NAC not only fails to promote sustainable development, maintain ecological processes and further biodiversity conservation, it also fails to achieve its stated purpose. The NAC as drafted also fails to provide aspiration to improve biodiversity conservation and can only lead to a reduction in biodiversity and degradation of natural assets.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended that the Natural Assets Code be scrapped in its entirety, with a new Code developed after proper consideration of the biodiversity implications of proposed exemptions, the production of adequate, State-wide vegetation mapping, and consideration of including protection of drinking water catchments.

The then Planning Minister Peter Gutwein rejected that recommendation. Some amendments were made to the Code (including allowing vegetation of local significance to be protected), but no review of exemptions was undertaken. I understand that while no state-wide mapping was provided, the Government provided $100,000 to each of the three regions to implement the SPPs – the southern regional councils pooled resources to engage an expert to prepare biodiversity mapping for the whole region.

Note that despite concerns raised by TasWater, no further amendments were made to protect drinking water catchments.

Recommendation: The NAC does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

I support PMAT's detailed submission, that will be attached to the broad submission, regarding the *Natural Assets Code* which has been prepared by expert environmental planner Dr Nikki den Exter. Nikki den Exter completed her PhD thesis investigating the role and relevance of land use planning in biodiversity conservation in Tasmania. Nikki also works as an Environmental Planner with local government and has over 15 years' experience in the fields of biodiversity conservation, natural resource management and land use planning. As both a practitioner and a researcher, Nikki offers a unique perspective on the importance of land use planning in contributing to biodiversity conservation. The detailed submission has also been reviewed by PMAT's *Natural Assets Code Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience and knowledge.

18. Healthy Landscapes (Scenic Protection Code)

The purpose of the Scenic Protection Code is to recognise and protect landscapes that are identified as important for their scenic values. The Code can be applied through two overlays: scenic road corridor overlay and the scenic protection area overlay. However, I consider that the Scenic Protection Code fails to protect our highly valued scenic landscapes. There is an inability to deliver the objectives through this Code as there are certain exemptions afforded to use and development that allow for detrimental impact on landscape values. Concerns regarding the Scenic Protection Code have also been provided to the Tasmanian Planning Commission from the Glamorgan Spring Bay Council on the SPPs in accordance with section 35G of LUPAA.

It should also be noted, that not only does the Code fail to protect scenic values, I understand that in many instances Councils are not even applying the Code to their municipal areas. Given that

Tasmania's scenic landscapes are one of our greatest assets and point of difference, this is extremely disappointing. Local Councils should be given financial support to undertake the strategic assessment of our scenic landscapes so they can populate the Scenic Protection Code within their municipal area via either their LPS process or via planning scheme amendments.

Figure 3 - Rocky Hills, forms part of the Great Eastern Drive, one of Australia's greatest road trips. The Drive underpins east coast tourism. As per www.eastcoasttasmania.com states '*this journey inspires rave reviews from visitors and fills Instagram feeds with image after image of stunning landscapes and scenery*'. The Rocky Hills section of the road is subject to the Scenic road corridor overlay but has allowed buildings which undermine the scenic landscape values.

Recommendation: The Scenic Protection Code of the SPPs should be subject to a detailed review, with a view to providing appropriate use and development controls and exemptions to effectively manage and protect all aspects of scenic landscape values.

19. Geodiversity

The current SPPs have no provision for mandatory consideration of impacts on geodiversity when assessing a new development or use that impacts geodiversity. This means, for example, that under current laws, that there is no formal opportunity for the public to comment on or object to a development or use that would adversely impact geodiversity, and there is no opportunity to appeal permits that allow for adverse impacts on geodiversity.

The below section on geodiversity definitions, values, vulnerability and the need to embrace geodiversity in planning has been written by geomorphologist Kevin Kiernan.

