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43	Catherine Nicholson	
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47	Paul Godier	Northern Midlands Council
48	Nicholas Sawyer	Tasmanian National Parks Association Inc
49	Brenton Hosking	
50	Anne Layton-Bennett	
51	Brett Torossi	Tasmanian Heritage Council
52	Stuart Collins	Housing Industry Association Ltd
53	Damian Mackay	Central Highlands Council
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55	Cathy Willaims	
56	Louise Skabo	Australian Plants Society Tasmania Inc
57	Angela Hanly	
58	Michael Wells	Burnie Airport
59	Bill Richardson	Tasman Council
60	John Thompson	Conservation Landholders Tasmania

From:	Keisha Zygmant
To:	State Planning Office Shared Mailbox; planning@georgetown.tas.gov.au
Subject:	Saved to CM: Planning Provisions Submission
Date:	Tuesday, 9 August 2022 7:59:11 PM

To Whom it May Concern,

I am writing on behalf of my family and I in regards to our property at [redacted].

I would like to communicate our support in the zoning change from Rural to Agricultural in our area on the provision that the rules outlined in the proposed State Planning Provisions stay as they are and do not prohibit the building of a second, or multiple dwellings on a property in this zone.

Our intentions for this property were always to build a second dwelling but the current Rural zoning prohibits this.

I understand that our proposal in particular would still need to demonstrate compliance with the Performance Criteria and any outcome would be at the discretion of our council. As the Performance Criteria in the new provisions stand, we would have to seek the services of an Agricultural Consultant and show that the land is not fit for Agricultural use. Something that was not even up for discussion with the Rural zoning.

If you need any further information please feel free to contact me.

Kind Regards

State Planning Office
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Hobart TAS 7001
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LANDCARE
WEST TAMAR

08 August 2022

RE: Representation about the State Planning Provisions (SPPs) Review - Scoping Issues

To Whom It May Concern,

I write on behalf of the members of the West Tamar Landcare Group who have resolved to provide the following comments on the review of the State Planning Provisions, the introduction of Tasmanian Planning Policies and a review of the three Regional Land Use Strategies.

Our comments focus on implications for sustainable landscape management and natural values conservation as a result of this review.

Core to our representation is a request that the Natural Assets Code mapping under the new planning scheme display consistent mapping of Priority Vegetation Areas across all zones in Tasmania. We consider that the absence of such mapping in all planning zones, is misleading and potentially provides confusion and a potential defence for clearing in contravention of other legislation. We understand the reasoning behind making clearing of native vegetation exempt in the Agriculture and other Zones infers controls under state and Commonwealth legislation will compensate for this in terms of protecting natural values. We consider however that this is a mistake in the design of the SPP's and further that the lack of mapping of Priority Vegetation Layers in the planning scheme could be taken as an exemption from other controls. While this may be a point of policy interpretation, sadly if land is cleared due to poor understanding, any number of penalties will not replace the vegetation. Simply displaying the mapping provides valuable information to developers of their obligations under other regulations and policies.

We suggest that by establishing controls across all Zones in the Natural Assets Code that mirror or refer to relevant controls under other legislation is a more transparent and simple approach for developers to work with to comply with all relevant regulations and controls. This clarity may also reduce erroneous clearing, and resulting compliance action and costs.

We further request that mapping of Priority Vegetation Areas be undertaken using contemporary data inclusive of recent updates to TASVEG (to version 4.0 or better), mapping of threatened communities, threatened species habitats and natural wildlife corridors and regionally significant natural and geological values using consistent and transparent methodologies.

We consider that in all zones, consideration of priority vegetation in the assessment of resource development or other development must be included under the State Planning Provisions, to augment to other regulatory controls. We consider this is a fundamental oversight of the State Planning Provisions dealing with the Agriculture Zone in that retention and management of native

vegetation is fundamental to healthy and sustainable agricultural production as well as critical to nature conservation, water quality protection, carbon storage and sequestration as well as the amenity and the unique scenic character of rural and regional Tasmania.

Native vegetation is a critical part of the biological and landscape fabric of our state and we consider as a minimum the display of the true spatial extent of these areas of priority vegetation and habitat on zoning maps provides a reminder to resource developers to seek further information on relevant controls, and also perhaps pause for thought before acting.

We are also concerned that should there be cases where land zoning changes from zones such as Agriculture or Future Urban to a zoning where Priority Vegetation Areas are assessable, incomplete mapping of this important layer may mean that existing vegetation may not be considered under the relevant codes. We therefore consider that transparent disclosure of all Priority Vegetation Areas in the Municipality is required to allow for reasonable land use decisions by proponents irrelevant of land zoning.

West Tamar Landcare has for the past 30 years worked with community and landowners to foster sustainable and caring approaches to land management and biodiversity conservation. We consider the West Tamar to be an area of outstanding biodiversity value as well a highly productive agricultural area. We feel that native vegetation provides considerable benefits for agriculture and that to ignore the fundamental importance of natural areas in the matrix of farming is adverse to sustainable and viable systems into the future.

This approach also diminishes Tasmania's image as a 'Clean Green' farming area.

We believe that the great majority of farmers and land managers in Tasmania share a similar view in regards balanced land use, and that by and large our natural systems are in good hands. However, as land values increase, and demand for agricultural expansion and diversification grows, new Resource Development proposals need to protect Natural Assets including priority vegetation and landscape connectivity.

We rely on planning schemes and other regulation to ensure that minimum standards are maintained across all enterprises and that land use decisions are socially, economically and environmentally sound. This is the case in the Rural Zone and we think it should apply equally in the Agriculture Zone.

Our hope is that the display of Priority Vegetation in the Natural Assets mapping across all zones will foster and support this ethic, and ethic of landcare.

In addition to these comments, we recognise and support representations made by Planning Matters Tasmania, in particular where they relate to rural and regional landscapes and communities. We provide comments based on PMAT representations as per Attachment 1 to this representation.

Overall we are calling for the SPPs to be values-based, transparent, fair and equitable, and for the SPPs to deliver the objectives of the *Land Use Planning and Approvals Act 1993*. We consider there is great scope for the planning scheme to be simpler, more responsive to local needs of communities and future threats through authentic community consultation and best available science. In this way we can build and maintain strong, thriving, healthy and sustainable communities.

Yours sincerely,

Jayne Shapter

Secretary, West Tamar Landcare Group.
[redacted]
[redacted]

Attachment 1

West Tamar Landcare Group concerns and recommendations regarding the SPPs

The State Government's Tasmanian Planning Scheme fails to adequately address a range of matters, 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 West Tamar Landcare as it is the best chance we have to improve planning outcomes until 2027.

Key issues on which we wish to comment include:

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.

2. **Climate Change Adaptation**

Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, we seek amendments to the SPPs which better address adaptation to climate change. We recommend the use of a science and knowledge based precautionary approach to development approvals which includes community input to appropriate planning controls and directions.

We recommend that 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.

3. **Community connectivity, health and well-being**

The SPPs currently have limited provisions to promote better health for all Tasmanians, such as facilitation of walking, cycling and exercise opportunities in towns and suburbs, ensuring local access to recreation areas and public open space and addressing food security.

Liveable Streets Code – We 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.* . West Tamar Landcare supports the

concept of a Liveable Streets code as per 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'. This concept 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.

Public Open Space – We recommend 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.

We seek 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, we seek the inclusion of requirements for the provision of public open space for certain developments like subdivisions or multiple dwellings.

We 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.

4. 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 may 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 or landscape values.

While West Tamar Landcare acknowledges that the Tasmanian Government has committed to developing a new Tasmanian Aboriginal Cultural Heritage Protection Act, 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 and landscape 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*."[1]

[1] Jaensch, Roger (2021) *Tabling Report: Government Commitment in Response to the Review Findings, Aboriginal Heritage Act 1975: Review under s.23* – see here:

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.

We 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.

West Tamar Landcare considers that 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.

5. Tasmania's Brand and Economy

West Tamar Landcare supports the Tasmanian brand noting that a planning system which protects Tasmania's cherished natural and cultural heritage underpins our economy, our environment and our identity, now and into the future. We consider that the current SPPs threaten Tasmania's brand, as they place our natural and cultural heritage and landscape amenity at risk from poor or clumsy planning outcomes. The current planning system may deliver short-term gain but at the cost of our long-term identity and economic prosperity.

6. Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which we consider will further degrade rural landscapes and Tasmania's future agricultural productivity and adaptabiity. 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' commercial and extractive uses of valuable rural/agricultural land resources. We are concerned that without solid evaluation of diverse and extractive developments in rural settings, there will be loss of flexibility of agriculture and adaptability in the sector.

By corollary, we consider that transparent and consistent approaches to landscape scale conservation and management of native habitats in the matrix of agricultural land uses provides long term stability and integrates sustainable land use, water catchment protection and biodiversity conservation to systems that are dependent on such areas for long term viability.

https://nre.tas.gov.au/Documents/Tabling%20Report%20-%20Review%20of%20the%20Aboriginal%20Heritage%20Act.pdf

West Tamar Landcare urges a re-consideration of the rural/agricultural zones with regards to the permitted commercial and extractive uses and the restoration of assessment codes dealing with natural values conservation and management, including current vegetation and natural values mapping and data.

7. Healthy Landscapes (Landscape Conservation Zone)

The purpose of the Landscape Conservation Zone (LCZ) is to provide for the protection, conservation and management of landscape values on private land. While this code is welcomed, it does not provide for the protection of *significant natural values* as was the original intent as 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.

West Tamar Landcare endorses the recommendations in the 2022 SPP review representation: '*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.

We also encourage the wider and more appropriate use of this zone in local government planning schemes.

8. Healthy Landscapes (Natural Assets Code - NAC)

We consider 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 Natural Assets Code, 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.

West Tamar Landcare considers the NAC does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

9. 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 West Tamar Landcare considers 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.

West Tamar Landcare considers 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.

10. 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[2]. 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[3]. 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[4]. 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.*

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[2] Gray M 2004 *Geodiversity. Valuing and conserving abiotic nature*. Wiley, Chichester UK

[3] 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.

[4] 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.

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 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[5]. 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[6]**.*

The Australian Natural Heritage Charter[7] 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.*

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[5] Boyer DG 2004 Soils on carbonate karst. Pp656-658 in Gunn J (ed.) *Encyclopedia of caves and karst science*. Fitzroy Dearborn, New York USA

[6] 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.

[7] ACIUCN 1996 *Australian natural heritage charter*. Australian Council for the International Union of Conservation, & Australian Heritage Commission, Canberra

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 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*.'

Based on the information above, West Tamar Landcare considers the SPPs must provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code.

11. Integration of Land Uses

Forestry, mine exploration, fish farming and dam construction remain largely exempt from the planning system. West Tamar Landcare considers 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.

From:	Catherine Nicholson
To:	State Planning Office Your Say
Subject:	Submission in relation to the review of the State Planning Provisions
Date:	Tuesday, 9 August 2022 8:42:01 PM
Attachments:	Final submission on SPPs v2 copy.docx

Please find attached my submission in relation to the above review.
Regards
Catherine Nicholson

Submission on the review of the State Planning Provisions

I write as a recently retired urban and environmental planner, ex Planning Commissioner and ex expert member of the Resource Management and Planning appeals Tribunal (RMPAT).
Thank you for the opportunity to make a submission in relation to the State Planning Provisions (SPP's)

1.0 General Comments

1.1 The Single Statewide Planning Scheme commenced in the late 1990's as the Simplified Planning Scheme, with the idea being to reduce the large number of planning schemes (some council had two or legal three schemes for their area) and develop some consistency in layout, terms, definitions and types of zones, thus making them more understandable and easier to compare with each other. All badly needed at the time. Over time it appears to have morphed into a desire to have a Single Statewide Planning Scheme with more certainty in terms of a lot more permitted uses, les discretions and more wide ranging exemptions. It is now in use in 14 council areas and being rolled out in the remaining ones, as the local planning provisions get developed. This gives us a chance to see how it is performing and hopefully we now have an opportunity to improve it, as, in my opinion and that of many others, there are some significant issues with it.

1.2 The PIA award winning Planning Matters Alliance Tasmania group (PMAT) represents almost 70 community groups covering the social, health and environment spectrum and has done great work on documenting the concerns of a broad range of the Tasmanian community in relation to the Statewide Planning Scheme. They have done the hard work and put together a comprehensive list of issues and also recommendations on how their concerns might be addressed. They have used an extensive number of highly experienced experts and have also canvassed a wide range of community views, to inform their submission. The common thread in this submission, an in others they have done, is that they have a deep concern with ensuring that the Tasmanian planning system supports and protects Tasmania's unique character, environment and sense of place.

To quote PMAT's submission;
'Planning schemes must offer a balance between development, individual rights and community amenity, and not just make it easier for development and growth at the cost of community well-being and natural and cultural values.

PMAT aims to ensure that Tasmanians have a say in a planning system that prioritises the health and well-being of the whole community, the liveability of our cities, towns and rural areas, and the protection of the natural environment and cultural heritage.

PMAT considers that the incoming Tasmanian Planning Scheme will weaken the protections for places where we live and places we love around Tasmania.'

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.

I fully endorse the work and all of the comments and recommendations of the submission that PMAT has put together in relation to the Statewide Planning Provisions. As a retired urban and environmental planner I too share their concerns and feel the Single Planning Scheme, as it is, endangers the existing character of our suburbs and especially our historic suburbs and towns as well as diminishing our natural areas, scenic values and biodiversity. It is promoting a bland 'sameness' in design and style of our housing areas, encouraging piecemeal infill in back gardens and spare small blocks, unsuitable for such increased density and resulting in a gradual loss of the treed gardens, green areas and dependent wildlife that is still characteristic of most of Tasmania's urban areas. It is also putting stress on infrastructure (stormwater, sewer systems and streets) not designed for a significant increase in connections and increased parking demand.

1.3 Much of the argument behind the reduced lot sizes, increasing residential density allowances and increased permitted uses is predicated on the belief that we need increasing density in our towns to make them more sustainable, provide more varied housing choice, provide more affordable housing and prevent urban sprawl. These are all very genuine issues that do need addressing but the development industry has used them to push the agenda of less planning controls and less council say in development, as an answer to these issues. This is a very simplistic and wrong answer to what are all much more complex and multi layered issues.

Planning schemes have a role in assisting in these issues, but increasing density and reducing standards, as encouraged by the SPP's in already established housing areas is not stopping the sprawl we see happening in all of the fringe areas surrounding Hobart and all of the larger towns in Tasmania. And in these growing outer suburban areas the increased density is still mostly single storey one-off houses squashed more tightly together with less garden and open space areas, less privacy, less room for decent sized trees to provide amenity and weather protection, more hard surface areas and more stormwater runoff. These suburbs are becoming a sea of grey roofed houses almost touching each other, with any native vegetation or large trees cleared and little room left for any new plantings of any useful size.

The development industry has pushed for reduced planning regulation for years, insisting that it is a barrier to more and cheaper housing. Whilst it is early days since the Statewide Planning Scheme came into play in a number of council areas, there is no indication that it is delivering cheaper housing in those areas. Hardly

suprising since a whole lot of other issues such as interest rates, negative gearing, first home owners scheme, interstate and international investment in local housing, population growth and airbnb, all influence the housing market and together probably have a greater influence than planning regulations do. What the changed planning regulations are doing though is giving us diminishing standards of housing and a reducing environmental quality in our suburbs.

Higher density housing of various types is necessary and appropriate in appropriately located and sized blocks, with good public transport links and access to public services but not willynilly in every residential zone in the whole State! Good design is also essential to ensure higher density development respects the amenity of the existing residents in the area. Allowing back gardens to be converted into residential dwellings with large two storey dwellings built on them and windows in every direction, significantly diminishes the amenity of the adjoining properties, yet is allowed under the SPP's. Good design respecting the amenity of neighbours appears to be a rarity, in many of these developments.

2.0 More Specific Comments

2.1 Lack of strategic thinking in relation to infill residential development

Currently infill development in residential zones is not strategically planned but "as of right", and Councils cannot reject Development Applications even though they may significantly alter the existing streetscape and character and be resented by existing residents.

To quote the PMAT submission *'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, places for children to play, mental health/well-being and beauty.'*

The need to review these standards is supported by the 2016 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*. This report recommended to the State Government that the Residential Provisions should be reviewed as a priority. The 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.

2.2 Reduced community consultation opportunities contrary to objectives of LUPA

2.2.1 Loss of discretions in many zones but especially in the residential zones.

The current SPPs with fewer discretionary developments, and more exemptions, significantly reduces the community's right to have a say and in many instances removes appeal rights, weakening local democracy. More and more uses and development are able to occur without public consultation or appeal rights. This is particularly the case in the residential zones and in the Environmental Management Zone (EMZ). This disenfranchises the community and makes them cynical and distrustful of the whole planning process. In reality, most people engage with planning at the level of the individual development application next door, or in their street or suburb, despite the efforts of many planners to get the community to engage earlier at the strategic planning stage. This level of engagement can be frustrating for the applicant and developer and thus is often portrayed negatively as being NIMBYism. But, it is very natural for a person to be more engaged with their immediate environment and react to any change to that, than to engage with theoretical and future changes. This level of engagement in the planning system is local democracy at its most local, where a person can question and make representations on a local development to their local council and expect to have an opportunity to be heard, even if they may not agree with the decision. Much of this is undermined and significantly reduced by the increase in exemptions and permitted uses and loss of discretions.

2.2.2. Loss of public consultation on commercial development in National Parks.

Commercial tourism development can be approved in most National Parks and Reserves without any 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. This is despite the objectives of the *Land Use Planning and Approvals Act 1993*: " *(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*."

2.3 Complexity of language and difficulty in accessing info

3.1 The SPPs have a lot of vague and confusing terminology. There are a great many words in the SPPs which will provide interminable legal argument at great cost 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 limited.

Similarly, the use of constructs such as 'having regard to' may mean that these criteria can 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.

2.4 Increased Complexity

To quote PMAT, *"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.' As a retired planner I should find the Tasmanian Planning Scheme a bit easier than most to read and understand but I confess to really struggling with it, struggling to understand the confusing language, the detail, the ongoing changes.

2.5 Loss of local area objectives to inform the standards and assist decision making

4.1 As an ex expert member of RMPAT I found it of great assistance to have Local Area Objectives and Character Statements such as Desired Future Character Statements to help guide my interpretation of the standards, especially the Performance Criteria. In the absence of these, decision makers are 'flying blind'. The theory that if you meet the standards you are automatically meeting good outcomes and the desired character for the area, sounds like a neat little theory but reality does not support it. When considering a multiple residential development or a complex commercial one, 'the sum of the whole is always more than the sum of the individual parts', in terms of how it impacts on its surroundings. Using a tick box system based on meeting a range of standards does not mean the existing character and amenity is considered. Yet this is what the SPP's do. Currently, there is little or nothing in many zones to inform Councils about the character of an area and what elements of that character are important to be retained, when making discretionary decisions on a development application.