'***Definitions*** *- The terms geodiversity and biodiversity describe, respectively, the range of variation within the non-living and living components of overall environmental diversity. Geodiversity comprises the bedrock geology, landforms and soils that give physical shape to the Earth's surface,*

and the physical processes that give rise to them[6]. Action to conserve those elements is termed geodiversity conservation/geoconservation and biodiversity conservation/bioconservation. Such efforts may be focused on the full range of that diversity by ensuring that representative examples of the different geo and bio phenomena are safeguarded. In other cases efforts may be focused only on those phenomena that are perceived as being outstanding in some way, such as particularly scenic landforms and landscapes or particularly charismatic animals such as lions or tigers. The term geoheritage describes those elements we receive from the past, live among in the present, and wish to pass on to those who follow us.

***Values** - The geodiversity that surrounds us sustains and enriches our lives in much the same ways as does biodiversity, indeed there can be no biodiversity without the varied physical environments that provide the essential stage and diverse habitats upon which it depends. Although many of the world's earliest protected areas were established to safeguard landforms and scenery, over recent decades the emphasis has shifted towards living nature. This probably reflects in part such things as more ready human identification with charismatic animals, but existence of the Linnean classification system that facilitates ready differentiation of the varying types of animals and plants has facilitated rapid recognition of the concept of biodiversity. But just as there are different species of plants and animals, so too are there different types of rocks, minerals, landforms and soils, and indeed the need to safeguard this geodiversity was being promulgated several years prior to adoption of the international convention on biodiversity[7]. These non-living components of the environment are of value in their own right just as living species are – for their inherent intrinsic value; because they sustain natural environmental process (including ecological processes); or because of their instrumental worth to humankind as sources of scientific, educational, aesthetic scenery, spiritual, inspirational, economic and other opportunities.*

***Vulnerabilty** - Effective management is required if these values are to be safeguarded[8]. As with plant and animal species, some are common and some are rare, some are robust and some are fragile. There is a common misconception that the prefix "geo" necessarily implies a robust character, but many elements of geodiversity are quite the opposite. For example, stalactites in limestone caves can be accidentally brushed off by passing visitors or seriously damaged by changes to the over-lying land surface that derange the natural patterns or chemistry of infiltrating seepage moisture; various types of sand dunes can readily be eroded away if a binding vegetation cover is removed; artificial derangement of drainage can cause stream channels to choke with debris or be eroded; important fossil or rare mineral sites can be destroyed by excavation, burial or even by increased public to a site where a lack of protective management allows over-zealous commercial or private collection; and larger scale landforms are commonly destroyed by such things as excavation or burial during housing, forestry, quarrying, inundation beneath artificial water storages, or mining.*

Damage to geodiversity is not undone simply because vegetation may later re-colonise and camouflage a disturbed ground surface. While some landforms may possess the potential for a degree of self-healing if given sufficient time and appropriate conditions, many landforms are essentially fossil features that have resulted from environmental process that no longer occur, such

[6] Gray M 2004 *Geodiversity. Valuing and conserving abiotic nature*. Wiley, Chichester UK
[7] Gray M Geodiversity: the origin and evolution of a paradigm. Pp.31-36 in Burek CV, Prosser CD (eds.) *The history of geoconservation*. Geological Society Special Publication 300, London UK.
[8] Kirkpatrick JB, Kiernan K 2006 Natural heritage management. Chap 14 in Lockwood M, Worboys GL, Kothari A (eds.) *Managing protected areas: a global guide*. IUCN/Earthscan, London.

as episodes of cold glacial era climate – for example, small glacial meltwater channels less than 1 m deep have survived intact in Tasmania through several glacial cycles (over 300, 000 years or more) so there is no justification for assuming that excavations for roadways or driveways will magically disappear any sooner.

For a soil to form requires the process of pedogenesis, which involves progressive weathering, clay mineral formation, internal redistribution of minerals and other material, horizon development and various other processes that require a very long period of time - even where climatic conditions are warm and moist rock weathering rates rock weathering rates may allow no more than 1 m of soil to form in 50,000 years on most rock types[9]. The uppermost horizons of a soil are the most productive part of a profile but are usually the first to be lost if there is accelerated erosion, churning and profile mixing by traffic, compaction, nutrient depletion, soil pollution or other modes of degradation. Hence, soil degradation should be avoided in the first place rather than being addressed by remediation attempts such as dumping loose "dirt" onto a disturbed surface, because a soil is not just "dirt".

***The need to embrace geodiversity in planning** - Sites of geoconservation significance can be valued at a variety of scales, from the global to the very local. Only those sites recognised as important at a state or national scale are ever likely to be safeguarded as protected areas, but many more are nonetheless significant at regional or local level, or even considered important by just a few adjacent neighbours. **The need for a planning response outside formal protected areas by various levels of government has long been recognised overseas, and also in Tasmania[10]**.*

The Australian Natural Heritage Charter[11] provides one very useful contribution towards better recognition and management of geodiversity by various levels of government. Significant progress has already been made in Tasmania where the state government has established a geoconservation database that can be readily accessed by planners and development proponents. The establishment of a geoconservation code within the Tasmanian planning machinery would facilitate utilisation and development of this important tool for planners and development proponents. No impediment to develop generally exists where geoconservation sites are robust or lacking significance, but important and vulnerable sites require higher levels of planning intervention.'

Further to the above, the **Tasmanian Geoconservation Database** is '*a source of information about geodiversity features, systems and processes of conservation significance in the State of Tasmania. The database is a resource for anyone with an interest in conservation and the environment. However, the principal aim is to make information on sites of geoconservation significance available to land managers, in order to assist them manage these values.* ***Being aware of a listed site can assist parties involved in works or developments to plan their activities. This may involve measures to avoid, minimise or mitigate impacts to geoconservation values.*** *More than a thousand sites are*

[9] Boyer DG 2004 Soils on carbonate karst. Pp656-658 in Gunn J (ed.) *Encyclopedia of caves and karst science*. Fitzroy Dearborn, New York USA

[10] For example see Erikstad L 1984 Registration and conservation of sites and areas with geological significance in Norway. *Norsk Geografisk Tidsskriuft* 38: 200-204; Nature Conservancy Council 1989 *Earth Science Conservation. A draft strategy.* NCC, London, UK; Kiernan K 1991 Landform conservation and protection. pp. 112-129 in *Fifth regional seminar on national parks and wildlife management, Tasmania 1991. Resource document*. Tasmanian Parks, Wildlife & Heritage Department, Hobart.

[11] ACIUCN 1996 *Australian natural heritage charter*. Australian Council for the International Union of Conservation, & Australian Heritage Commission, Canberra

currently listed. These range in scale from individual rock outcrops and cuttings that expose important geological sections, to landscape-scale features that illustrate the diversity of Tasmania's geomorphic features and processes. Many of the sites are very robust and unlikely to be affected by human activities; others are highly sensitive to disturbance and require careful management.'

Recommendation: The SPPs must provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code.

20. Integration of Land Uses

Forestry, mine exploration, fish farming and dam construction remain largely exempt from the planning system.

Recommendation: I consider that the planning system should provide an integrated assessment process across all types of developments on all land tenures which includes consistent provision of mediation, public comment and appeal rights.

21. Planning and Good Design

Quality design in the urban setting means "doing density better". We need quality in our back yards (QIMBY), an idea promoted by Brent Toderian, an internationally recognised City Planner and Urban Designer based in Vancouver.

Liveable towns and suburbs: For most people this means easy access to services and public transport, a reduced need for driving, active transport connections across the suburb, easily accessible green public open spaces, improved streetscapes with street trees continually planted and maintained, with species which can coexist with overhead and underground services. This means well designed subdivisions where roads are wide enough to allow services, traffic, footpaths and street trees. Cul de sacs should not have continuous roofs. There should be less impervious surfaces, continuous roofs and concrete.

Dwelling design: Apartment living could allow more surrounding green space, though height and building form and scale which become important considerations due to potential negative impact on nearby buildings. We also need passive solar with sun into habitable rooms.