3.0 Additional issues that need to be addressed

3.1 Lack of State Policies

Reviews of existing State Policies are long overdue and State Planning Policies have been promised since 2018 to give guidance to planning schemes, yet the schemes are being rolled out and implemented with no such policies in place. This can only result in ad hoc, inconsistent development decisions with long term poor planning consequences and poor outcomes for the community and our environment.

3.2 Renewable energy

There is a need at the State level for the planning system to strategically address the preferred locations for wind farms. This needs to be not just about where the best wind energy is but also where they should not be because of high environmental, cultural and/or biodiversity values. Wind and solar energy is essential for our future well being but decisions about wind and solar farms must include the community and listen to their concerns and explain why locations are chosen.

3.3 Climate Related Risk and impacts on subdivision and building

It is essential that climate change is considered in the SPPs. Two ways this can be done is firstly by ensuring that standards can be reviewed and amended to better address adaptation to climate change, by ensuring Tasmania's risk mapping is based on the best available science and up date data. This will help ensure that new subdivision and building avoids the most bushfire and flood prone areas and doesn't increase the number of potentially uninsurable properties in the state.

Secondly, standards for subdivision should include issues around sustainable and active transport as well as lot orientation and layout to allow for passive solar gain. Standards for building setbacks should ensure protection of solar panels on adjacent buildings.

3.4 Provision of mandatory public open space, littoral and riparian reserves

I support PMAT's call for open space standards to be mandatory and not just voluntary as per the Tasmanian Subdivision Guidelines.

Developer contribution can be made to the planning authority in lieu of the provision of open space and this is a useful option but its success needs to be evaluated and made public and when a decision is made on a development the reason for opting for cash-in-lieu rather than the actual open space should be clearly stated.

3.5 Stormwater

The State Policy on Water Quality contains a number of clauses relevant to planning schemes including:

> *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.*

The best way to ensure this compliance is to ensure standards relating to subdsivision, use and development include ones relating to stormwater and on-site waste water. This allows any potential issues like unsuitable soil drainage to be picked up early in the development process and not leave it to much later under the Building Act, when it can be too late or much harder to deal with the issue. A stormwater code is needed to ensure a pathway for use and development including subdivision, to comply with these clauses.

3.6 Aboriginal Heritage

Aboriginal heritage legislation is currently awaiting a very long overdue review, but meanwhile the current planning processes do not give any proper consideration to Aboriginal heritage when a development is being considered, or to Aboriginal voices. The SPP's should, for now, include a trigger to ensure development must consider Aboriginal heritage, perhaps via an Aboriginal Heritage Code.

3.7 Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which has the potential to slowly degrade the visual amenity of the countryside as well as impact those living in rural areas. Many should be changed to discretionary to allow councils to ensure the amenity of our rural and agricultural areas can be protected.

3.8 Coastal Issues

I endorse PMAT's concerns that weaker rules for subdivisions and multi-unit development will put Tasmania's undeveloped beautiful coastlines under greater threat. The same General Residential standards that apply to Hobart and Launceston

cities also apply to small coastal towns such as Bicheno, Swansea and Orford. This allows no consideration for the impact of new subdivisions and buildings on the special coastal views and amazing coastal landscapes that Tasmania is reknowned for and are a wonderful feature of many small coastal towns. Such uniform standards applied across the while state will slowly degrade our small coastal towns and landscapes.

4.0 Specific zone and/or code issues

Rather than repeating all of the comments that PMAT makes in relation to the specific zones and codes, I will just reiterate my support for their comments and those of the expert planners they engaged on these matters and request that their recommendations, be given very serious consideration. I especially endorse the comments in relation to the Natural Assets Code and am dismayed by its lack of inclusion in so many zones. This shows a total lack of consideration for the need to ensure connected vegetated landscapes that can maintain ecological processes.

We all want a planning system that works for the benefit of all in the community and protects the unique beauty and environment of Tasmania. That is our greatest asset and our planning system needs to protect and enhance it for all, not diminish it or allow only some to benefit.

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9 August 2022

To Whom It May Concern,

RE: State Planning Provisions (SPPs) Review - Scoping Issues

My concerns and recommendations regarding the SPPs cover several 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 experse.

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 in a democratic society 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 cies, towns and rural landscapes. Well thought through strategic planning can build strong, thriving, healthy and sustainable communities.

Concerns and Recommendations

ZONES

The LCZ (and EMZ, mainly in national parks) is the only rural zone to protect landscape values. However:

- No zone protects native wildlife.
- Inland refugia areas need to be identified and zoned EMZ to protect wildlife and vegetation from adverse climate change effects.
- More land currently zoned RLZ and RZ needs to be zoned LCZ to protect natural values - there is <u>not</u> nearly enough connected, LCZ zoned areas to protect threatened wildlife and their ecosystems.
- A distinct zone or code needs to be established to defragment and connect protected rural land. Currently there is no mechanism to do this, despite fragmentation being a key factor in biodiversity decline.

- Crown land outside urban areas, and Council reserves, should be zoned EMZ.
- Vague terms such as 'minimise' are completely unquantitative and do not achieve LUPAA objectives.

Just as Tasmania has prioritised mapping and zoning of suitable land for agriculture, land important for maintaining healthy ecosystems and biodiversity needs to be identified and appropriately zoned to protect it, to achieve LUPAA objectives of sustainability. This includes the designation of inland refugia to combat climate change impacts.

RZ appears to be a default zoning in most rural areas of Tasmania despite the large areas of priority vegetation present, eg west of Huon Estuary. NAC provisions are not strong enough to protect this priority vegetation (eg the use of terms such as 'mimimise' and 'have regard to' which have little actual effect in protecting vegetation). RZ also promotes fragmentation with an open minimum lot size (ie to 0ha). Extractive industries, intensive animal husbandry and plantation forestry are allowed without permits.

This is poor planning for land use, is not based on the inherent values of the land and doesn't achieve LUPAA and STRLUS objectives of sustainable development. It effectively encourages further biodiversity decline. There is no planning framework for Tasmania which fully considers land capability. I also refer to the CBD and Rogan biodiversity paper text included above under References, outlining biodiversity threats.

The TPS zoning and codes and their application doesn't allow for protection of natural features, such as forested hilltops or climate change refugia (eg south-facing vegetated hillsides and wetter valleys) though they will be essential to climate change resilience. This is despite coastal refugia being given protection in the TPS. (see AdaptNRM: https://adaptnrm.csiro.au/). This is inadequate planning and will not achieve LUPAA and RLUS objectives.

In addition, Forestry (including Private Timber Reserves), marine farming and dam construction are largely outside the Planning Scheme, but need to be planned for with the same criteria as all other land uses, with communities enabled to have their say.

Therefore Schedule 1 objectives of LUPAA (1993) are not achieved.

Sparse LCZ and EMZ areas outside national parks, and mainly as highly fragmented zone areas, means that these threatened and other communities are not protected, particularly in the face of climate change. Biodiversity and ecosystem health will be further reduced.

NATURAL ASSETS CODE (NAC)

The Natural Assets Code (NAC) does not apply in the following zones: Inner Residential, Agriculture, urban commercial, business or industrial zones, Village Zone and Urban Mixed Use Zone. It only applies in the GRZ and LDRZ at subdivision stage. For example, the NAC does not prevent land clearing in the GRZ to put up new houses. .

The NAC only applies to 'priority vegetation' which is any vegetation that is mapped and is largely built on supporting 'known' data points of threatened flora and fauna and is presented as the 'Priority Vegetation Overlay' (PVO) over the LPS. This mapping layer is ONLY available for review

at the same time as each LPS is under review (the Act requires an LPS to be undertaken every five years). However, the Priority Vegetation Overlay should be regularly updated, as knowledge about natural values changes. For example known locations, conservation status of threatened species, which will push habitat into the ‘priority’ definition, and bushfire impacts which may alter priorities for habitat protection. Also, the NAC only seeks to ‘minimise impacts’ rather than to ‘protect values’.

The purpose of the NAC is limited to the protection of threatened flora and fauna, failing to appreciate the need for broader values to be protected in order to maintain ecological processes and biodiversity. Biodiversity values are not limited to critical habitat or threatened species or vegetation communities. The mapping is critical. If not mapped, no permit is required to remove vegetation and an ecological specialist is not required to address any impacts from potential development applications. For the PVO to be activated during a planning decision on a property parcel, the PVO must overlap with that parcel. If vegetation is to be protected in Tasmania, it needs to be mapped under the NAC or protected through another tool, eg the Scenic Protection Code or a SAP.

The NAC does not stop land clearing, it only requires a permit, but the community has no rights to take action to protect vegetation if it is not mapped as ‘priority vegetation’ or protected by another means under the TPS. The NAC fails to take into account contemporary best practice conservation planning (i.e. the importance of landscape connectivity and avoiding landscape fragmentation). This will allow for the ongoing decline of biodiversity across Tasmania. The extensive exemptions from the NAC severely compromise the capacity to achieve even its limited aims of protecting threatened species.

For example, in the Huon Valley LPS Consultation maps, EMZ areas are sparse apart from western national parks, and LCZ zones (where NAC protection applies fairly strictly) are mostly highly disconnected and fragmented. For example, LCZ areas along the Huon Estuary are very limited and are highly fragmented and disconnected, despite the large areas of priority vegetation there. This fragmentation causes biodiversity loss and opposes the LCZ and EMZ zone purposes outlined above, as well as the LUPAA Objectives of sustainable development.

Fragmentation and disconnection of protected areas means that Tasmania’s biodiversity will continue to decline, particularly with climate change impacts. It also means the wildlife is unable to find refugia as the climate warms, rendering current threatened species extinct and threatening other wildlife that is managing now.

SCENIC PROTECTION CODE

Scenic overlays appear to be discretionary, eg the recent Cygnet subdivision decision in which part of the scenic corridor overlay was deleted to allow proposed subdivision buildings alongside the Channel Highway, which will obscure clear views of historic Port Cygnet. This was despite local community objections as well. So it is obvious the Scenic Protection Code has little actual effect on development in scenic areas, not achieving its purpose.

Key References

Convention on Biological Diversity CBD
(https://www.cbd.int/countries/profile/?country=au#facts)

Major threats to biodiversity include climate change and enhanced climate variability; loss, fragmentation and degradation of habitats.

The loss and degradation of native vegetation is an ongoing threat to Australia's biodiversity and to the productivity of industry... Native vegetation not only underpins many social and economic aspects of Australian society but also plays a crucial role in sustaining ecosystem function and processes such as maintaining soils and purifying streams.

CBD 2020: Global Biodiversity Outlook 5 – Summary for Policy Makers

(https://www.cbd.int/gbo/gbo5/publication/gbo-5-spm-en.pdf)

Efforts to conserve and restore biodiversity need to be scaled up at all levels using approaches that will depend on local context. These need to combine major increases in the extent and effectiveness of well-connected protected areas and other effective area-based conservation measures, large-scale restoration of degraded habitats, and improvements in the condition of nature across farmed and urban landscapes as well as inland water bodies, coasts and oceans.

Impacts of Habitat Loss and Fragmentation on Terrestrial Biodiversity

Jordan E. Rogan, Thomas E. LacherJr, in Reference Module in Earth Systems and Environmental Sciences, 2018

Habitat loss and fragmentation are currently the main threats to terrestrial biodiversity. Anthropogenic disturbance such as agricultural expansion has resulted in dramatic global habitat loss and fragmentation. There have been an increasing number of empirical studies seeking to understand the consequences of these processes on terrestrial biodiversity. Despite lack of consensus, there is a growing body of literature supporting the overwhelmingly negative consequences of habitat loss and fragmentation on terrestrial biodiversity worldwide. Future research focusing on more taxonomic groups and accompanying global threats such as climate change will be critical to increasing our ability to manage landscapes effectively to improve species conservation efforts into the future.

Yours sincerely,

[redacted]

Fiona Brine

[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.

MY SUBMISSION TO THE REVIEW ON STATE PLANNING PROVISIONS

I would like to comment on just a few of the things I think should be included in the Plan.

- More dedicated cycle lanes around towns
- More tree planting in new suburbs
- New homes should all have solar panels, water tanks and double glazing as mandatory
- No massive high-rise buildings in totally inappropriate places
- No storeys added on to single height suburban dwellings which would then overlook neighbours resulting in lack of privacy
- 12 seater electric buses could be encouraged which could then negotiate narrow streets which are not served by Metro at present. Maybe a dial a bus scheme, thus reducing traffic congestion
- Toll Holdings' trucks and other large companies' container trucks should not be allowed to travel through the CBD. Maybe their depots should be relocated outside the urban area, perhaps at Western Junction
- No more log heaters to be installed and compensation given to those who remove them from existing homes

Yours sincerely

Estelle Ross, [redacted]

10th August 2022

State Planning Provisions review comments from Michelle Foale 10 August 2022

Some brief feedback about the SPPs as a citizen, and also a statutory planner in Tasmania for 20 years, with specialisation in stormwater assessment.

Stormwater

Please publicly provide the State Government's rationale for the removal of the Stormwater Code. Hundreds of hours (much of it voluntary) have been spent by Council staff developing work-around options for Local Government to be able to effectively manage stormwater in the absence of the code, without clear communication from the state about why it was removed.

The options, now championed by LGAT, provide a similar result to the standards in the code that was in most interim schemes. Having a separate permit process is anathema to the State Government's stated objective for planning reform of making planning simpler. Different councils may choose different processes now. It also creates more work for local government officers, already extremely under-resourced, and increases the likelihood of confusion and non-compliance from developers. The *Urban Drainage Act 2013*, under which stormwater will now need to be controlled is a very blunt instrument and enforcement is only via prosecution, which no Council can afford.

Please arrange for a workshop/s with the people who have had to do this work to provide the rationale for the omission, and work through the best solutions.

Impervious areas

Please explain why the requirement for pervious areas was removed. It was previously in the interim residential zone standards, albeit without robust reasoning – ie. most applicants and planners think it is about keeping the concept of garden in our culture. Here is the healthy country opportunity for allowing some natural ground for rain infiltration to allow for charging of the ground in urban areas, to prevent to complete sealing of the ground and the consequences of dead ground. Please reintroduce this requirement, with robust protection to ensure the ground is not subsequently concreted over. With the imagery technology we have available to us we should be able to do simple compliance on this over time (with State Government mapping support). Limiting runoff from ground level impervious surfaces is also important for flood mitigation (as is difficult to retain) and this should be part of the standard rationale.

Making dwellings warm

Statutory planning must be used to ensure new dwellings are of the highest standard. The Building Code has a role further down the process but planning can be much better used to save owners and developers time and money, and reduce the contribution development and ongoing use has to climate change *. Please adjust standards to ensure dwellings:

- Living areas face the right way (north) with maximum glass and solar passive elements;
- Rooves slope the right way and have the right gradient for solar PVC infrastructure, and these rooves are protected from overshadowing;
- No new wood heaters for new dwellings – there is increasing evidence about the massive impact burning wood is having of Tasmanian's health, particulate and greenhouse gas emissions, and the terrible toll on native forests from this unregulated industry. Just like coal industry workers are being supported to move to renewable energy and other progressive

industries, the Tasmanian government should be supporting those who rely on firewood supply as income, to transition to other work.

- Insulation of hot water systems located close as possible to outlets and are insulated and inside the building.
- Have light coloured rooves and other sealed surfaces.

Please consider how increased density can be restricted better on slopes with southerly aspect (ie. no or limited potential for solar passive heating) in residentially zoned areas, to restrict the number of dwellings that require constant heating. Such dwellings that are allowed should be required to have higher insulation requirements. Perhaps use of SAPs?

Protecting urban vegetation

The general community desire to sustain and even increase vegetation in urban areas needs to be incorporated into the TPS. Vegetation on public land (eg street trees) cannot be relied upon to provide relief from heat effects, or improve amenity, improved walkability, active transport (and all of the well documented health benefits of more active and connected communities), and mitigation of climate change. Protecting trees and other vegetation of private lots is required. Perhaps amending the Natural Assets Code to include urban vegetation. Please consider the Kingborough Council By-law for tree protection, and many mainland Council's protections.

Perhaps developers could be provided a performance criteria concession to retain trees which may result is reduced dwelling yield, for some other benefit. I don't know how this could work but the PPU / TPC could do research on this, I am sure there are other places doing this. When people move to Hobart from Melbourne they call the Council to discuss trees on their lot and are shocked to discover there is no restriction.

The Significant Tree Code needs much more work including clear criteria about what needs protecting – it shouldn't be just about huge old English trees. I have participated in the nomination process for the Hobart significant trees both for the interim scheme and prior. Some of my nominations made it through but most did not and many trees were killed when the owner was contacted telling them the tree was being considered for listing. This included ancient gums, which you can imagine was heart-breaking. The code needs interim protection measures for nominated trees, and new standards and criteria. Protecting succession individuals and groups of esp native trees, to replace the removal of senescing old trees (that can be removed once a qualified arborist says they are too hazardous) has to be a core standard. A more useful Natural Assets Code should be used in preference.

Final Word

There are many more improvement opportunities for the SPPs especially in light of the climate crisis. I am sorry I do not have time to provide further comment. Council Statutory Planners need much more support and continuous mandatory professional development to be able to keep pace with interpreting performance criteria in our climate crisis and with the dynamic needs of our growing and diverse population. The state government should be providing this support to allow local government to act as its agents in administrating its laws.

*The Clean Energy Finance Corporation says:

The Australian Sustainable Built Environment Council estimates that the property sector accounts for about 23 per cent of Australia's greenhouse gas emissions. About half of those emissions come from residential buildings – largely from heating, ventilation and air conditioning (40 per cent), appliances (25 per cent) and hot water systems (23 per cent). Measures to address these include adopting energy efficiency building design and construction, along with supporting the widespread inclusion of renewable energy and energy storage solutions.

10 August 2022

NORTHERN MIDLANDS COUNCIL

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State Planning Provisions review - scoping issues

The Northern Midlands Council considered the review at its meeting of 27 June 2022 and resolved to make the following submission.

Seasonal Worker Accommodation

- Add 'seasonal worker accommodation' as an example of 'Communal Residence' in Table 6.2 Use Classes.
- Make Communal Residence a discretionary use and development in the General Residential zone use table.
- Provide provisions for adequate private open space, indoor communal space, and car parking requirements for Communal Dwellings.