Individual dwellings: There must be adequate separation from neighbours to maintain privacy, sunlight onto solar panels and into private open space, enough room for garden beds, play and entertaining areas, and this space should be accessible from a living room. The Residential SPPs do not deliver this. *New research confirms, reported here on the 13 August 2021 'Poor housing has direct impact on mental health during COVID lockdowns, study finds', that poor housing had a direct impact on mental health during COVID lockdowns: 'Your mental health in the pandemic "depends on where you live", new research suggests, with noisy, dark and problem-plagued homes increasing anxiety, depression, and even loneliness during lockdowns.' Lockdowns are likely to continue through the pandemic and other climate change impacts – thus its critical, our housing policy and standards 'make it safe for everyone … to shelter in place without having poor mental health'.*

Building materials: Low cost development will impact sustainability and increase heating/cooling costs, creating a poor lived experience for future owners. There should be stronger building controls. Consider the heat retention effects of dark roofs. There should be less hard surfaces and increased tree canopy. Too often the effect of a development which changes the existing density of a street is allowed to proceed without any consideration for place. Neighbours have rights not just the developer.

Recommendation: All residential zones in the SPPs should be rethought to 1. Mandate quality urban design in our subdivisions, suburbs and towns, **2**. Improve design standards to prescribe environmentally sustainable design requirements including net zero carbon emissions - which is eminently achievable, now **3**. Provide a Zone or mechanism which allows apartment dwellings and/or targeted infill based on strategic planning, **4**. Deliver residential standards in our suburbs which maintain amenity and contribute to quality of life. I also recommends that subdivision standards be improved to provide mandatory requirements for provision of public open space for subdivisions and for multiple dwellings.

21 Various Other Concerns

- Application requirements in cl 6.1 and the need for planning authorities to be able to require certain reports to be prepared by suitable persons (for example, Natural Values Assessments), or for these reports to be mandatory where certain codes apply.
- General exemptions in cl 4.0 of the SPPs particularly those relating to vegetation removal and landscaping.
- The need to better plan for renewable energy and infrastructure.
- I consider that the SPP Acceptable Solutions (i.e. what is permitted as of right) are not generally acceptable to the wider community.
- The system and Tasmanian Planning Scheme language is highly complex and analytical and most of the public are not well informed. More is required in the way of public education, and a user friendly document should be produced, if our planning system is to be trusted by the wider community.
- It is disappointing also that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. The*re is nothing to guide Councils when making discretionary decisions.*
- *Whilst I accept that Desired Future Character Statements and Local Area Objectives may be* hard to provide in the context of SPPs, which by definition, apply state-wide, we consider that greater latitude could be provided in the SPPs for LPSs to provide these types of statements for each municipality.

Related General Comments/Concerns regarding the SPPs

I also has a range of concerns relating to the SPPs more broadly:

1. Amendments to SPPs - 35G of LUPAA
2. The Process for making Minor and Urgent Amendments to SPPs
3. The SPPs reliance on outdated Australian Standards
4. The SPPs vague and confusing terminology
5. The SPPs were developed without a full suite of State Policies
6. Increased complexity
7. Tasmanian Spatial Digital Twin
8. Difficult to Protect local Character via the LPS process

1. Amendments to SPPs - 35G of LUPAA

Under Section 35 G of the *Land Use Planning and Approvals Act 1993*, see here, a planning authority may notify the Minister as to whether an amendment of the SPPs is required. However, the Act does not set out a process that deals with the 35G issues.

Recommendation: 1. It is my view that the *Land Use Planning and Approvals Act 1993* should set out a transparent and robust process for dealing with 35G issues. **2.** Consistent with the Objectives of the *Land Use Planning and Approvals Act 1993* communities that are going through their local LPS process, should be allowed and encouraged by their local Council to comment not only on the application of the SPPs but on any issues they may have in regards to the contents of the SPPs. It is logical that this is when communities are thinking about key concerns, rather than only having the opportunity to raise issues regarding the content of the SPPs during the statutory five year review of the SPPs. I recommend the *Land Use Planning and Approvals Act 1993* should be amended to reflect this.

2. Process for Making Minor and Urgent Amendments to SPPs

In 2021, the Tasmanian Government amended the *Land Use Planning and Approvals Act 1993* to change the process for making minor amendments to the SPPs and introduce a separate process for making urgent amendments to the SPPs. These amendments give more power to the Planning Minister with no or a very delayed opportunity for public comment. The definition of both a minor and urgent amendment is also unclear. In my view, amendments processes provide the Minister with too much discretion to make changes to the SPPs and fail to adopt appropriate checks and balances on these significant powers.

Also, legal advice is that when the Tasmanian Planning Policies are introduced, the minor amendment process does not allow for changes to bring the SPPs into line with Tasmanian Planning Policies.

Recommendation: 1. Amending the *Land Use Planning and Approvals Act 1993* to provide a clear definition of what constitutes a *minor* and *urgent* SPP amendment. 2. Ensure that the process for creating a minor or urgent amendment includes meaningful public consultation that is timely effective, open and transparent.

3. The SPPs Vague and Confusing Terminology

There are many specific words in the SPPs, as well as constructs in the language used, that lead to ambiguity of interpretation. Often this results in sub-optimal planning outcomes for the community and can contribute to delays, unnecessary appeals and increased costs to developers and appellants. Words like SPPs 8.4.2 "provides reasonably consistent separation between dwellings" 8.4.4 "separation between multiple dwellings provides reasonable opportunity for sunlight". Other terms used throughout the SPPs which are highly subjective include "compatible", "tolerable risk", and "occasional visitors" where numbers are not defined.

Similarly, the use of constructs such as 'having regard to' may mean that sub- criteria can effectively be disregarded in decision making. Alternative wording such as 'demonstrate compliance with the following' would provide greater confidence that the intent of such provisions will be realised.

While this ambiguity leads to delays and costs for all parties, it particularly affects individuals and communities where the high costs involved mean they have reduced capacity to participate in the planning process – contrary to the intent of LUPAA objective 1.(c).

Recommendation: That the terminology and construction of the SPPs be reviewed to provide clearer definitions and shift the emphasis under performance criteria towards demonstrated compliance with stated objectives.

4. **The SPPs were developed with few State Policies**

The SPPs are not about strategic or integrated planning, but are more aptly described as development controls. The creation of the SPPs should have been guided by a comprehensive suite of State Policies. This did not happen before the development of the SPPs by the Planning Reform Task Force. Hence the SPPs exist without a vision for Tasmania's future.

The SPPs are still not supported by a comprehensive suite of State Policies to guide planning outcomes. In 2016, the Tasmanian Planning Commission acknowledged, in particular, the need to review the State Coastal Policy as a matter of urgency, but no action has been taken. Other areas without a strategic policy basis include integrated transport, population and settlements, biodiversity management, tourism and climate change.

In 2018, instead of developing a suite of State Policies, the State Government created a new instrument in the planning system – the Tasmanian Planning Policies. As at 2022, the Tasmanian Planning Polices are still being developed. The Tasmanian Planning Policies are expected to be lodged with the Tasmanian Planning Commission by the end of 2022. The Tasmanian Planning Commission will undertake its own independent review, including public exhibition and hearings.

My position has been that we need State Policies rather than Tasmanian Planning Polices because they are signed off by the Tasmanian Parliament and have a whole of Government approach and a broader effect. The Tasmanian Planning Polices are only signed off by the Planning Minister and only apply to the Tasmanian Planning Scheme and not to all Government policy and decisions.

5. Increased Complexity

The Tasmanian Planning Scheme is very complex, is only available in a poorly bookmarked pdf and is very difficult for the general public to understand. This creates real difficulties for local communities, governments and developers with the assessment and development process becoming more complex rather than less so. Community members cannot even find the Tasmanian Planning Scheme online because of the naming confusion between the Tasmanian Planning Scheme and the State Planning Provisions. PMAT often fields phone enquiries about how to find the Tasmanian Planning Scheme.

Repeated amendments to Tasmania's planning laws and thus how the Tasmanian Planning Scheme is being rolled out is unbelievably complicated. From a community advocacy point of view, it is almost impossible to communicate the LPS process to the general public. For example, see PMAT Media Release: Solicitor General's Confusion Highlights Flawed Planning Change Nov 2021.