Reinstatement of provisions removed with Planning Directive 8

Reinstate the following provisions to the General Residential zone:

> Dwellings must have a site area of which at least 25% of the site area is free from impervious surfaces.
>
> A dwelling must have an area of private open space that is directly accessible from, and adjacent to, a habitable room (other than a bedroom).
>
> A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north.
>
> A multiple dwelling that is to the north of a window of a habitable room (other than a bedroom) of another dwelling on the same site, which window faces between 30 degrees west of north and 30 degrees east of north, must be in accordance with (a) or (b), unless excluded by (c):
>
> (a) The multiple dwelling is contained within a line projecting:
> (i) at a distance of 3 m from the window; and
> (ii) vertically to a height of 3 m above natural ground level and then at an angle of 45 degrees from the horizontal.
>
> (b) The multiple dwelling does not cause the habitable room to receive less than 3 hours of sunlight between 9.00 am and 3.00 pm on 21st June.

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The Northern Midlands Council retains its view that the removal of these provisions does not further the Schedule 1 Objectives (Part 2 (f) and (h)) of the *Land Use Planning and Approvals Act 1993:*

- to promote the health and wellbeing of all Tasmanians by ensuring a pleasant and efficient environment for living and recreation; and
- to protect public infrastructure and other assets for the benefit of the community.

Minimum Lot Size in General Residential Zone

The minimum residential lot size of 450m^2 to be increased to 600m2 in accordance with the Specific Area Plans in the Northern Midlands Local Provisions Schedule.

Adequate provisions for waste removal facilities in the General Residential zone

There should be provisions that require waste removal to be contained within the development frontage or require on site waste removal.

Carparking and Sustainable Transport Code - Provisions for adequate separation between multiple dwelling pedestrian access to units and vehicle pathways

Vehicles should not be able to turn immediately adjacent to another dwelling, there should be adequate separation for pedestrians.

Road and Railway Assets Code - Requirement for Dual Access for Multiple Dwelling Development

Where a development site has two frontages, the Road and Railway Assets Code should require an access of sufficient width to each frontage.

Flood-Prone Areas Hazard Code

An amendment to the Flood-Prone Areas Hazard Code so that it requires assessment of flood events in 2100, as is required by the Coastal Erosion Hazard Code.

Local Historic Heritage Code

In addition to the matters resolved by Council above, issues with the non-application of the Local Historic Heritage Code to places registered on the Tasmanian Heritage Register have become clear.

An application was received under the Northern Midlands Interim Planning Scheme 2013 for a colorbond shed at Christ Church, Longford, which is in the heritage precinct of Longford, is a locally listed heritage place and is listed on the Tasmanian Heritage Register.

The proposed shed was 4m x 4m x 3.4m high with custom orb cladding, 'classic cream' walls and 'deep ocean' roof and roller door.

There were nine representations against the application, concerned with the loss of heritage values of the site.

The Northern Midlands Council's Heritage Adviser assessed the application and advised:

The metal colorbond walls do not meet the acceptable solutions or performance criteria as there are no other structures or buildings on the site with metal colorbond walls. I recommend that the walls be clad in natural timber vertical boards or recycled bricks.

I recommend that the roller door be replaced with two barn style hinged doors faced with vertical timber boards similar to the walls.

The proposal received a Certificate of exemption from the Tasmanian Heritage Council.

Under clause C6.2.3 of the State Planning Provisions, the Local Historic Heritage Code does not apply to a registered place entered on the Tasmanian Heritage Register. The Planning Authority would not be able to refuse the application as the place is entered on the Tasmanian Heritage Register, despite community concern and in the assessment of the Northern Midlands Council's Heritage Adviser that the proposal does not comply with the provisions of the Local Historic Heritage Code.

It is therefore submitted that the scope of the State Planning Provisions review should include a review of the Local Historic Heritage Code to remove the non-application to places registered on the Tasmanian Heritage Register.

Of the issues listed above the priority is:

1 – Equal high priority for 'Communal Residence' and the Local Historic Heritage Code.

2 – Flood Prone Areas Code.

Yours sincerely,

Paul Godier
Senior Planner

Tasmanian National Parks Association

An independent Voice for Tasmania's Parks

Review of the State Planning Provisions

Thank you for the opportunity to comment on the State Planning Provisions under the *Land Use Planning and Approvals Act 1993* (the "LUPAA").

A major role of the Tasmanian National Parks Association Inc. (the "TNPA") is to scrutinise development proposals on reserved land, so our comments address those provisions relating to the Environmental Management Zone, other zones adjoining or near the Environmental Management Zone and the Scenic Protection Code.

Environmental Management Zone

The use table (table 23.2) for the Environmental Management zone should be amended to:

a) remove all the permitted uses; and

b) omit all the qualifications for the discretionary uses.

The development standards for buildings, works and subdivision in the Environmental Management Zone should be amended to omit each provision of an "acceptable solution" relating to authority under the *National Parks and Reserves Management Regulations 2019*, the *Nature Conservation Act 2002* or approval under the *Crown Lands Act 1976*.

These amendments are needed to achieve consistency with the objectives of the resource management and planning system of Tasmania (as set out in Schedule 1 to the LUPAA), especially the objectives:

a) to encourage public involvement in resource management and planning (paragraph 1(c) in Part 1 of that Schedule); and

b) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State (paragraph 1(e) in Part 1 of that Schedule).

Making use or development permitted if it is authorised under the *National Parks and Reserves Management Regulations 2019* or *the Nature Conservation Act 2002* or approved under the *Crown Lands Act 1976* is inimical to public involvement in, and the sharing with the community of responsibility for, management and planning of the use or development. This is because there is no requirement in that legislation for public notice of, or an opportunity for public comment on, uses and developments before they are authorised.

Ensuring that a use or development is discretionary for the purposes of the LUPAA has the effect that section 57 of the LUPAA will require notice of the use or development be given (unless a permit for it is to be refused).

Making use or development meet development standards (via an acceptable solution) if it is authorised under the *National Parks and Reserves Management Regulations 2019* or the *Nature Conservation Act 2002* or approved under the *Crown Lands Act 1976* denies the opportunity for a planning authority and the community to contribute their expertise on matters described in performance criteria for meeting the standards. In many cases this expertise may

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The TNPA acknowledges the First Nation peoples of lutruwita (Tasmania) and their enduring connection to country. We pay our respects to their elders past and present. We also acknowledge that their land was taken, and sovereignty was not ceded.

well exceed that of the State public service bodies involved in the authorisation or approval process, particularly for uses and developments of kinds that do not commonly occur in the zone.

The TNPA is aware that the Minister for Parks has proposed legislating to deal with what is currently dealt with by informal "reserve activity assessments" of uses and developments. However, the proposal did not indicate that the legislation would include any measures to allow public involvement in assessments or that it would be relevant to authorisation under the *Nature Conservation Act 2002* or approval under the *Crown Lands Act 1976*. Further, the proposal was made nearly a year ago, and there has been no indication of any progress in implementing it, even though public calls for legislation have been made for many years.

Zones adjoining or near the Environmental Management Zone

The Environmental Management Zone contains land with significant ecological, scientific, cultural and scenic values. Those values may be reduced by uses and developments in zones adjoining or near the Environmental Management Zone.

To protect those values of land within the Environmental Management Zone, use standards and development standards should be included in other zones so that uses and developments in those zones do not reduce the ecological, scientific, cultural or scenic values of land in the Environmental Management Zone.

The State Planning Provisions already include development standards for some zones to ensure that development in those zones does not impair the continuing achievement of the purposes of an adjoining zone. (For example, there are development standards for the Rural Living Zone, the Landscape Conservation Zone, the Environmental Management Zone, the Major Tourism Zone and the Future Urban Zone to prevent developments in those zones from conflicting or interfering with agricultural use of the Rural Zone and Agricultural Zone.)

The Attenuation Code, with its focus on the interaction between specified uses (largely industrial) and sensitive uses (by humans, except in the course of employment), is clearly not aimed at the protection of ecological and scientific values of land in the Environmental Management Zone. Further, the code's implicit assumption that a particular distance will sufficiently diminish the effects of a particular use does not adequately reflect the ways in which, and the distances at which, particular uses may affect particular values (especially ecological and scientific values).

Given the diversity of uses and developments, and the different distances at which they may affect the ecological, scientific, cultural or scenic values of land in the Environmental Management Zone it seems inappropriate and impractical to provide for an acceptable solution for the proposed use standards and development standards. Rather, the proposed standards should have performance criteria requiring uses and developments not to reduce the ecological, scientific, cultural or scenic value of land in the Environmental Management Zone.

Scenic Protection Code

The Scenic Protection Code depends for its operation on Local Provisions Schedules identifying scenic protection areas and scenic road corridors and describing the characteristics and features that constitute the scenic value of those areas and corridors.

Given that scenery is a major attraction of Tasmania for residents and visitors, it is extraordinary how few and small the scenic protection areas and scenic road corridors are (even allowing for the fact that Local Provisions Schedules do not yet apply for all municipal

areas of the State). What is even more extraordinary is that parts of the Environmental Management Zone renowned (and heavily promoted) for their scenic attraction (such as The Hazards and Wineglass Bay in Freycinet National Park, and Mt Murchison) have not been identified as scenic protection areas, so the Scenic Protection Code does not apply to them. This suggests that the Scenic Protection Code is fundamentally defective in its dependence on Local Provisions Schedules, and needs to be amended to avoid this dependence.

Given that the Environmental Management Zone applies to areas of land with significant scenic values, it would make sense for the Scenic Protection Code to apply automatically to that zone (without the zone needing to be identified as scenic protection area in Local Provisions Schedules). There may also be other zones (e.g. Landscape Conservation Zone) to which it would make sense to apply the Scenic Protection Code automatically. If the code is applied automatically to a zone, a generic description of the scenic value of the zone could be included in the definition of "scenic value" in the code. Generally, the scenic value of the Environmental Management Zone depends on the natural landscape or Aboriginal cultural landscape it covers, although some parts of the zone will have scenic value reflecting reservation of those parts as historic sites.

"Acceptable solution" A1 in C8.6.1 (in the Scenic Protection Code) has the effect of allowing in a scenic protection area any development that is less than 500 square metres in area and is more than 50 metres below the skyline. This ignores the fact that scenic values are not limited to areas close to skylines, and denies protection to scenic values from obtrusive developments in parts of a scenic protection area more than 50 metres below a skyline. Lowland scenery will often be enjoyed by looking down from high points (especially in the Environmental Management Zone). The "acceptable solution" should therefore be repealed. The corresponding performance criteria reflect a much more reasonable way of determining whether a development should be allowed, given its effect on scenic value.

Follow-up

The TNPA understands that the State Planning Office is contemplating establishing consultative committees to consider matters raised in the review of the State Planning Provisions. If a committee is established to consider any of the matters raised in this submission (especially the Environmental Management Zone), the TNPA would like to be represented on the committee. The TNPA has extensive experience in planning for reserved lands that make up the bulk of the Environmental Management Zone and associated legal issues.

If you would like to discuss anything in these comments, please contact [redacted] by email (info@tnpa.org.au) or telephone [redacted]

The TNPA is sending a copy of these comments to the Minister for Planning and his counterparts in other parliamentary political parties.

[redacted]

Nicholas Sawyer, President, TNPA

30 June 2022

A Response to the State Planning Provisions (SPPs)
Regulation – Policy – Strategy

Planning reforms and Historic Cultural Heritage

o What is and what isn't working well?

The narrow focus of the review to the address only the State Planning Provisions (SPPs) misses the key and over-riding point of the exercise – that the 3 State Policies that drive the SPP are flawed. What evidence is there that current SPP are restricting development when so few development applications are rejected either at State or Local Government level?

o What elements we can improve?

The key element that could be improved is to review the premise that a …" develop-at-any-cost mentality" is a legitimate and sound basis for planning policy.

o Are there things that are missing, or alternatively, are there things that shouldn't be in there?

What seems to have been overlooked and missing from this review are the checks and balances that existed under the arguably less efficient, albeit less development-centric approaches of earlier planning models.

The planning processes under review do not appear to address the broader issues surrounding state responses to climate change or the immediate existential threats to the ability of Tasmanians to keep the lights on, have access to affordable housing or question the local impacts of facilitating greater development. The new planning processes do not provide for specific offsets to ensure biodiversity, environmental and heritage values are maintained and enhanced.

o Also, what particular things should be prioritised?

Local input and direct community involvement in planning processes seems to have become secondary to a centralized, "one size fits all" approach. This review should prioritize opportunities to include effective and local responses to climate change and the erosion of natural values as key elements in planning for the future-proofing our regions.

o And any other matters relating to the SPPs

It has been suggested by that the new rules make it easier for a developer to propose a project in a National Park of their choice, and it can be approved with little, if any public input. The comparative advantage or point of difference that this State enjoys compared to other States is being eroded. Tourists visit because the state is beautiful, scenic, with many historic buildings and spectacular wild landforms. The review should address how the SPP addresses this need.

I agree with the points raised by Anne Harrison (PMAT Newsletter, June 2022). The new planning rules or SPPs will almost certainly result in non-strategic planning which promotes *ad hoc* development with little overview as to how a community works in its entirety. The removal of Desired Future Character Statements removes the guiding vision for our towns and suburbs. There seems to be no strategic thinking or state policy to guide the planning changes.

The planning provisions must be improved to deliver better planning outcomes. As they stand, they reflect the immediate needs of the government of the day. They offer little to better connect communities, and by ignoring the impacts of climate change, show little visionary or strategic planning for the future. As noted by Michael Buxton, former Professor of Environment and Planning, RMIT University, observed… "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."
Cited in PMAT Newsletter June 2022

Brenton Hosking
Somerset, TAS
10 August 2022

From: Anne L-B
To: State Planning Office Your Say
Subject: Submission: State Planning Provisions Review
Date: Wednesday, 10 August 2022 3:41:36 PM

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001
By email: yoursay.planning@dpac.tas.gov.au

10 August 2022
To Whom It May Concern

State Planning Provisions (SPPs) Review - Scoping Issues

Thank you for the opportunity to comment on the review of the SPP's

I have read the submission being lodged by Planning Matters Alliance Tasmania (PMAT). I have reviewed material used in its preparation, and fully support and agree with their platform statement and the areas of concern PMAT has identified in espect of the State Planning Provisions.

Please accept PMAT's submission as my own.

Yours sincerely,

Anne Layton-Bennett
Swan Bay 7252

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10 August 2022

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

Dear Sir/Madam

RE: 5 Yearly Review of the State Planning Provisions

Thank you for the opportunity for the Tasmanian Heritage Council to provide a representation regarding the 5 yearly review of the State Planning Provisions (SPP's).

The Heritage Council makes this representation under the following broad ranging responsibilities outlined in the *Historic Cultural Heritage Act 1995*:

> (b) to work within the planning system to achieve the proper protection of Tasmania's historic cultural heritage; and
>
> (c) to co-operate and collaborate with Federal, State and local authorities in the conservation of places of historic cultural heritage significance; and
>
> (d) to encourage and assist in the proper management of places of historic cultural heritage significance; and
>
> (e) to encourage public interest in, and understanding of, issues relevant to the conservation of Tasmania's historic cultural heritage; and
>
> (f) to encourage and provide public education in respect of Tasmania's historic cultural heritage;

General comments

The Heritage Council supports the general approach of the SPP's to provide an overarching State planning framework for Tasmania and a consistent Local Historic Heritage Code ('the Code') for the protection of local heritage. However, the Heritage Council still maintains reservations regarding certain aspects of the Code following its introduction and wishes to reiterate many of the issues raised in its previous representation made on 25 May 2016. It is acknowledged that many of the matters raised previously were not included in the adopted

version of the SPP's. Despite the passage of time, these same issues still very much remain pertinent today.

The Heritage Council makes this representation in the interests of seeing the Code operate effectively at the local level, with the overall aim that the Code is the critical planning instrument that facilitates best practice heritage conservation outcomes. Nonetheless, the Heritage Council remains concerned that the language used throughout the Code does not currently facilitate such outcomes. To achieve this objective, it is recommended that the language used in the Code be embedded in the principles of the Burra Charter which is the definitive guide to heritage industry best practice in Australia. In addition, the Heritage Council's Works Guidelines which are referenced throughout this representation are also a valuable resource that highlight how to achieve best practice heritage outcomes.

The specific concerns relate to:

1. Application requirements

To assist local government planners in assessing development applications under the provisions of the Code, the Heritage Council recommends that Clause 6.1.3 be amended to include the requirement for a heritage impact statement and /or an archaeological impact statement to be provided to satisfy the Code provisions.

2. Local Historic Heritage Code

Language used throughout the Code

The wording 'have regard to' or 'must have regard to' is overly loose and is not supported. Numerous appeal outcomes have concluded that this phasing does not carry sufficient weight in determining planning outcomes. As such, it is recommended that more definitive wording such as 'must clearly demonstrate' or 'must comply' is required to provide greater clarity for the operation of the Code in the development industry.

C6.2 Application of this Code

The Heritage Council acknowledges the contemporary reality that the Code is not universally applicable as it stands due to the numerous Council areas that do not have *any* local heritage places / precincts, local historic landscape precincts or places/precincts of archaeological potential listed in their Local Provision Schedules.

It is acknowledged that once all Council's have transitioned to the Tasmanian Planning Scheme, the Code will only apply to local heritage places in *part* of the State until appropriate resources are channelled into preparing local heritage studies and planning scheme amendments to populate local heritage lists and providing local heritage advisory services to assist with development assessment.

While outside of the scope of this review, the Heritage Council holds a fundamental concern that without adequate resourcing, there will remain large gaps in the protection of local heritage places in a significant number of Council areas which may very well result in the irrevocable loss of local historic heritage places including those with significant archaeological resources in the long term.

In its role as advocate for the proper management of places of historic cultural heritage significance across the State, it would be remiss of the Heritage Council not to highlight this underlying fact that needs addressing as a critical priority as part of the State Government's planning reform agenda in the short term future.

C6.4 Development Exempt from this Code
Table 6.4.1 Exempt Development:
Development involving a place or precinct of archaeological potential

The Heritage Council recommends that items (e) and (f) be removed from this section. With regard to the exemption provisions at item (e), it is noted that excavation to a depth of 1m would likely result in the complete removal of archaeological underfloor deposits or evidence of earlier structures that may have been constructed in the same location.

Similarly, the exemption at item (f) that would allow for excavation to a depth of 300mm could result in complete removal of a sites historical archaeological resources within the proposed maximum footprint of 20m².

The Heritage Council is concerned that the inclusion of these exemptions in the Code has the potential to result in unmitigated impacts on significant archaeological resources.

3. Demolition

C6.6.1 Demolition (of a local heritage place)
C6.7.1 Demolition within a local heritage precinct
C6.7.2 Demolition within a local historic landscape precinct

It is recommended that partial and full demolition be differentiated in separate sections so that different performance criteria can be tailored to each scenario. The reason for this suggestion is that the complete demolition of a heritage building has an irreversible impact and should be subject to a more stringent threshold than what is currently written in the Code. In addition, no reference is made to the demolition of non-significant elements and significant elements which should also attract a very different assessment approach against robustly worded performance criteria.

In the interests of encouraging heritage industry best practice, reference is made to the Heritage Council's Works Guidelines (section 6. Demolition, Relocation and Moveable Heritage) which offers some guidance on appropriate outcomes for partial demolition, total demolition and relocating buildings. For instance, it is noteworthy that the Work Guidelines assessment criteria for partial demolition of significant elements of a place 'should be avoided or minimised as far as practical'. Similarly, the total demolition of a significant structure is viewed as being 'a last resort and is generally not an acceptable outcome'.

It is recommended that this type of unequivocal language also be adopted in the rewriting of this section of the Code so that expectations of desired development outcomes are unambiguous to the development industry. At the very least, the Heritage Council recommends that this Clause could be improved by replacing 'unacceptable impact' with 'adverse impact'.

4. Performance Criteria generally

C6.6.5 Fences

The language used in this clause is problematic because provisions that encourage the replication of inappropriate alterations should be avoided as should reliance on the use of the wording 'original' because it is often unclear what constitutes original material. For these reasons, it is recommended that the performance criteria c) 'the dominant fencing style in the setting' be replaced with 'traditional fences in the streetscape' and d) 'the original or previous fences on the site' be deleted.

The Heritage Council's Works Guidelines (section 12. Residential Fences and Gates) offer a good example of appropriate wording to achieve positive heritage outcomes.

C6.6.6 Roof form and materials

The language used in this clause is too ambiguous which leaves it open to a very liberal interpretation. The Heritage Council's Works Guidelines (section 1.2 'Roofs – cladding replacement') offer an appropriate heritage response to roofing for heritage buildings.

Planning provisions that encourage the replication of inappropriate alterations should be avoided as should reliance on the use of the wording 'original' because it is often unclear what constitutes original material. The words 'significant early' [fabric / detail / form] could be considered as a substitute.

C6.6.2 Site coverage

The Heritage Council believes this Clause could benefit from some re-wording to avoid adverse conservation outcomes and offers to work with the SPO to achieve this aim. For example, this Clause could be more robust by including performance criteria that clearly state that any additions/extensions must be subservient to the existing historic building.

C6.6.3 Height and Bulk of buildings

The Heritage Council believes this Clause could benefit from some re-wording to avoid adverse conservation outcomes and offers to work with the SPO to achieve this aim. For example, the clause could be improved by including more definitive and substantial performance criteria. Rather than the terminology 'must be compatible with', instead it could state words to the effect that any additions/extensions 'must not exceed the building height and bulk of existing historic buildings', 'must not dominate' the existing historic building/s and 'visual impacts must be minimised'.

It is advised that performance criteria c) be removed because reliance on compatibility with examples of height and bulk of other buildings in the surrounding area does not guarantee a positive heritage outcome if the surrounding area contains inappropriate examples of development with no heritage values.

The Heritage Council's Works Guidelines (Section 9 Alterations, additions and extensions and section 8 New Buildings) contain some useful examples of achieving positive heritage outcomes and how to best avoid adverse conservation outcomes.

5. Change of Use of a Place listed on the Tasmanian Heritage Register

The broad intent of Clause C7.4 is supported, however, it is recommended that a mandatory application requirement be added to require that a Heritage Impact Statement accompany any application. This document is required so that applicants are able to satisfy criteria 7.4.2 (b) of this Clause given that the documentation of the historic cultural heritage significance of a place varies in the data sheets recorded against places listed on the Tasmanian Heritage Register.

I trust that this representation can add value to the heritage elements of the State Planning Provisions and that the 5 yearly review will ultimately result in improved heritage outcomes at the local level.

Thank you again for the opportunity to provide input into this timely review.

Yours sincerely

Ms Brett Torossi
Chair

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10 August 2022

Department of Premier and Cabinet
State Planning Office
Level 10, Executive Building,
15 Murray Street, HOBART TAS 7001

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

HIA Submission on the State Planning Provisions Review

Thank you for the opportunity to provide comment in response to the *State Planning Provisions* Review (SPPs).

HIA welcomes inter-governmental collaboration and consultation with the residential construction industry on major policy reform that supports the development of new housing, through streamlined approval and cutting red tape in the planning system.

About the Housing Industry Association (HIA)

The HIA is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. HIA members are involved in land development, detached home building, home renovations, low & medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members are comprised of a mix of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, majorbuilding product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA response to the SPPs review

HIA understands under the *Land Use Planning and Approvals Act 1993* (LUPAA), the SPPs are required to be reviewed every five years. However, in principle it may be too soon for the review, as the new state-wide Tasmanian Planning Scheme introduced in 2017 is yet to be fully

implemented. In addition, the full suite of SPPs mostly have been in actual effect for less than two years, potentially lacking the evidence base for their statutory effect and any meaningful review.

It is also noted a requirement of LUPAA is for the SPPs to be consistent with the *Tasmanian Planning Policies* (TPPs). There was an initial consultation on the TPPs in 2021, with the final topics to be prepared and exhibited during 2023. This would result in the need for a subsequent review of the SPPs for consistency (maybe 2024) causing there to be two reviews of the SPPs within a two year period which seems absurd.

HIA notes the recent inter-related policy reviews in Tasmania:

- *State Planning Provisions* review (State Government) – open for public comment by August 2022;
- *Tasmanian Planning Policies* review (State Government) – second consultation paper on the proposed final topics being prepared for release in late 2022;
- *30 Year Greater Hobart Plan* (State Government in collaboration with the Greater Hobart Committee) – invitations for public comment closed in June 2022;
- *Medium Density Residential Development Standards / Apartment Code* (State Government) – on hold.

While these reviews are being led by the State Government, it appears they are being independently pursued without an overarching assessment of their holistic effect. It is critical that members of each policy review team collaborate together to ensure the findings are thoroughly interrogated and final recommendations lead to consistent, supportive and effective statutory policy for the residential construction industry in Tasmania.

HIA was a submitter to the TPPs consultation in October 2021. We raised concerns that the TPPs are not consistent with any State Policies created under the *State Policies and Projects Act 1993* – currently the *State Coastal Policy 1996, State Policy on the Protection of Agricultural Land 2009, State Policy on Water Quality Management 1997* and the range of *National Environmental Protection Measures*.

We maintain our concern that state policies pursuant to the *State Policies and Projects Act 1993* designed to support *settlement, the built environment and heritage*, *economic development*, *transport and infrastructure* in the SPPs are lacking. While we understand policies under the *State Policies and Projects Act 1993* are not part of this SPPs review, it should be a **first order priority** to address this deficiency before reviewing the SPPs and creating the TPPs.

In terms of improving the SPPs, HIA considers adjustments to the provisions for assessing one dwelling and multiple dwellings would significantly improve the operational efficiency of the planning system.

Public consultation of the *Greater Hobart Plan* has forecast demand for 30,000 new dwellings by 2050, and Government has committed up to $1.5 billion to deliver 10,000 new ‘affordable’ homes by 2032.[1] This will comprise a mix of single, multi-unit and apartment dwelling approvals.

[1] https://www.abc.net.au/news/2022-03-02/tasmanian-housing-plan-10000-homes-waitlist/100871120

As per HIA's "One House One Approval" and "Truth in Zoning" policies, one dwelling on residentially zoned land should not be subject to the cumbersome planning permit process, including varying design and siting matters with *planning directive 4.1*. This would take pressure off the planning system to deal with single dwelling approvals in consideration of environmental factors e.g. bushfire, landslip and flood hazard areas.

A single dwelling on residentially zoned land should be classified as 'notifiable building work' without the need for a planning permit, even when it does not fully comply with planning directive 4.1. Where required a building dispensation application could be lodged, advertised and completed in less than a calendar month.

Being required to obtain both planning and building approval for a single dwelling on residentially zoned land creates issues for the timeliness of housing approvals, as well as additional design and application costs. Often, planning policy has undue impacts on the dwelling design, which requires owners to make changes that are over and above the National Construction Code (NCC).

We note in March 2019, the Premier of Tasmania announced that a new set of planning standards for medium density residential development (i.e. an "apartment code") would be prepared and implemented through the SPPs. According to the *State Government Planning Reforms* web page, the development standards were *"to be prepared in conjunction with the Central Hobart Precincts Plan as part of the Hobart City Deal, and will be publicly exhibited for comment."* It is disappointing that this code was not exhibited for public comment as part of the *Greater Hobart Plan* consultation. It is believed this code will not provide a state-wide infill/medium density approval framework for applications of more than one dwelling (including detached multi-unit/townhouse development), as it is limited in scope to a residential building comprising apartments.

HIA's view is it is time for Tasmania to adopt a state-wide infill/medium density approval framework in the SPPs that will address delays, uncertainty and risk for medium and high density housing proposals. We note this is called for in the publication *Toward Infill Housing Development, Tasmanian Department of State Growth* (TIHD, 2019).

The publication states:
"Alternative housing products often fall outside the Acceptable Solution provisions of a planning scheme, triggering a discretionary application requiring public notification. Discretionary applications often require a more detailed planning assessment, involving longer timeframes, particularly when there are third party objections to a proposal. This adds extra time and resources to the assessment process.

Policy makers need to have a better understanding of the regulatory barriers to infill housing. A state-wide infill/medium density design guidelines and approval framework would improve certainty for developers, as well as improve the quality of development being delivered."

The model could provide for a design which complies with all relevant state provisions and prescribed design standards of the Tasmanian Planning Scheme (i.e. "Acceptable Solutions"), to go straight to public notification. Going further, where acceptable benchmarks of a design code are long established in the planning scheme, there should be no need for compliant development to undergo notification and be subject to third-party appeal rights.

HIA would be pleased to workshop the structure of a state-wide multi-dwelling code with State Government providing an industry perspective on what is required to reduce planning red tape and expedite decisions.

Finally given the broad scope of this consultation and that the SPPs are likely to be reviewed again in the next 2-3 years, we request that government prepare a summary of findings from this round of consultation that can be shared publicly for review and comment. HIA would be happy to review and provide further feedback on any specific findings of the review, proposed regulatory changes and transition periods as applicable.

Thank you for the opportunity to provide comment at this initial stage. HIA would appreciate being consulted with regard to any further matters relating to the SPPs.

Please do not hesitate to contact us if you wish to discuss matters raised in this correspondence –

[redacted]

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

[redacted]

Stuart Collins
Executive Director
Tasmania

10 August 2022

State Planning Provisions Review
Department of Premier and Cabinet
State Planning Office
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By email to: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam,

SUBMISSION – STATE PLANNING PROVISIONS REVIEW 2022

Central Highlands Council submits the attached submission to the State Planning Provisions Review.

If you have any questions, please get in touch.

Sincerely

[redacted]

Damian Mackey
Planning Consultant
CENTRAL HIGHLANDS COUNCIL
dmackey@southernmidlands.tas.gov.au
[redacted]

CENTRAL HIGHLANDS COUNCIL SUBMISSION

TO THE STATE PANNING PROVISIONS REVIEW 2022

THE AGRICULTURE ZONE

Spatial Application

The 'recalibration' of the previous Significant Agriculture and Rural Resource zones into the new Agriculture and Rural zones is the most significant change introduced by the SPPs for Central Highlands Council. The new Agriculture Zone provisions combined with the spatial allocation rules caused significant problems in the creation of the Local Provisions Schedule. The core issue is that there is a fundamental mis-match between the provisions of the zone and its spatial allocation rules.

The written provisions are essentially that of a *significant agriculture zone*, as they give almost absolute primacy to agricultural use to the exclusion of other uses, whilst the spatial allocation rules dictate that it should apply to good, average and poor agricultural land. Therefore, it ostensibly ought to cover a very large proportion of the Tasmanian countryside, whilst removing significant economic development opportunities from that land, (being almost anything that is a non-agricultural rural use).

Furthermore, implicit in the zone is the notion that the agricultural potential of the land is so important and the land so rare, that the Priority Vegetation Overlay must not apply. This principle is correct for genuinely important agricultural land, but not for poor or modest quality agricultural land.

The mis-match between the written provisions and the spatial allocation rules has resulted in a situation where the overall effect has gone far beyond Parliament's intention as expressed in the State Policy on the Protection of Agricultural Land.

Eleven principles are contained within the PAL Policy aimed at identifying and protecting agricultural land through regulations in planning schemes. Five of the eleven principles relate specifically to Prime Agricultural Land whilst four of the remainder pertain to various forms of significant agricultural land. It is therefore appropriate that these nine principles are implemented through the Agriculture Zone and that in only apply to Prime Agricultural Land and other agricultural land considered 'significant'.

It is appropriate that the remaining two principles are implemented through the Rural Zone. It is important to recognise that both the Agriculture and Rural Zones are 'agriculture zones' in essence. The difference is that the Agriculture Zone is a restrictive single-purpose zone focussed on agriculture only, whilst the alternative Rural Zone is a multi-purpose zone able to accommodate not only agriculture but the full range of rural activities ranging from mining & forestry to lower-order nature conservation.

The current zone allocation rules provide that the default zone is Agriculture, with the Rural Zone to apply where it can be demonstrated that the Agriculture Zone is inappropriate. This is back-the-front, and will lead to the loss of sound economic development initiatives in rural areas. It is the Rural Zone that is the flexible multi-purpose, flexible zone, and it should be the default with the Agriculture Zone only applying where the PAL Policy warrants it. To do otherwise is bureaucratic policy over-reach.

It is contended that the Southern Region's application of the Significant Agriculture Zone in the 2015 Interim Planning Schemes is far more in alignment with the PAL Policy than the SPPs Agriculture Zone.

Residential Use

The Agriculture Zone appears to allow, as a discretionary use, farm workers' accommodation. For clarity, the list of examples under the definition of 'Residential' should be expanded to specifically include farm workers' accommodation.

Access for New Dwellings

The Agriculture Zone provides that access for new dwellings must be either by direct frontage to a public road or via a right-of-way to such a road. This excludes the possibility of the use of a Reserved Road, and would render many titles in the large expanses of the Central Highlands off-limits for a new dwelling. In the past it has not been uncommon for landowners to obtain a Crown licence to use Reserved Roads for access, and this should be possible in the future, at the Planning Authority's and the Crown's discretion.

THE RURAL ZONE

Landscape Provisions

The old Rural Resource Zone contains (brief) provisions aimed at minimising unnecessary impacts on the rural landscape. The new Rural Zone contains no such provisions, and it appears the intention of the SPPs is that if a rural area is considered to have particularly important scenic landscape qualities, then the Planning Authority should establish a Scenic Protection Area or a Scenic Road Corridor under the Scenic Protection Code.

This proposition is costly to pursue and the outcome would, in many circumstances, be 'regulatory overkill'.

The existing Rural Resource provisions provide Planning Authorities with an efficient, flexible and 'light touch' mechanism to minimise unnecessary visual impacts which in practice would often be achieved by conditions of approval relating to external colour and/or the planting of screening trees, for example.

The proposed establishment of Scenic Protection Areas raises the issue by several orders of magnitude, both in a local political sense and in the regulatory outcome. It creates a sledgehammer for cracking what are, in most circumstances, walnuts.

The reintroduction of landscape protection provisions similar to those in the Rural Resource Zone should be considered.

Access for New Dwellings

The Rural Zone provides that access for new dwellings must be either by direct frontage to a public road or via a right-of-way to such a road. This excludes the possibility of the use of a Reserved Road, and would render many titles in the large expanse of the Central Highlands off-limits for a new dwelling. In the past it has not been uncommon for landowners to obtain a Crown licence to use Reserved Roads for access, and this should be possible in the future, at the Planning Authority's and the Crown's discretion.

THE LOCAL HISTORIC HERITAGE CODE

Clause C6.2.2 of the Local Historic Heritage Code provides that if a site is listed as a Local Heritage Place and is within a Local Heritage Precinct, any development application is not subject to the rules of the Local Heritage Precinct.

This misses the point of Local Heritage Precincts, which are concerned with visual impacts on an entire streetscape, or townscape.

This provision should be removed.

LANDSCAPE CONSERVATION ZONE / SCENIC PROTECTION CODE

The Landscape Conservation Zone does the same thing as the Scenic Protection Code. The issue at hand, protecting important landscape values, is a matter best suited to a code overlay, as such values may extend over a wide area in which the best underlying zone may change.

The need for the Landscape Conservation Zone should be questioned. It would appear that wherever the zone has been applied in Local Provisions Schedules so far, the same result could have been achieved by using one of the other zones combined with a Scenic Protection Area overlay.

ENVIRONMENTAL MANAGEMENT ZONE

The spatial application rules applying to the Environmental Management Zone require that lakes in the Central Highlands be zoned Environmental Management. A number of these are multi-use lakes and the Environmental Management Zone is not the most appropriate in these cases. The State Planning Provisions should be amended to better recognise their real-world use.

10/08/2022

RE: State Planning Provisions and micro-mobility

Dear State Planning Office,

I write in support of the Bicycle Network Tasmania's submission regarding the State Planning Provisions.

E-micro-mobility is here to stay, and our planning policies must reflect this. Hobart's e-scooter trial has seen 484,000 km travelled by rental e-scooters in 6 months. The message is clear: people are using micro-mobility options.

Electric motors have already changed bike styles on the market. This means more child-carrying cargo bikes, trikes for elderly, hand-cycles for people mobility issues or so forth.

As such, I support the need to address the following in the planning scheme:

- Residential buildings, workplaces, hotels and schools must have secure bike storage
- Residential buildings and hotels must have safe e-charging areas.
- E-charging areas must be practical and safe (and consider fire risks)
- Non-standard bikes must be considered in infrastructure design. I.e. electric cargo bikes, trikes, and other mobility aids.
- Access to cycle storage must be safe and practical. ('Cyclists must dismount' signs to access regular cycle storage areas via a carpark is generally not adequate.)
- Bicycles must be considered as mobility aids (and that users may have difficulty walking)
- The state provisions must provide clear direction on the infrastructure to be built to enable more cycling, based on the number and speed of cars expected on the road.
- All micro-mobility infrastructure in residential areas must be suitable for children.