Recommendations: It is recommended that illustrated guidelines are developed to assist people in understanding the Tasmanian Planning Scheme. It would be helpful if the Tasmanian Planning Scheme could also be made available as with previous interim schemes through iPlan (or similar) website. This should also link the List Map so there is a graphical representation of the application of the Tasmanian Planning Scheme (which expands when new LPSs come on board). It should also be noted, that for the average person, iPlan is difficult to use.

Recommendations: Create a user friendly version of the Tasmania Planning Scheme such as the provision of pdfs for every LPS and associated maps. IPlan is impenetrable for many users.

6. Tasmanian Spatial Digital Twin

Digital Twin, a digital story telling tool, would revolutionise planning data and public consultation in Tasmania. The Spatial Digital Twin could bring together data sources from across government including spatial, natural resources and planning, and integrate it with real time feeds from sensors to provide insights for local communities, planners, designers and decision makers across industry and government.

It enables communities, for example, to gain planning information about their streets, neighbourhoods and municipalities. It would allow the general public to visualise how the SPPs are being applied to how a development looks digitally before it is physically built, making it easier to plan and predict outcomes of infrastructure projects, right down to viewing how shadows fall, or how much traffic is in an area.

See a NSW Government media release by the Minister for Customer Service and Digital Government: *Digital Twin revolutionises planning data for NSW*, December 2021.

From a community point of view, it is almost impossible to gain a landscape/municipality scale understanding of the application of the SPPs from two dimensional maps. One of PMAT's alliance member groups, Freycinet Action Network, requested the shape files of Glamorgan Spring Bay Council's draft LPS but was unable to obtain a copy. This would have enabled FAN to better visualise how the LPS is being applied over the landscape.

Recommendation: To introduce a Tasmanian Spatial Digital Twin to aid community consultation with regards to the application of the Tasmanian Planning Scheme via each Council's Local Provisions Schedule process and public consultation more broadly.

7. Difficult to Protect local Character via the LPS process

In 2016, the Tasmanian Planning Commission acknowledged[12] that the SPPs were designed to limit local variation, but queried whether a "one-size fits all" model will deliver certainty:

"*If local character is a point of difference and an attribute of all Tasmanian places, unintended consequences may flow from denying local differences. The 'one size fits all' approach is likely to result in planning authorities seeking more exceptions through the inclusion of particular purpose zones, specific area plans and site-specific qualification*."

In My/our community group name *view the SAP/PPZ/SSQ threshold are too high. As the SAP/PPZ/SSQ are the mechanisms to preserve character, possibly the only way to preserve character, in the Tasmanian Planning Scheme, it is essential that they or like mechanisms, are available to maintain local character. Common standards across the Zones whilst being efficient, could destroy the varied and beautiful character of so much of this state.*

It is also extremely disappointing that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. Currently, there is nothing to guide Councils when making discretionary decisions, (unless in Discretionary Land Use decision as at 6.10.2b).

Recommendation: Amend section 6.10.2 of the SPPs to read:

6.10.2 In determining an application for a permit for a Discretionary use "**and development**" the planning authority must, in addition to the matters referred to in sub-clause 6.10.1 of this planning scheme, "**demonstrate compliance with"**:

(a) the purpose of the applicable zone;

(b) any relevant local area objective for the applicable zone;

(c) the purpose of any applicable code;

(d) the purpose of any applicable specific area plan;

(e) any relevant local area objective for any applicable specific area plan; and

(f) the requirements of any site-specific qualification, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

[12] See page 17: *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016.*

Appendix 1 - Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016

AUSTRALIAN states have deregulated their planning systems using a national blueprint advanced largely by the development industry. Tasmania is the latest.

Planning system change is always disguised as reform, but the real intent is to advantage the development industry.

In Tasmania, this reform introduces a single statewide planning system. This allows the government to dictate planning provisions regardless of differences in local conditions and needs.

State provisions can easily be changed. In some states, standard statewide provisions have been weakened over time to reduce citizen rights and local planning control.

The Tasmanian planning minister will be able to alter them without reference to Parliament, and potentially gain greater power from the Planning Commission and councils. It is yet to be seen whether the government will permit strong local policy to prevail over state policy.