Figure - In Germany, nearly 100,000 cargo bikes are sold every year

Figure - Electric motors are changing bike use. Different bike sizes/types/weights must be considered in planning policy

Figure - Electric motors are changing bike use - Different cycling demographics (e.g. mobility impaired, elderly etc) must be considered in planning policy.

Kind regards,

Anna Blake

[redacted]

From: Cathy Williams
To: State Planning Office Shared Mailbox
Subject: Consultation submission - review of the State planning provisions
Date: Thursday, 11 August 2022 7:15:24 AM

Dear Sir/Madam

Thank you for the opportunity to comment on the SPPs Review Scoping document and supporting materials.

As a Tasmanian resident living and working in Hobart, I am keen to see tighter development controls that will encourage a more user friendly experience in urban areas and one which will ultimately promote a more sustainable transport model.

The state provisions are a step backwards compared to the old planning scheme. By requiring numerous car parking spots but many fewer bike parks, if any at all, the state provisions contribute to an environment that makes riding a bike harder, especially for staff.

I would strongly encourage the new provisions to follow the old planning scheme which clearly differentiated the number of bike parks for staff and number for visitors for every land use type, as well as the “class” of parking.

Making the distinction between bike parking for customers and staff is important as visitor parking should be near an entrance and easily accessible, whereas staff parking should be undercover, secure and not accessible to the public.

There also needs to be a specific section added to the code that deals with employee bicycle parking and bicycle parking for apartment buildings.

A major issue with the Parking and Sustainable Transport Code is the lack of any minimum bike parking for apartment buildings and this should be rectified.

All approvals for apartment buildings across Tasmania should require secure, undercover bike parking at street level. By accommodating active transport options, the code and SPP as a whole will help reduce traffic congestion.

Thank you for taking the time to consider my submission. Should you have any questions please do not hesitate to contact me on the number below.

Yours sincerely

Cathy Williams

[redacted]

[redacted]

[redacted]

Sent from my iPhone

Australian Plants Society Tasmania Inc.

Patron: Her Excellency, The Honourable Barbara Baker, AC,
Governor of Tasmania

[redacted]

www.apstas.org.au [redacted]

Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001
By email: yoursay.planning@dpac.tas.gov.au
12 August 2022

To Whom It May Concern,

RE: State Planning Provisions (SPPs) Review - Scoping Issues

Australian Plants Society Tasmania Inc. (APST) welcomes the opportunity to make a submission on the scope and content of the State Planning Provisions and Planning Codes (2017-21) which are open to review.

Three important objectives in APST Inc constitution are:

- To promote the knowledge, appreciation and preservation of Australian plants, both in their natural settings and in cultivation, with special emphasis on species indigenous to Tasmania.
- To support efforts to strengthen the laws and regulations of all bodies given authority by legislation of the Commonwealth and States of Australia for the conservation of Australian flora.
- To encourage compliance with laws and regulations in regards to the preservation of the flora.

With APST objectives in mind, our Society is very concerned with some of the State Planning Provisions (SPPs) especially relating to the Environmental Management Zone (EMZ) which consists largely of National Parks and other land reserved under the Nature Conservation Act 2002. We also note deficiencies within the Natural Assets Code (NAC, biodiversity) as well as the Local Provisions Schedule (LPS).

APST's main concern is that the current SPPs with fewer 'discretionary' developments, more 'permitted uses' and more 'exemptions' reduce the Tasmanian community's right to have a say and in many cases removes appeal rights and therefore weakens democracy in our state. We are troubled that proposed developments including commercial developments in our National Parks and Reserves can be approved without any opportunity for public comment and involvement.
This is inconsistent with the three most fundamental objectives of the *Land Use Planning and Approvals Act 1933* (LUPAA): -

(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 Stat*e".
Most of Tasmania's National Parks and Reserves have been or will be zoned Environmental Management Zone. EMZ objectives are meant to "provide protection, conservation and management of land with significant ecological, scientific, cultural and scenic value."

To ensure these objectives and the LUPAA objectives are met, APST recommends that the 'Use' table (table 23.2) for the EMZ be amended to remove all the 'permitted uses', to make all uses and developments 'discretionary' and omit all the qualifications for the discretionary uses. This will guarantee public comment and appeal rights on developments on public land, National Parks and Reserves.

The current (2017) SPPs have removed some of the checks and balances on development including commercial developments within public land which sideline expert input (expertise often far in excess of State public service bodies involved in the approval process), community rights to appeal bad planning decisions, the independent opinions of the Tasmanian Planning Commission and parliamentary oversight. The existing SPPs allow some government authorities to approve projects which give too much weight to vested interests (including that of the Government), to commercial developers in Tasmania's National Parks and Reserves without guarantee of public consultation.

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.

APST is concerned that proposed developments can be approved under the existing deeply flawed process. The independent Tasmanian Planning Commission (TPC) identified these planning provisions as of major concern in the community and recommended reform. Many other recommendations that the TPC made in 2016-17 need to be re-visited in the scope of this review.

There should also be **set-back provisions** as none at present exist to prevent inappropriate developments right on the boundary which would compromise the integrity of our National Parks and Reserves, including coastal reserves.

Tasmanian people, those who choose to move and live here as well as tourists from all over the world value Tasmania's natural values, an environment with unique flora and fauna. These natural assets are vital not only for Tasmanians' health and liveability but for our economy. 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

Our wonderful reserves and National Parks are vulnerable ecologies already under pressure from increased visitation numbers and climate change and they deserve a visionary strategic plan and world class planning rules to preserve them for future generations.

Newton Drury – Director, US National Parks back in 1951, had the kind of insight that our government and planners need to have today. Quote:-
"If we are going to preserve the greatness of our National Parks, they must be held inviolate. They represent the last stand of the primitive. If we are going to whittle away at them we should recognise from the beginning that all such whittlings are cumulative and that the end result will be mediocrity. Greatness will be gone!"

This director of National Parks in USA (the first nation to recognise the value of conserving wilderness and natural environments for posterity) had vision, understanding and strategic insight. This is what is needed in Tasmania.

We have already done enough "whittling away"! To open our National Parks to any more built-structures and other 'permitted uses' as listed in the SPPs or "Expressions of Interest" developments allowing private tourism developments on public reserved land, will gradually destroy their true purpose and value, it will chip away at that greatness ending in mediocrity**.**

Planning provisions should ensure our National Parks and reserves remain exceptional places. According to a recent Tasmanian Conservation Trust survey, this is what an overwhelming majority of Tasmanians want.

An example of inappropriate development for commercial gain is the proposed Lake Rodway massive accommodation lodge on the edge of the water. Our Parks and Wildlife experts say "potential impacts on the wilderness values including the loss of primitiveness and the 'undeveloped' quality of Lake Rodway are unacceptable impacts" (The Mercury July 15 2022). The Lake Malbena proposed commercial development was also incompatible with conserving these pristine ecologies and natural values as well as noise pollution destroying what these parks epitomise. The South Coast Track is envied for its wilderness values - there are so few places left like this. This also applies to Local Council Reserves with the Rosny Point development a recent case.

There should never be any provisions in our SPPs that allow planning departments, any limited government authority nor political ministers to alone decide these vital environmental matters. Right to Information papers as for example those obtained by Planning Matters Alliance Tasmania for Lake Rodway should not have redacted sections (as in regard to designs and site location), nor should there be secrecy as that surrounding the initial Lake Malbena development nor marginalising or overriding input from the Tasmanian people, expert advisors, the Local Government and the Tasmanian Planning Commission.

APST also has real future concerns how SPPs will influence the Local Planning Schedules (LPS). We have unease about the impact of SPPs on our local patches of remnant urban and peri-urban vegetation which communities enjoy for recreational, health, and cultural pursuits and as a buffer from the impacts of climate change. This natural vegetation is also essential as native plant and wildlife habitat preservation and important as corridors of connectivity for native flora and fauna between small bush areas in urban zones.

Councils have to identify and apply overlay zones in their municipalities to protect their local areas but then the rules applying to that Zone will be prescriptive as set out in the SPPs already approved by the Government. If Councils don't identify these Zones (e.g.the iconic Freycinet Peninsula is not zoned Scenic Protection), they are vulnerable to inappropriate development. A real concern is when projects are disputed in a court or tribunal, the Local Government is at a disadvantage against experienced legal teams because the provisions are too loosely written and easily skewed towards the developer's perspective. Trying to defend a planning decision will be very difficult and very expensive for Local Governments.

The scope of this review needs to re-visit deficiencies with the LPS. SPPs need to be unambiguous, be transparent and have public and expert scientific consultation inbuilt in the State Planning Provisions and for Local Planning Schedules or they will lack integrity in the eyes of the Tasmanian people.

APST is concerned that 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 a 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 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.

APST would like to see the Natural Assets Code included in the scope of SPPs for review.

Tasmania still lacks strategic planning on issues of biodiversity management and climate change. There has been no State of the Environment Report since 2009 and the Report on the health of our river systems has not been released by government, but kept secret as an “internal” document. The first needs doing along the lines of the Federal Environmental Report and the latter Report should be released in full as DPIPWE planned.

The SPPs are not about strategic or integrated planning but really just development controls. The SPPs should have been guided by a comprehensive suite of State Policies. This did not happen so they exist without a vision for Tasmania’s future. That policies and strategies will be developed after the State Planning Provisions (SPPs) are implemented surely means the provisions lack a holistic vision and plan. Strategy/policies are essential, not only for the Environmental Zone and the Natural Assets Code (biodiversity) but for our cities, towns and agricultural areas to preserve their historic, cultural and scenic values.

Governments have allowed the essence of wilderness to be eroded over the last 50 years. It needs to be protected so that our national parks and reserves are not diminished by crowds and destinations slowly appropriated to developers. Their ‘greatness will be gone’.

Louise Skabo

President
APST Inc.

11 August 2022

Reference: State Planning Scheme – State Planning Provisions -2 March 2017 (01-2017) Edit Feb 2020 (01-2018)

Australian Plants Society Tasmania Inc. acknowledges the information provided towards this submission by:
Planning Matters Alliance Tasmania
Tasmanian National Parks Association
North East Bioregional Network

APST Inc also supports the State Planning Provisions (SPPs) Review - Scoping Submissions by the above independent, not-for-profit organisations. We especially endorse their submissions for:
Environmental Management Zone
Natural Assets Code.
Landscape Conservation Zone
Scenic Protection Code
Coastal Waters and Coastal land issues
Geodiversity.

From: Angela Hanly
To: State Planning Office Your Say
Subject: State Planning Provisions review
Date: Thursday, 11 August 2022 9:57:12 AM

To whom it may concern,

I am the owner of an 8-acre block in Neika, the majority of which is cleared paddock for livestock and food growing with a shed and weatherboard cottage. Since learning of the proposed zoning changes and specifically that my property is being targeted to be changed to Landscape Conservation, I have had many sleepless nights gravely concerned about the impact this will have.

The Kingborough Council (similarly to the Huon Valley Council) have over-applied LCZ in a way that will do great harm to property owners and the community and this needs to be addressed as part of the State Government review process as a matter of urgency. The Central Highlands Council for example had a policy to only apply LCZ to Conservation Covenanted land or landowners that specifically requested it - this is how it should be. As a part of the review, councils need to be instructed to remove proposed LCZ to all property owners – unless the property owner has specifically requested it. There needs to be clear direction from the State Government on this, and it needs to be applied consistently across all LGA's.

I am all for conservation, but I am not for having the value of my property being decimated. The change to LCZ will effectively devalue my property significantly, reduce my ability to borrow or extend against the property and as a final blow reduce my ability to sell the property – because let's face it – who would purchase a piece of land you can't do anything with!

Landscape and environmental values are already protected by:

- the Scenic Protection Code – for scenic landscape values; and
- the Natural Assets Code – for threatened flora, fauna, and communities.

Landscape Conservation zoning effectively duplicates the protections of these Codes, whilst severely restricting landowner rights on all areas of a property, including cleared areas not currently covered by native vegetation. Furthermore, there is already a system in place for property owners who wish to provide voluntarily but permanent protection to natural values (irrespective of planning schemes), through the use of Conservation Covenants.

Kingborough Council won't listen to concerns raised – they don't care, so I'm hoping that the State Government will. I am pleading with someone to appropriately and thoroughly review the council recommendations of applying Landscape Conservation zoning (before it's too late) and reverse this unfair and disastrous proposal that is being thrust upon many property owners with blatant disregard for the consequences.

Councils have ignored the fact that LCZ is an optional zoning under State Government guidelines. The way that LCZ has been applied by Kingborough Council is clearly NOT a part of the Government process, it has been applied at the discretion of Council and it is this discretionary application that we are saying is wrong and will cause undue hardship, stress, and social and economic problems for many. It is well within the process for the Kingborough Council to request the Minister and the TPC to recall the draft LPS and fix it – but they have chosen not to. This is what we are asking for as a priority. Such action is genuinely in the best interests of all involved. The Tasmanian State Government has an opportunity and obligation to rectify this wrong.

- Landowners who are facing the prospect of LC zoning are not happy about having our land "down-zoned" and de-valued and our futures taken away and made more difficult with the stroke of a pen.
- There should be no LCZ applied to any property without written consent from the landowner.

I appreciate the opportunity to provide feedback and hope with everything that this feedback

will be listened to and will be addressed, so as to avoid any further stress and harm to the community and landowners impacted.

Kind regards,

Angela Hanly

Our Ref : 210/190/899

Burnie airport

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10 August 2022

State Planning Office
Department of Premier and Cabinet
GPO Box 123
Hobart TAS 7001
yoursay.planning@dpac.tas.gov.au

Dear Planning Commission
STATE PLANNING PROVISIONS REVIEW - BURNIE AIRPORT SUBMISSION

Failure of the State Planning Provisions (SPPs) to Protect One of the Most Crucial Tasmanian Transport Infrastructure Assets Namely Airports

The Tasmanian Planning Scheme, Safeguarding of Airports Code provides very little protection for airports, other than consideration of aircraft noise impacts and protection of airspace. Highways have much more protection than airports, yet the majority of people coming to and from Tasmania, travel by air.

It must be understood that in Tasmania we have a number of categories of Airports:

i. Hobart and Launceston airports, leased from the Federal Government (*Airport Act* airports);
ii. Burnie and Devonport airports, privately owned airports serving their local areas;
iii. Cambridge Airport, privately owned airport providing flight training and intrastate tourism services;
iv. King and Flinders Island, and Strahan airports, all owned by their respective Councils serving their local communities;
v. aeroplane landing areas such as St Helens, Smithton, Queenstown, Melaleuca, and the smaller Islands off our coast etc;
vi. helicopter landing areas at all major hospitals, Cradle Mountain etc.

Note: Categories ii-vi are non Airport Act airports.

If the operations of these airports are affected by inappropriate unregulated development (whether near the airport or some nautical miles away) Tasmania or a local community may be denied access to passenger, freight and/or aero medical services.

More than any other State, Tasmania relies on its airports for its economic and social well-being.

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 of 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
- 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, as this is the role of individual councils with independent oversight from the Tasmanian Planning Commission. Instead, the review will consider the rules and administrative requirements in the SPPs.

For airports, the primary yet deficient element of the SPPs of relevance is the 'Safeguarding of Airports Code'.

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 airport network, across major urban centres and regional areas, forms an integral part of the National/Tasmanian economic infrastructure and is 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 and 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 continued safe and efficient operation.

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 extreme cases. Airport safeguarding aims to prevent or mitigate these issues for the benefit of the whole community.

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.

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;
- industrial activities that generate smoke or similar hazards may constrain use of an airport;
- other activities such as agriculture, animal husbandry or wetland developments may attract birds and pose a significant hazard 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 Communications has some capacity to act to protect airspace around the Commonwealth-leased airports under the Airports (Protection of Airspace) Regulations 1996, but only in respect of Hobart and Launceston airports.

As this legislation is very limited in its application 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;
- ensure 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 interests of both aviation and community safety.*
- *Principle 6: Strategic 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.*

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. *Airports to initiate a process for regular consultation/engagement with local government on NASF issues*
8. *Australian/State/Territory 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 SPP Review.

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 Melbourne Airport 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:

- the Planning Policy Framework, zones, overlays and any other related planning provisions;
- relevant guidance material 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 found here:
https://www.planning.vic.gov.au/policy-and-strategy/airports-and-planning/safeguarding-victorias-airports

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 the SPP states:

> *Strategic airports and aviation facilities play a key role in facilitating economic growth in Queensland. All sectors of the Queensland economy, including tourism, trade, logistics, business, and extractive industries 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.*

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.

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 (only) tool in the SPP 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 use and development that is compatible with the operation of airports in accordance with the appropriate future airport noise exposure patterns and with safe air navigation for aircraft approaching and departing an airport.*

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 (which comprises the OLS and PANS-OPS surfaces).*

Clause LP1.7.14 of the SPP 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 SPP 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:

- Managing the 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
- Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports
- Protecting Aviation Facilities - Communications, Navigation and Surveillance
- Protecting Strategically Important Helicopter Landing Sites
- Managing the Risk in Public Safety Zones at the Ends of Runways (Draft).

We 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, 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.

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): zone and code application' states:

> *SAC 4* *The airport obstacle limitation area overlay should be based on the Obstacle Limitation Surfaces (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 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 the OLS and PANS-OPS is consistent with NASF Guideline F and is supported. It also recognises that Commonwealth-leased airports and non-Commonwealth-leased airports will both have obstacle limitation requirements.

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.

Tasmanian Planning Policies

In discussions with at least one airport in Tasmania, the State has acknowledged its role in the implementation of the NASF guidelines through the planning system. In doing so the State has 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.

The State also stated that there are 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.

Airports are of regional and State-significance and it is appropriate that airports are afforded protections by the TPP, SPP and then LPS.

Michael Wells
Airport Manager

From: Bill Richardson
To: State Planning Office Your Say
Subject: Scoping the State Planning Provisions Review
Date: Thursday, 11 August 2022 11:12:58 AM

Good morning,

I refer to your letter dated 25 May 2022 seeking Tasman Council's input into the review of the State Planning Provisions.

Since transitioning to the new *Tasmanian Planning Scheme –Tasman,* Tasman Council has identified three key areas that are having an impact on new applications. These areas are as follows:

Exemptions –Rainwater Tanks

- For a rainwater tank to be considered exempted under clause 4.6.13 (a), the tank must be attached to, or located at, the side or rear of a building. Fire fighting tanks are generally located at the front of the property and are free standing away from any buildings. These tanks are therefore unable to be considered exempt which causes the application to be considered as discretionary regardless of whether the application meets all other acceptable solutions under the Scheme.

- Exemptions under section 4.6.13 (d) requires tanks to be positioned within the setback requirements listed in the acceptable solutions for the relevant zones. Council's Low Density Residential zoned lots tend to have a smaller area due to previous Planning Schemes, with the current setback requirements set at 8m from road frontage and 5m from side and rear boundaries. We are finding that the rainwater tanks are unable to meet these requirements and therefore cause an application that could otherwise be considered no permit required or permitted (or exempt if just installing a new tank) to be discretionary. This also occurs within the Rural Living zone which has a setback requirement of 20m.
- Council has also found that there is inconsistency between setback requirements for sheds under clause 4.3.7 (a) (ii) in the exemptions. The setback is listed as not less 0.9m from any boundary in addition to 4.3.7(c), whereas the setback requirements for rainwater tanks must meet the setback requirements under the acceptable solution.

Subdivision

- Within the subdivision requirements of the Low Density Residential, Rural Living and Local Business zones, the service provisions require evidence is provided that the lots are suitable for onsite wastewater management. This requirement does not specify a minimum lot size therefore even lots with an area greater than 5,000m^2 are now required to provide a wastewater management report prepared by a suitably qualified person. This requirement adds additional costs to a developer. Under the previous *Interim Scheme*, the requirement for such a report only applied to lots under 5,000m^2.

Secondary Residence

- Under clause 3.1 Planning Terms and Definitions, a secondary residence has several requirements including gross floor area size, is appurtenant to a single dwelling, shares access, parking, sewerage, gas, etc. with the single dwelling. To

ensure the secondary residence is appurtenant to the main dwelling, the requirements could also stipulate a maximum distance between the two buildings. This could avoid all potential confusion especially where there are no sewer mains and the onsite wastewater system could be some distance away

Thank you for providing the opportunity to comment on the SPPs and for considering our feedback.

Regards,
Bill

Bill Richardson
EXECUTIVE MANAGER DEVELOPMENT & COMPLIANCE

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Submission on the State Planning Provisions five yearly review Scoping Paper *re* the Landscape Conservation Zone purpose

Summary

In the Draft State Planning Provisions (SPPs) released on 7 March 2016 the strategic intent of the Landscape Conservation Zone (LCZ) was to provide a zone to protect significant environmental values on private land that had not been provided for in the Interim Planning Schemes.

In the final SPPs that came into effect on 2 March 2017 the strategic intent of LCZ was radically altered by the amendment of the Zone Purpose to exclude the protection of 'significant natural values' from the Zone Purpose. The Commission's Report of 9 December 2016 on the SPPs as modified stated that this amendment was necessary 'to clarify' the Zone Purpose. No justification for the so-called clarification was provided.

With a Zone Purpose limited to protecting 'landscape values', LCZ is now effectively a Scenic Protection Zone for private land. In practice it has limited application if strictly interpreted and duplicates the Scenic Protection Code with respect to development.

A Zone to protect natural values on private land is needed for three main reasons:

1. The lack of a Zone to protect natural values on private land is inconsistent with the Objectives of the Resource Management and Planning System of Tasmania;
2. The need for 'a Zone protecting significant environmental values on private land' identified in the Draft SPPs Explanatory Document remains; and
3. The Environmental Management Zone (EMZ), which has a similar Zone Purpose to the original LCZ Zone Purpose, was designed to apply to public land and remains unsuitable for private land in most cases.

If the original LCZ Zone Purpose is to be reinstated and the zone provisions and Guideline No 1 amended accordingly, then it follows that the name of the Zone should be changed to avoid problems with the definition of 'landscape'.

As LCZ was conceived as an 'environmental zone' for private land a possible alternative name might be Environmental Stewardship Zone.

Conservation Landholders Tasmania has been an active participant in most Draft LPS Assessments to date and is well placed to work with the State Planning Office on the formulation of any draft amendments to the LCZ provisions.

The radical change to the Landscape Conservation Zone purpose during the Draft SPPs Assessment process

The stated strategic intent of the new Landscape Conservation Zone (LCZ) was to provide a zone 'protecting significant environmental values on private land' that 'had not been adequately provided for in the suite of Zones under PD1', i.e. the Interim Planning Schemes.[1]

This intent was explicit in the Zone Purpose in the Draft State Planning Provisions (SPPs), i.e. 'to provide for the protection of significant natural and landscape values'.[2]

Environmental Management Zone (EMZ) and LCZ were formulated as 'a suite of two environmental Zones to manage use and development within the State's natural areas'[3] with the former only applying to public/Crown land and the latter to private land.

However, in the final SPPs the strategic intent of LCZ was radically altered by the amendment of the Zone Purpose to exclude the protection of 'significant natural values' from the Zone Purpose.[4]

The Commission's Report stated that this amendment was 'to clarify that the zone is for the protection, conservation and management of landscape values and that use or development should be compatible with those values'.[5] No justification for the so-called clarification can be found in either the Report or in any of the representations received during the pubic exhibition.[6] It therefore must be assumed that the radical change to the LCZ Zone Purpose came from an ill-conceived eleventh hour decision to align the Zone Purpose with the name of the Zone or was a result of pressure from within the State Government.

While the EMZ provisions in the final SPPs were amended to allow for the application of EMZ to private land in a narrow set of circumstances[7], EMZ remains unsuitable for private land in most cases[8].

The radical change to the LCZ Zone Purpose in the final SPPs, which undermines the strategic intent of its creation, appears to have been done in haste as Guideline No 1 still allows for LCZ to be used to protect significant natural values[9], i.e. the LCZ Guidelines do not align with the late change to the Zone Purpose.

The impact of limiting Landscape Conservation Zone to protecting landscape values

Landscape Conservation Zone is now effectively a Scenic Protection Zone as, in the absence of a definition of 'landscape' or 'landscape values' in either the SPPs or the *Land Use Planning and Approvals Act 1993* (The Act), the definition of 'landscape' defaults to the applicable Macquarie Dictionary definition as a 'view of rural scenery'.

'Landscape values' are exclusive of 'natural values', with 'biodiversity values' being a subset of 'natural values'. [10] The Tasmanian Planning Commission (TPC), in its Decisions on the Tasman and West Tamar draft LPS Assessments, has applied this narrow interpretation of 'landscape values' when opposing the rezoning of land under conservation covenant to the Landscape Conservation Zone. [11]

The lack of a Zone to protect natural values on private land is inconsistent with the Objectives of the Resource Management and Planning System of Tasmania

Objective 1(a) of the Resource Management and Planning System is 'to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity'. [12] While the EMZ provides controls for use and development on public land that support 'the maintenance of ecological processes and genetic diversity', EMZ is inappropriate for most private land.

While the Natural Assets Code (NAC) provides some protection of 'ecological processes and genetic diversity' against inappropriate development, it is no substitute for a Zone that protects against both inappropriate use and development. The SPPs make clear that zoning is the primary method of the control of use and development.[13] Code overlays apply additional provisions for particular use and development on areas of land that can span multiple zones or which does not align with zone boundaries.[14] Furthermore, the current provisions of the NAC relating to the Priority Vegetation Area are weak and do not apply to the Agriculture Zone.[15]

Application of the Landscape Conservation Zone in the Draft Local Provision Schedules

Of the 23 municipalities that have exhibited their Draft LPS so far, the majority have not used the Landscape Conservation Zone or have limited its use to land zoned as Environmental Living under their Interim Planning Scheme. The two main justifications for not using LCZ were that it was a new Zone that required further analysis and the current Draft LPS process was transitional, or that there was no land in the municipality requiring this new Zone.

The notable exceptions to this have been Flinders and Huon Valley which have applied the Landscape Conservation Zone extensively. In a few municipalities small numbers of titles were zoned Landscape Conservation to protect scenic values. In most other municipalities the Landscape Conservation Zone has only been applied in response to representations by landowners with conservation covenants with support from Conservation Landholders Tasmania and the Tasmanian Land Conservancy. It is noteworthy that, while 4.1 % of private land in Tasmania is protected by conservation covenant[16], the Commission's Guideline No 1 is silent about how this land should be zoned.

During the early Draft LPS exhibitions the Department of State Growth opposed the application of LCZ anywhere because Extractive Industry is a Prohibited Use in LCZ, and because of possible setbacks on adjoining titles arising from new sensitive uses in the rural landscape. The Department's representations had no effect on the Commission decisions in those municipalities.

Why a Zone to protect scenic values on private land is not needed

The Landscape Conservation Zone is a *de facto* 'Scenic Protection Zone' due to the narrow LCZ Zone Purpose and the lack of definition of 'landscape values'. As EMZ is the appropriate zone for protecting *inter alia* scenic values on public land[17], having a zone just for the protection of scenic values on private land is difficult to justify.

The Scenic Protection Code (SPC) provides similar protections for scenic values against inappropriate development to those of LCZ. This is evident when the respective Performance Criteria are compared. [18]

While the SPC does not apply to Use, the main threats to the scenic values are inappropriate development, which is covered by the Code, and clearance of vegetation, which is protected by the Natural Assets Code (NAC) and/or the Forest Practices Code (FPC). The FPC provides guidelines and standards for the management of natural and cultural values during forest practices including landforms and visual landscape.[19]

Why a Zone to protect natural values on private land is needed

The principal argument for reinstating a Zone that protects natural values on private land is so that the SPPs comply with the *Land Use Planning and Approvals Act 1993* Section 15 2(c) that requires the SPPs to 'further the objectives set out in Schedule 1'.

Objective 1(a) is 'to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity' and this can only be achieved by including a Zone suitable for private land that includes the protection of natural values in its Zone Purpose.

A second argument is that the Explanatory Document for the draft SPPs prepared by the Commission and published by the Minister for Planning on 7 March 2016[20] under Section 16 of The Act identified the need for 'a Zone protecting significant environmental values on private land' and this need has not been met by the final SPPs. This is due to the late amendment to the LCZ Zone Purpose before the SPPs came into effect on 2 March 2017.

A third argument is that amending the provisions of the EMZ to meet this need is not a viable alternative to reinstating a separate Zone that protects natural values on private land. This is because the EMZ provisions and associated Guidelines were originally drafted with State reserves and other public land in mind[21] and would require the provisions to be completely rewritten.

The case for renaming the Landscape Conservation Zone to Environmental Stewardship Zone or similar

The main problem with the Landscape Conservation Zone is its name. If the original Zone Purpose is to be reinstated then it follows that the name of the Zone should be changed to avoid problems with the definition of 'landscape'.

The Explanatory Document described the new Landscape Conservation Zone as an 'environmental Zone' [22] and that is what it was in the Draft SPPs. It is understandable that the authors of the Draft SPPs may have wished to avoid having a second zone with 'Environmental ' in its name but perhaps this is unavoidable and does not appear to be a problem for the three 'Residential', two 'Industrial', three 'Business' and two 'Rural' zones.

While 'Environmental Living Zone' must be immediately ruled out due to the focus on residential use, possibilities that reflect the combined zone purposes of protecting, conserving and managing both landscape and natural values are:

- Environmental Conservation Zone
- Environmental Protection Zone
- Environmental Stewardship Zone

The last of these would encompass the three verbs in the reinstated Zone Purpose and align with the view of cross-generational land ownership held by First Nations people.

Consistency with the three State Policies and Regional Land Use Strategies

The provisions of the SPPs are required to be consistent with each State Policy.[23]

A Zone that protects natural values on private land is consistent with the *State Policy on the Protection of Agricultural Land 2009* as this Zone would only apply to land containing significant natural values and with limited or no potential for future agricultural use.

It is consistent with the *State Coastal Policy 1996* as the Zone's application to privately owned coastal land with significant natural values will provide strong planning protection for these values.

It is also consistent with the *State Policy on Water Quality Management 1997* as a reinstated Zone Purpose that protects, conserves and manages both natural and landscape values provides a Zone that includes stronger protection for water quality management within the Zone than the alternative Agriculture and Rural Zones or the Natural Assets Code.

All three Regional Land Use Strategies contain policies to protect, conserve and manage the natural values in their regions.[24] Having a zone to protect the natural values on private land will enable planning authorities to better implement these policies.

CLT's willingness to serve on a reference group or consultative group re LCZ provisions

The State Planning Office has indicated its intent to establish reference groups and consultative groups to work on specific parts of the SPPs.[25] CLT has been an active participant in most Draft LPS Assessments to date making representations regarding the zoning of covenanted land in each municipality and attending Commission hearings. It is well placed to work with the State Planning Office on the formulation of any draft amendments to the LCZ provisions particularly as they relate to the 4.2 % of Tasmania's private land that is subject to a conservation covenant.

Author: John Thompson on behalf of the Board of Trustees, CLT Trust
Date: 11 August 2022

Endnotes

[1] Draft State Planning Provisions Explanatory Document 7 March 2016 – p 79

[2] Draft State Planning Provisions 7 March 2016 – clause 22.1.1

[3] Draft State Planning Provisions Explanatory Document 7 March 2016 – p 79

[4] Draft State Planning Provisions Report - Appendix D - SPPs as modified [section 25(4)(a)] 9 December 2016 – clause 22.1.1

[5] 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 – p 24

[6] Draft State Planning Provisions Report - Appendix C - Summary of the Representations and the Commissions opinion

[7] Section-8A-Guideline-No.-1-Local-Provisions-Schedule-LPS-zone-and-code-application-version-2 - Guideline EMZ1(f) 'The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values, such as: … any private land containing significant values identified for protection or conservation and where the intention is to limit use and development.'
This amendment to allow the application of EMZ to private land appears to have been in response to the representation by Tasmanian Land Conservancy (Representation No 134).

[8] State-Planning-Provisions-last-updated-draft-amendment-01-2018-effective-19-February-2020 SPPs – EMZ 23.2 Use Table. Permitted Uses are not available to private landowners and there is no pathway to Residential Use for private landowners.

[9] Section-8A-Guideline-No.-1-Local-Provisions-Schedule-LPS-zone-and-code-application-version-2 – Guideline LCZ2 'The Landscape Conservation Zone may be applied to:
(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation;
(b) land that has significant constraints on development through the application of the Natural Assets Code or Scenic Protection Code; …'

[10] In its Guidelines for Natural Values Surveys related to Development Proposals, the Department of Natural Resources and Environment (DNRE) uses the following definition: 'Natural values' in this case refers to biological and geodiversity values of conservation significance, being those species, vegetation communities and other values that have significance and/or statutory protection under the Tasmanian Threatened Species Protection Act 1995 (TSPA), Nature Conservation Act 2002 (NCA) and other relevant policies and regulations.

[11] In their 17 December 2021 decision on the West Tamar LPS, the delegates state in Clause 275 on p 51:
'To reiterate, the purpose of the Landscape Conservation Zone is for the management of landscape values, not biodiversity values. The presence of biodiversity values is not irrelevant, however representors have not necessarily demonstrated the foremost requirement i.e. that each property has landscape value. In the event that land has biodiversity value, but no landscape value, then it is more likely that a zone such as the Rural Zone would need to be applied in combination with the Priority Vegetation Area Overlay in order to meet the requirements of Guideline No. 1.'
The same interpretation is presented in Clause 196 on p 31 of the 15 October 2021 decision on the Tasman LPS.

[12] *Land Use and Planning Approvals Act 1993* – Schedule 1

[13] SPPs 5.2.1 'The primary controls for the use or development of land are set out in the zones.'

[14] SPPs 5.5.2 'Codes set out provisions for:
(a) particular types of use or development that may apply to land in one or more zones; and
(b) matters that affect land that are not appropriately described by zone boundaries.

[15] SPPs C7.2.1 (c)

[16] In Tasmania there is 2,661,000 ha of private land (Land Tenure Statistics for Tasmania – at 1st Jan 2015 – DNRE) with 109,570 ha (4.12%) under conservation covenant (Private Land Conservation Program, DNRE, web page – statistic as at August 2021)

[17] SPPs EMZ Zone Purpose 23.1.1 To provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value.
Also Guideline No 1 LCZ 4 'The Landscape Conservation Zone should not be applied to: …
(b) State-reserved land (see Environmental Management Zone).

[18] SPPs SPC C8.6 versus LCZ 22.4

[19] Forest Practices Code 2020 – D3 Geomorphology, D5 Visual Landscape

[20] Draft State Planning Provisions Explanatory Document 7 March 2016 – p 79

[21] Ibid. p 80 'With the inclusion of the Landscape Conservation Zone as an alternative Zone for private land, the Environmental Management Zone was drafted in a manner which was relevant to application on public land only.

[22] Ibid. p 79 'The Landscape Conservation and Environmental Management Zones provides a suite of two environmental Zones …'

[23] *Land Use and Planning Approvals Act 1993* – Section 15 (2)(c)

[24] Cradle Coast Regional Land Use Strategy 11 May 2022 - 2.7 Land Use Policies for Conservation (pp 132-133)
Regional Land Use Strategy of Northern Tasmania 23 June 2021 - E.7 Regional Environment Policy (pp 51-55)
Southern Tasmania Regional Land Use Strategy 24 November 2021 - 5.5 Biodiversity and Geodiversity Regional Policies (pp 25-27)

[25] State Planning Provisions Review – Scoping Paper – May 2022 2.2 Review process (bottom of p 9)
'The scoping process will help inform key themes or parts of the SPPs that require more detailed consideration for progression through separate projects and conclude in amendments to the SPPs. The State Planning Office will establish reference groups and consultative groups to assist with these detailed projects and amendments.'

Submission on the State Planning Provisions five yearly review Scoping Paper *re* the exclusion of the Priority Vegetation Area from Agriculture Zone

Summary

In the Draft State Planning Provisions (SPPs) the Priority Vegetation Area (PVA) was excluded from 12 of the 23 zones including Agriculture Zone. The rationale was 'to avoid duplication of assessment processes'. This is despite the Draft SPPs Explanatory Document acknowledging that there is a 'regulatory gap' that requires the SPPs to deal with 'biodiversity assets' particularly in relation to clearance of priority vegetation. The 'regulatory gap' follows from the exemption provisions of the Forest Practices Regulations.

During the Draft SPPs exhibition, one of the many concerns raised about the Natural Assets Code (NAC) was the exclusion of the PVA from the Agriculture Zone. In its Report the Tasmanian Planning Commission accepted that the NAC was not fit for purpose and that it needed to be redrafted. This recommendation was rejected by the Minister for Planning and the NAC was included in the final SPPs with a few minor modifications.

Not surprisingly the shortcomings of the NAC, including the exclusion of the PVA from the Agriculture Zone, created significant problems for Planning Authorities when drafting their Local Provisions Schedules. Problems with the NAC, including the exclusion of the PVA from the Agriculture Zone, were reported by most Planning Authorities in their Supporting Reports, Section 35F Reports and/or Section 35G Notices.