Some states have allowed a wide range of applications to be assessed without need for permits under codes and by largely eliminating prohibited uses. The Tasmanian system has continued much of the former planning scheme content, but introduces easier development pathways.

An application for development or use need not be advertised if allowed without a permit or considered a permitted activity.

Alternative pathways allow public comment and appeal rights, but these often reduce the level of control.

Serious problems are likely to arise from the content of planning provisions.

For example, while the main residential zone, the General Residential Zone, mandates a minimum site area of 325 square metres and height and other controls for multi-dwelling units, no minimum density applies to land within 400m of a public transport stop or a business or commercial zone. This will open large urban areas to inadequately regulated multi-unit development.

The main rural zones allow many urban uses, including bulky goods stores, retailing, manufacturing and processing, business and professional services and tourist and visitor accommodation complexes.

This deregulation will attract commercial uses to the rural edges of cities and the most scenic landscape areas. Such uses should be located in cities or in rural towns to benefit local jobs instead of being placed as isolated enclaves on some of the state's most beautiful landscapes.

Use and development standards will prove to be useless in protecting the agricultural, environmental and landscape values of rural zones from overdevelopment.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Codes are a particular concern. The heritage code is intended to reduce the impact of urban development on heritage values.

However, performance criteria for demolition are vague and development standards criteria do not provide adequate protection.

The nomination of heritage precincts and places is variable, leaving many inadequately protected.

The National Trust and other expert groups have raised similar concerns.

The potential of the Natural Assets and the Scenic Protection codes to lessen the impacts of some urban uses on rural and natural areas also will be compromised by vague language, limitations and omissions.

Interminable legal arguments will erupt over the meaning and application of these codes, with the inevitable result that development proposals will win out.

The State Government can learn from the disastrous consequences of other deregulated planning systems. It should strengthen regulation and listen to the public to ensure a state system does not destroy much that will be vital for a prosperous and liveable future for citizens.

The Government argues the new system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.

While planning for the future is complex, the hidden agendas of planning reform are evident from the massive impacts from unregulated development in other states.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Tasmania's cities, towns, scenic landscapes and biodiversity are a state and national treasure. Lose them and the nation is diminished.

Michael Buxton is Professor Environment and Planning, RMIT University, Melbourne.

Appendix 2 – The Mr Brick Wall Story

This tragic story, which I have edited down, was submitted to the Tasmanian Planning Commission as part of the public exhibition of the draft statewide scheme.

We call it the tragic story of Mr Brick Wall

Mr Brick Wall states:

"*We are already victims of the new planning scheme. We challenged and won on our objection to a large over-height proposed dwelling 3 metres from our back boundary on an internal block under the previous planning scheme. We won on the grounds that the amenity to our home and yard would be adversely affected by this proposed dwelling under the previous planning scheme.*

However, this all changed under the new interim planning scheme and the dwelling was allowed to be constructed. As a result we now have an outlook from our outdoor entertaining area, living room, dining room, kitchen, playroom and main bedroom of a brick wall the full length of our back yard on the maximum new height allowed.

We can see a bit of sky but no skyline as such. The dwelling has obscure windows for our so called privacy, which are absolutely useless as they have been allowed to erect commercial surveillance cameras all around their house, 2 of which are on our back boundary. No problem you think! These cameras can be operated remotely, have 360 degree views at the click of a mouse and we understand they have facial recognition of 4 kilometres distance. So where is our privacy and amenity?

The Council was approached by us and our concerns prior to the new changes proceeding and we were told that there was nothing we or the Council could do to stop these changes as all changes to the planning scheme have to be accepted by Councils and they have no say in the matter. As a result we no longer feel comfortable or relaxed when in our own backyard and our young teenage daughters will not use the yard at all. We also have to keep our blinds drawn on the back of our house to ensure some privacy is maintained.

We also had our house listed for sale for almost 6 months, 8 potential buyers no one bought it because everyone of them sighted that the house next door was too close to our boundary. This is our north facing boundary and as such has all our large windows on this side to take advantage of the sun. '

Mr Brick Wall ends by saying that .the Government needs to realise what's on paper doesn't always work out in the real world and that real people are being adversely affected by their decision making.