The issues raised included:

- that the exclusion of the PVA
    - specifically 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 Northern Midlands provides the starkest example of the unfortunate consequences of the exclusion of the PVA from the Agriculture Zone with almost 90% of the municipality zoned as

Agriculture. The Regional Ecosystem Model identified large tracts of priority vegetation in amongst the agricultural land yet none of it is covered by the PVA overlay.

It is recommended that the SPPs should be amended to include the application of the PVA within the Agriculture Zone.

Rationale for excluding the PVA from the Agriculture Zone from the Draft State Planning Provisions

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.*[1]

The Explanatory Document also acknowledges that while biodiversity conservation in Tasmania is covered by four other State and Federal Acts and their associated Regulations[2], there is a 'regulatory gap' that requires the SPPs to deal with 'biodiversity assets' particularly in relation to clearance of priority vegetation.

Despite this the Draft State Planning Provisions excluded the Priority Vegetation Area (PVA) overlay from 12 of the 23 Zones, including Agriculture[3].

The justification for excluding this overlay from these zones, including Agriculture Zone, was 'to avoid duplication of assessment processes' as 'the clearance and conversion of priority vegetation' is 'already managed under other legislation or regulation'.[4]

No further explanation was provided how the four State and Federal Acts and their associated Regulations actually would ensure that there is no 'regulatory gap' for the excluded zones.

Report on the Draft State Planning Provisions recommended that the NAC be redrafted

During the Exhibition of the Draft SPPs one of the many concerns raised about the Natural Assets Code (NAC) was the exclusion of the PVA from the Agriculture Zone[5].

In its Report on the Draft SPPs the Tasmanian Planning Commission (the Commission) accepted that the Natural Assets Code was not fit for purpose and that the 'Code, as proposed in the draft SPPs, requires further work to be suitable for implementation in the SPPs'[6]. Included in the issues identified by the Commission was the application of the Code to zones.[7]

Recommendation to redraft the Natural Assets Code rejected by the Minister

Despite the clear and detailed recommendation by the Commission to redraft and re-exhibit the draft NAC provisions, the then Minister for Planning, Peter Gutwein, rejected the Commission's advice, effectively arguing that the Government wished to finalise the SPPs without delay regardless of the merit of the Commission's recommendation[8]. The modified SPPs approved by the Minister did

include a small number of minor modifications, including the added exclusion of the PVA from the Future Urban Zone, but did not address the major issues identified by the Commission.

In the Minister's Statement of Reasons there was no rebuttal of the merit of the Commission's concerns only a statement that he had taken advice from the State Policies Interdepartmental Committee (SPIDC) and the Planning Reform Taskforce[9].

Minister notified by Meander Valley Council of the need for amendment of the NAC provisions

Not surprisingly the Meander Valley Planning Authority, the first to draft its Local Provisions Schedule, identified serious problems with the application of the NAC and consequently submitted a Section 35G Notice on 10 April 2019 including these problems. The NAC provisions discussed in the Notice did not include the exclusion of the PVA from the Agriculture Zone specifically[10] but since then two other Councils have raised this matter in their Section 35G Notices[11].

Widespread concern by Planning Authorities about PVA exclusion from the Agriculture Zone

While only two Planning Authorities have submitted Section 35G Notices that included a recommendation that the PVA should be applied in the Agriculture Zone[12], 20 of the 29 Planning Authorities have provided commentary on the issue in either their Draft LPS Supporting Reports or their Section 35F Reports[13].

Table 1 at the end of this submission provides extracts from the Reports by the 20 Planning Authorities. The following issues were raised in these Reports:

- the exclusion of the PVA specifically from Agriculture Zone is 'problematic' or creates 'difficulties'
- the exclusion of the PVA from selected zones has no 'policy basis'
- the exclusion of the PVA 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 the PVA has been excluded from the Agriculture Zone or why agriculture and the protection of priority vegetation cannot coexist
- Planning Authorities have had to choose between competing agricultural and biodiversity values when applying zones
- In practice Planning Authorities have been forced to manipulate the application of zones to allow the application of the PVA which is contrary to the intent of the SPPs
- Guideline No 1 provides limited guidance on resolving this dilemma
- The operational effect is that vegetation removal in the Agriculture Zone will not be subject to any assessment if for a building or group of buildings and any associated development

Is there a 'regulatory gap' for controlling vegetation clearance in the Agriculture Zone?

In short, there is a 'regulatory gap' and this was acknowledged in the Draft SPPs Explanatory Document in 2016 and highlighted in various Reports by Planning Authorities during their Draft LPS Assessments.

In Tasmania the primary assessment process for clearing vegetation occurs when a landowner seeks to have their Forest Practices Plan certified by a Forest Practices Officer. This is a legal requirement under *the Forest Practices Act 1985* when carrying out 'forest practices'[14], apart from the exceptions detailed in the *Forest Practices Regulations 2017*. These exemptions include:

- Clearing vegetation of any type for a building or group of buildings and any associated development[15]; and
- Clearing vegetation up to 1 hectare per property per year (not more than 100 tonnes of timber) provided it does not include 'vulnerable land'[16]

A regulatory gap has been identified by several Planning Authorities with regard to vegetation clearance associated with buildings and works in Agriculture Zone because the PVA provisions of the NAC[17] are not available to Planning Authorities which would otherwise require building and works to 'minimise adverse impacts on priority vegetation'.

A second regulatory gap relates to the 1 hectare per property per year exemption in the *Forest Practices Regulations*. While the exemption does not apply if the land is 'vulnerable land', as defined in the Regulations, the use of this exemption by landowners is self-regulated as there is no assessment process that the subject land is 'not vulnerable land'. The Objective of the Forest Practices System of Tasmania includes 'an emphasis on self-regulation' [18] .

While there are penalty provisions available under the State *Threatened Species Protection Act 1995*[19] and the Federal *Environmental Protection and Biodiversity Conservation Act 1999*[20], if there is no assessment of the biodiversity values in the above cases then the penalty provisions provide no protection in practice.

DNRE concern about lack of protection for priority vegetation arising from the exclusion of the PVA overlay from Agriculture Zone in the Northern Midlands

The Secretary of the Department of Natural Resources and Environment (DNRE) made a representation during the Northern Midlands Draft LPS exhibition[21] expressing concern about the lack of PVA protection for priority vegetation across the majority of the municipality resulting mainly from the widespread application of Agriculture Zone[22] by the Planning Authority (see Map 1 below).

The DNRE representation recommended *inter alia* that the Planning Authority rezone land containing threatened vegetation communities, flora, fauna and habitat to zones such as Rural and Landscape Conservation that allow the application of the PVA to that land. The Planning Authority's response in its Section 35F Report was that it had simply followed Guideline No 1 and the SPPs in transitioning all this land from Rural Resource to Agriculture and that no modification to the Draft LPS was required[23].

While the DNRE recommendation clearly has merit regarding compliance with the Objectives of the Resource Management and Planning System of Tasmania, the manipulation of zones to allow the application of the PVA is contrary to the intent of the SPPs as pointed out by the Launceston and Meander Valley Planning Authorities in their Section 35F Reports.

Including the PVA overlay in the Agriculture Zone would avoid the need to manipulate zones to protect biodiversity values and align with the SPPs regarding the Operation of Zones[24] and Codes[25].

Comparison of the REM priority vegetation layer with the exhibited PVA overlay in the Northern Midlands

The Priority Vegetation Area overlay map for Northern Midlands (see Map 2 below), to be approved later this year, will cover only a small proportion of the priority vegetation identified in the Regional Ecosystem Model (REM) analysis, as the Commission delegates are unlikely to direct any modification to the exhibited zoning in the absence of detailed analysis of the thousands of affected titles. Maps 3 and 4 compare the exhibited Draft PVA overlay with the priority vegetation identified in the REM analysis[26]. The juxtaposition of these two maps highlights that the great majority of the priority vegetation in Northern Midlands has no planning protection under the current SPPs.

Included in Map 3, but excluded from Map 2 because they are zoned Agriculture, are the 81 properties in the North Midlands containing 21,906 ha of private reserved land protected by conservation covenant distributed across 155 titles, representing 4.3 % of the land in the municipality[27]. While many of these properties are very large, rezoning them to Rural or Landscape Conservation would be inappropriate because significant areas within the titles are also used for agriculture or would create spot zones.

While Northern Midlands provides the starkest example of the unfortunate consequence of the exclusion of the PVA from the Agriculture Zone, all municipalities with significant areas of 'unconstrained' agricultural land wrestled with the same dilemma, as reflected in their Report commentary in Table 1.

Expert assessment of biodiversity values denied by Agriculture Zone

Although the stated intent for excluding the PVA from the Agriculture Zone was to 'avoid duplication of assessment processes' by outsourcing the protection of priority vegetation to the Forest Practices Authority, the regulatory gaps outlined above mean that in those cases there is actually no assessment.

As most private land has not been investigated for its biodiversity, apart from remote estimation of vegetation communities for TASVEG which can often be incorrect without ground-truthing, there could be high conservation values, such as threatened species, habitat and vegetation communities, which will never be known and may be destroyed by development. An assessment by a qualified person could discover important natural values that could then be protected by modifying the development.

Conclusion

The SPPs should be amended to allow the application of the PVA overlay within the Agriculture Zone for the following reasons:

- Most Local Planning Authorities reported to the Commission in their Draft LPS Reports that its exclusion from Agriculture Zone prevented them from delivering good strategic planning in their municipalities, i.e. it prevented them from protecting both agricultural and biodiversity values on titles containing both
- There is no policy basis for its exclusion
- Its exclusion has created a 'regulatory gap' in that the clearance of priority vegetation in certain circumstances is not assessed at all
- Planning Authority assessment of the impact of use and development on biodiversity values in the Agriculture Zone is highly desirable given the emphasis on self-regulation under the Forest Practices System of Tasmania

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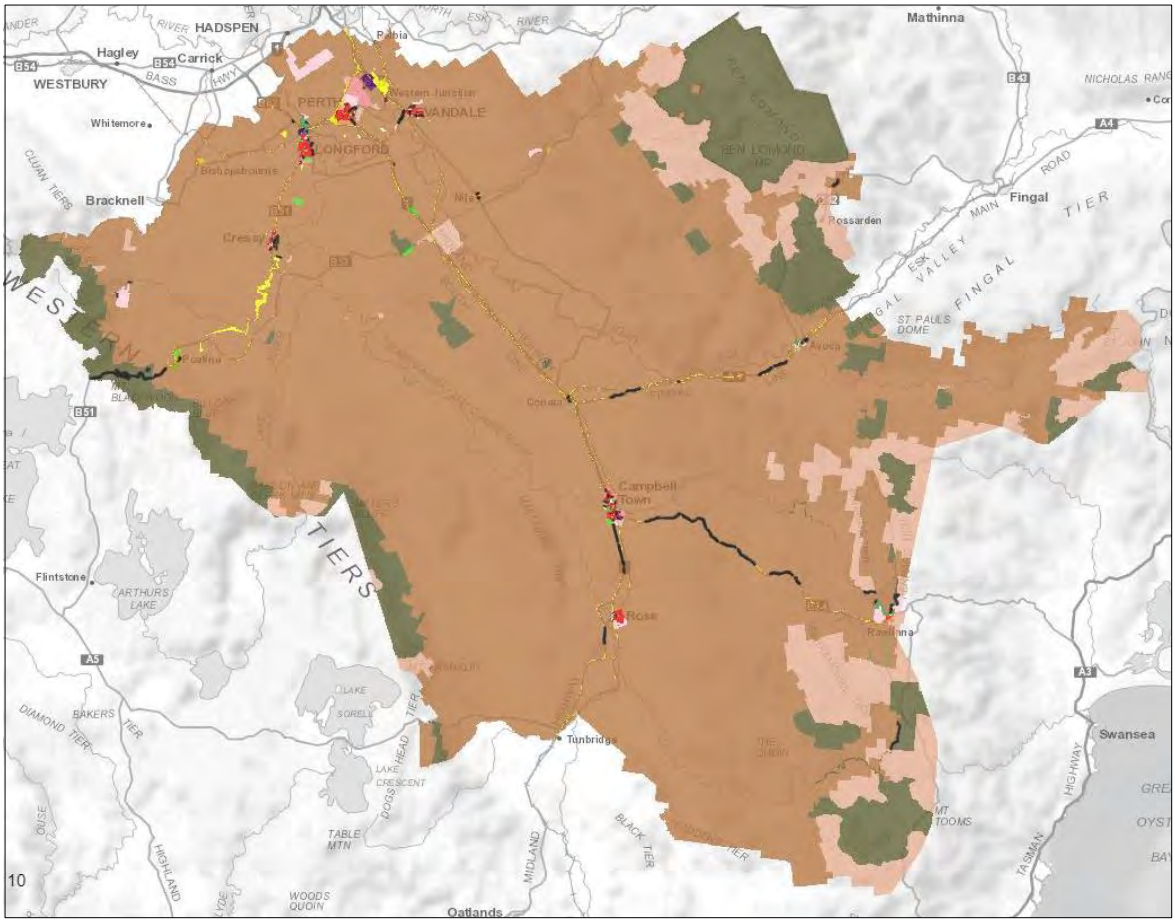
Author: John Thompson on behalf of the Board of Trustees, CLT Trust
Date: 11 August 2022

Map 1 – Exhibited Draft Zone Map for Northern Midlands



Map 2 – Exhibited Priority Vegetation Area overlay for Northern Midlands

Map 3 – Exhibited Priority Vegetation Area (PVA) overlay for Northern Midlands

Map 4 – Regional Ecosystem Model PVA overlay data prior to application of zones

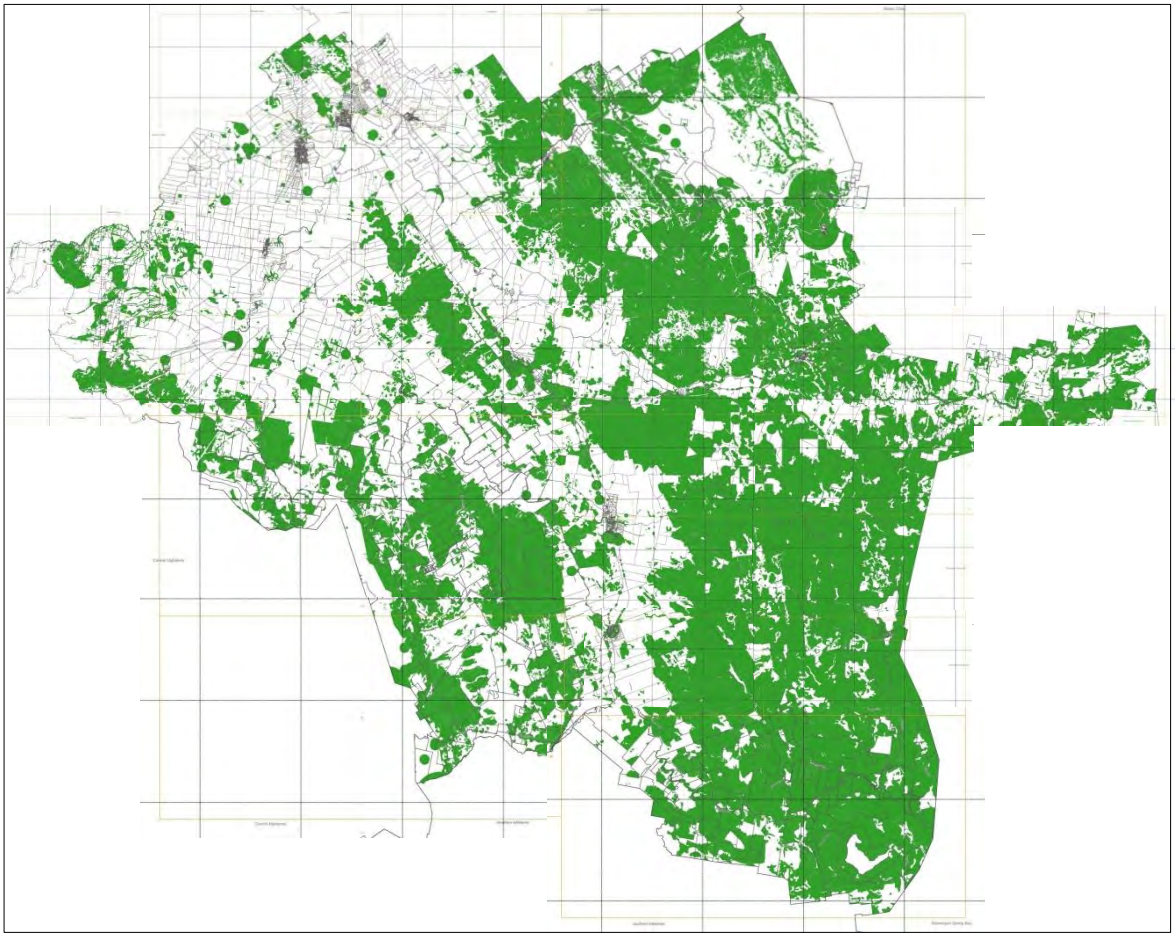


Table 1 - Planning Authority commentary on PVA exclusion from the Agriculture Zone – as published in their Draft LPS Supporting Reports, Section 35F Reports or Section 35G Notices

Municipality	Commentary
Break O'Day	*It is also noted that the decision not to allow the priority vegetation area overlay to be applied to the AZ is a **practically problematic** state-wide issue. The Guideline provide limited information of how this important issue should be dealt with and there is no explanation about why this decision was made and why both agriculture and protection of priority vegetation cannot exist. (Supporting Report p 61)*
Brighton	*At the time of writing there was some debate around whether the NAC provisions in the SPPs were fit for purpose and whether they should be amended.* *The constraint of not being able to apply the priority vegetation area overlay to the Agriculture Zone has been **somewhat problematic** and has required the planning authority to prioritise the protection of agricultural land over natural assets or vice versa, even where it may be possible for the two to co-exist. For example, areas with priority vegetation can be utilised for bush runs for sheep. Additionally, responsible land managers may welcome the knowledge that the priority vegetation area overlay provides and seek to maintain or enhance these areas.* *The Guidelines provide very little guidance where there are competing agricultural and priority vegetation values, particularly as the planning authority is relying on advice from agricultural and environmental consultants, who themselves have different priorities.* *As discussed in section 3.2.6 above, the planning authority has used the best available information in its decision to split zone some land to allow the priority vegetation areas to exist where less intensive agricultural use may also be possible. (Supporting Report p 102)*
Burnie	*The BUR LPS Code overlay map will provide a **confused portrayal** for priority vegetation cover, particularly within urban areas of Burnie, in that it must only apply to land assigned to any of the General Residential, Low Density Residential, Rural Living, Rural, Landscape Conservation, Environmental Management , Major Tourism, Utilities, Community Purpose, Recreation, Open Space, Future Urban, or Particular Purpose zones.* *The consequence of zone specific application is a **discontinuity** in the identification and context of significant vegetation areas. A depiction of expansive units of priority vegetation is broken by exclusion from land assigned to a zone or zones to which the Code does not apply.* *Access to the full regional model is essential to better understand why the LPS priority overlay map appears to identify isolated and disaggregated small-scale areas for application of the Code. (Supporting Report p 187)*
Central Coast	No commentary in the Supporting Report or Section 35F Report.
Central Highlands	*The mapped overlay applied to the draft LPS is that map provided through the Southern Regional Technical Reference Group (TRG) without additional variation other than removal of the overlay from the following zones: Agriculture Zone... (Supporting Report p 127)*

Municipality	Commentary
	Note: In their Section 35F Report the Planning Authority presents its alternative application of the Agriculture Zone in Central Highlands municipality based on a desktop-based application of the AK Consultants Decision Tree rather than ALMP Mapping Layer 2 (Section 35F Report pp 43-51). The Planning Authority expressed its frustration at the TPC's unwillingness to allow the Planning Authority to apply the Decision Tree rules to land identified in Mapping Layer 2 without engaging external consultants at prohibitive expense to do the work (see extract below). The Decision Tree includes the protection of significant natural values as a justification for considering alternative zoning to Agriculture, as per Guideline AZ6. *To provide a more refined property-level methodology, the Southern councils (with State Government funding) engaged the firm AK Consultants to develop the 'Decision Tree & Guidelines for Mapping the Agriculture and Rural Zones'. This document takes the LPSAZ as a base and adds a standard methodology to enable planners to consider the facts on the ground and to decide whether land should be Rural or Agriculture Zone. It clearly sets out the circumstances in which land in the LPSAZ should in fact be zoned Rural and, conversely, where land not in the LPSAZ should be zoned Agriculture.* *The Decision Tree document states that only if, after its guidelines have been applied, it is still uncertain which zone should be used, it might be appropriate for an expert consultant to be engaged to make a determination. In negotiations between the Planning Authority and the Commission, this has not been recognised by Commission officers, who have simply demanded that the Planning Authority engage external consultants whenever it considers it necessary to depart from the LPSAZ. The Planning Authority believes that in the vast majority of cases this would be an **unnecessary waste** of public resources when, in reality, many of the recommendations of the LPSAZ quite clearly need to be changed.* *The Decision Tree document provides for a process to make these changes that is given substantive weight by the State's Guideline No.1 as an agricultural land analysis undertaken at the regional level which incorporates more recent analysis, better aligns with on-ground features and addresses inaccuracies in the LPSAZ, and which is prepared by a suitably qualified person and adopted by all the Southern Councils, (Guideline AZ1(a)).* *Furthermore, AZ6(a) of Guideline No.1 provides for alternative zoning if local or region strategic analysis has identified or justifies the need. The application of the Decision Tree rules enables this.* *In addition, at the time the Southern councils initially proposed to organise the creation of the Decision Tree, the idea was put to the TPC and the State Government and received endorsement. (Section 35F Report p 45)*
Circular Head	*The priority vegetation areas produced by the [REM] mapping have influenced the application of the Agriculture Zone, in particular. The Priority Vegetation development controls or mapping cannot be applied in this zone and as such, value judgements have been necessary given competing priorities between agriculture and vegetation preservation. Alternative zones such as the Landscape Conservation Zone and the Rural Zone, which allow existing agricultural practices to occur whilst recognising high conservation vegetation, have been used in a number of areas as a*

Municipality	Commentary
	compromise. (Supporting Report p 44)
Clarence	No commentary in the Supporting Report
Derwent Valley	*As noted in the AK Consultants report Guidelines for Identifying Areas of Interest (January 2018) were also prepared by AK Consultants and these guidelines have also been taken into account as necessary when assessing areas of interest in the municipal area (page 1 of report).* *The AK Consultants Report indicated that clearing of priority vegetation will be covered under the Forest Practices Code. However, the Forest Practices Code does not consider vegetation clearing that is ancillary to agriculture, to uses such as Visitor Accommodation etc. Therefore, the Rural Zone has been applied to a number of lots to allow for the priority vegetation area overlay to be applied. Generally, this has occurred where there are large areas of continuous vegetation on steeper slopes with poor land capability.* *The decision to not allow the priority vegetation area overlay to be applied to the Agriculture Zone is **problematic** for allocating the Agriculture Zone.* *The methodology set out in the AK Consultants Report has been used together with other information referred to in this Supporting Report to rezone land zoned Rural Resource or Significant Agricultural under the Interim Planning Scheme to either the Agriculture or Rural zone in the draft LPS. (Supporting Report p 78)* --- *The constraint of not being able to apply the priority vegetation area overlay to the Agriculture Zone has been **somewhat problematic** and has required prioritisation of protection of agricultural land over natural assets or vice versa, even where it may be possible for the two to co-exist. For example, areas with priority vegetation could potentially be utilised for bush runsfor sheep. Additionally, some land managers may welcome the knowledge that the priority vegetation area overlay provides and seek to maintain or enhance these areas.* *Guideline No. 1 provides little guidance where there are competing agricultural and priority vegetation values, particularly as decisions are based on advice from agricultural and environmental consultants.* *The best available information has been used in decisions to split zone some land to allow the priority vegetation areas to exist where less intensive agricultural use may also be possible. (Supporting Report pp 103-104)*
Devonport	*The mapping for the priority vegetation area has been produced at a regional level by an independent consultant. That mapping has utilised and relied on what can reasonably be described as a very complex methodology engaging a range of different data sets. The resultant overlay map produces a **confusing** depiction of priority vegetation values – a **confusion** that is compounded by the removal of the overlay from the zones that it does not apply to (as instructed by NAC 13 of the LPS Zone and Code Application Guideline). These uncertainties invite some caution as to the practical implementation of the Natural Assets Code.* *It is noted that a lot of these matters were previously identified by the Tasmanian Planning Commission in its previous assessment of the SPPs in 2016. It is **disappointing** that this advice (particularly around practicality issues for local*

Municipality	Commentary
	councils to implement the Code) was not given more consideration before the SPPs were formally approved. (Supporting Report p38)
Dorset	No commentary in the Supporting Report
Flinders	No commentary in the Supporting Report. *The merits of the representation are accepted, particularly given the range of alternative uses that can establish in the Agriculture zone under the TPS that are then not required to consider or deal with natural values issues due to the zoning. The **policy basis** of the TPS on this issue is **not evident**.* *Conclusion: list application of PVO within the Agriculture zone as an issue to be addressed through the 35G Notice to resolve conflicts between sustainable outcomes and non-agricultural uses. (Section 35F Report p 46 in response to Rep. No 21)* *As noted in response to representation 21.1 and 21.2, the subject titles are zoned Agriculture and the Priority Vegetation Overlay cannot be applied in that zone under the TPS or the Guidelines. It is proposed to seek revisions to the Agriculture zone to allow the Priority Vegetation Overlay within the Agriculture zone through the Section 35G Notice to the Commission, as this issue was identified in numerous representations. (Section 35F Report p 68 in response to Rep. No 31)*
Georgetown	No commentary in the Supporting Report
Glamorgan Spring Bay	*3.1.3.1 Native Vegetation in the Agriculture Zone* *The SPPs do not allow native vegetation, identified through the application of the Priority Vegetation Area Overlay, to be considered in the Agriculture Zone. This largely reflects existing regulation by the Tasmanian Government for vegetation clearing associated with agriculture, forestry or mining which sit outside the land use planning system.* *Consistent with the State Government's policy setting of the SPPs and criteria used in the Agricultural Land Mapping Project, native vegetation is not a major consideration for applying the zones. There is a practical difficulty in zoning small, medium or large tracts of native vegetation within agricultural areas without distorting the purpose of the Agriculture Zone, which is to identify land that is or may be used for productive agriculture purposes. Zoning based on native vegetation would lead to spot zones, poorly defined zone boundaries and an ongoing need to rezone land in response to native vegetation changes.* *It is recognised that the above approach does create **a number of difficulties**. For one, there are areas of high conservation native vegetation within the Agriculture Zone that have no protection in the land use planning system. There are also a number of properties included in the Agriculture Zone that are subject to conservation covenants which limit agricultural potential. (Supporting Report p33)*
Glenorchy	*A number of concerns with the Natural Assets Code and the mapping of the Code were made during the SPP Panel Assessment. While the TPC recommended the Code be reviewed, this did not occur.* Council officers reiterate their concerns with the

Municipality	Commentary
	Code by including a copy of the submission on the SPPs at Appendix 1 and identify some further mapping issues in Section 9.0. *(Supporting Report p 56)* *C7.2 Application of this Code: The exclusion of certain zones is **concerning**. Biodiversity values can occur anywhere and zoning should not make any difference to the application of the code. (Supporting Report – Appendix 1 – p 41)*
Hobart	No commentary in the Supporting Report
Huon Valley	*AK Consultants also provided advice set out in a further report, Guidelines for Identifying Areas of Interest (2018) (Appendix 40). These guidelines have also been considered, as necessary, when assessing areas of interest in the municipal area. The report indicated that clearing of priority vegetation will be covered under the Forest Practices Code.* *However, the Forest Practices Code does not consider vegetation clearing for non-agriculture use such as Visitor Accommodation. Accordingly, the Rural Zone has been applied to lots where it is necessary and appropriate for the priority vegetation area overlay to be applied. Its application has been undertaken in consultation with Council's NRM officer.* *The decision to not enable the priority vegetation area overlay to be applied to the Agriculture Zone is **particularly problematic** for allocating the Agriculture Zone to land in the municipal area.* *Therefore, the advice and methodology provided by AK Consultants has been applied together with other information and advice referred to in this report, as necessary, to assist in decisions to rezone land currently zoned Rural Resource or Significant Agricultural under the Interim Planning Scheme to the Agriculture or Rural zone in the draft LPS in accordance with the requirements of Guideline No. 1 and other requirements referred to in this report. (Supporting Report p 31)* *The constraint of not being able to apply the priority vegetation area overlay to the Agriculture Zone has been somewhat problematic and has required prioritisation of protection of agricultural land over natural assets or vice versa, even where it may be possible for the two to co-exist.* *The best available information has been used in decisions to split zone some land to allow the priority vegetation areas to exist where less intensive agricultural use may also be possible. (Supporting Report p 62)*
Kentish	No commentary in the Supporting Report
King Island	Draft LPS not yet submitted to TPC
Kingborough	*It should be noted that the decision not to allow the priority vegetation area overlay to be applied to the Agriculture Zone is **particularly problematic** in allocating the Agriculture Zone. The Guidelines provide very little guidance of how this important issue should be dealt with and there is no explanation about why this decision was made and why both agriculture and protection of priority vegetation cannot co-exist. It is also a failure of the SPP Natural Assets Code to not require priority vegetation to be allocated a low, medium or high rating to help make informed decisions about prioritising native vegetation.* *The feedback from AK Consulting in a number of instances is that the clearing of*

Municipality	Commentary
	priority vegetation will still be covered under the Forest Practices Code. However, the Forest Practices Code does not consider vegetation clearing that is ancillary to agriculture, such as Visitor Accommodation, Tourist Operation, etc. Because of this, split zoning with the Rural Zone and Landscape Conservation Zone has been applied to a number of parcels to allow for the priority vegetation area overlay to be applied. Generally, this has occurred where there are large areas of continuous vegetation, on steeper slopes with poor land capability. (Supporting Report pp 132-133)
Latrobe	No commentary in the Supporting Report
Launceston	*The draft SPPs require a priority vegetation area overlay to be mapped, but restricts the overlay to certain zones only. Of note, the Agriculture Zone is excluded from the priority vegetation area. The application of the priority vegetation area is based on the Regional Ecosystem Model (refer to section 4.5 of this report). The policy behind this direction in the SPPs is that these values are considered by other jurisdictions such as the Forest Practices System or the* Threatened Species Protection Act 1995 *assessment. The operational effect of the SPPs however is that vegetation removal in areas identified as priority vegetation area in the Agriculture Zone will not be subject to any assessment where it is for a building, as clearance for building development is exempt from approval under forest practices legislation and it may not relate to threatened species.* *Manipulating the spatial application of zones to enable the operation of the Natural Assets Code is **contrary to the intent of the SPPs** and the directions outlined in the Guidelines. (Supporting Report p 9)*
Meander Valley	*However, the SPP's restrict the application of the Code to specific zones and does not allow consideration of the priority vegetation area in the Agriculture Zone, which makes up the largest portion of the Meander Valley land area. The policy behind this direction in the SPP's is that these values are considered by other jurisdictions such as the Forest Practices System or the Threatened Species Protection Act 1995 assessment. The operational effect of the SPP's is that vegetation removal in areas identified in the overlay in the Agriculture Zone will not be subject to any assessment where it is for a building, as clearance for building development is exempt from approval under forest practices legislation and it may not relate to threatened species.* *Manipulating the application of zones to enable the operation of the Natural Assets Code is **contrary to the intent of the SPP's** and the directions outlined in Guideline No.1 - Local Provisions Schedule Zone and Code Application regarding the application of zones to achieve the zone purpose to the greatest extent possible. Identification of a high level of natural values would be justification for a zone of conservation purpose, however the data available across the State where this would be an identifiable priority is limited. The accuracy of available data across the State ranges from 90% to 10%. 'Ground-truthing' an unreserved land area of approximately 2100 square kilometres is clearly an unfeasible task for a planning authority. The majority of the Meander Valley land area is used for agriculture, as identified in the State mapping. The agricultural landscape is also peppered with natural values in a complex mosaic that to date, has been generally well managed through planning provisions that can take account of the unique circumstances that exist on each property.* *Achievement of compliance with this objective [Schedule 1 Objective Part 1 (a)] is*

Municipality	Commentary
	fraught due to the prescriptions of the SPP's. (Supporting Report pp 6-7)
Northern Midlands	*The draft SPPs require a priority vegetation area overlay to be mapped but restricts the overlay to certain zones only. Of note, the Agriculture Zone is excluded from the priority vegetation area. The Agriculture Zone will be the largest zone in the Municipality by area and this exclusion is therefore a significant land use policy expressed in the SPP. It also represents a significant shift from the Northern Midlands Interim Planning Scheme 2013 (NMIPs 2013), where the Rural Resource zone was applied to agricultural land uses which allowed for the application of the Biodiversity Code.* *The rural/agricultural landscape throughout the Northern Midlands municipality contains significant area of priority vegetation within the municipality included in an assessment of Biodiversity Hot Spot conservation in Iftekhar* et al *2014. Such areas have been generally well managed through planning provisions that can take account of the unique circumstances that exist on each property.* *Using the presence or absence of priority vegetation to informed the application of the Rural and Agricultural zones has been extremely limited by the requirement of Guideline 1; namely to zone land to reflect the primary purpose of the land, as much of the land within the Municipality has been provided access to irrigation schemes signaling its primary use for agricultural purposes or is subject to Private Timber Reserves and Future Production Forest. (Supporting Report p 9)*
Sorell	*It is noted that the SPP does not allow native vegetation (priority vegetation) to have any affect /consideration within the administration of the Agriculture Zone. This largely reflects existing regulation by the State Government for vegetation clearing associated with agriculture, forestry or mining which sit outside the land use planning system.* *It is recognised that the above approach has created **a number of difficulties**. For one, those areas of high conservation native vegetation within the Agriculture Zone have no protection within the land use planning system. There are also a number of properties included in the Agriculture Zone that are subject to conservation covenants which limit agricultural potential.* *For the Rural Zone, a priority vegetation overlay can be applied (in the Natural Assets Code) to consider native/priority vegetation whilst maintaining the overall purpose of this "rural" zone. The priority vegetation overlay itself has been developed on a State-wide basis (at a later date than the state wide agricultural project) and addressed through a separate document to this see appendix 3.* *When AKC was asked to comment on whether priority / native vegetation was justification for land to be mapped Rural they replied saying "in terms of the Natural Assets Mapping, this is an extra factor that you can use to consider final zoning". To further consider the most appropriate "rural" zone a second pass assessment was undertaken to integrate the following matters;* • *integration of the first pass assessment mapping;* • *land uses including existing bushland;* • *land capability classification of 6 and greater; and* • *recent priority vegetation mapping.* *The methodology for this second pass assessment required that in addition to the changes in the first assessment those land titles comprising an area of 50% for both*

Municipality	Commentary
	land capability classification of 6 or greater and priority vegetation would be included in a Rural Zone. It was also at this stage that the abovementioned layers were overlaid onto known land use zones and the results provided an evolving visual representation. This also required additional reviews along the interface between proposed zones and consideration of connectivity of land use eg agriculture or priority vegetation. Local circumstances highlighted a few land titles that required a more specific assessment often against the changed conditions at interfaces and there were two land titles that were deemed to be best serviced by a split zone incorporating both Agriculture and Rural zones. As a result a land use zoning map was produced which reflected the abovementioned methodology. (Supporting Report pp 104-105)
Southern Midlands	*The decision by the Minister, through the SPPs, to not to allow the priority vegetation area overlay to apply to the Agriculture Zone is **particularly problematic** for allocating the AZ and seems at odds with the objectives of the Act and the STRLUS. The Guideline No.1 provide very little guidance of how this important issue should be dealt with and there is no explanation about why this decision was made and why both agriculture and protection of priority vegetation cannot exist.* *The feedback from AK Consulting in a number of instances is that clearing of priority vegetation will still be covered under the Forest Practices Code. However, the forest practices Code does not consider vegetation clearing that is ancillary to agriculture, such as Visitor Accommodation, Tourist Operation, etc. (Supporting Report p 634)*
Tasman	*Issue - Native vegetation. [In the Agriculture Zone there is] No consideration & no restriction. Vegetation clearing for agricultural purposes is regulated by State processes. Clearing for reasons other than agriculture is controlled by the planning scheme.(p 42)* *Natural values have also been considered but, consistent with the AK guidelines and the Ministerial Guidelines, these values are not a major weighting in the evaluation exercise. This means that some areas of the Agriculture Zone will contain patches of high conservation value vegetation that will not be regulated by the planning scheme, but may be regulated through State or National vegetation.(Supporting Report p 43)* --- *3.5.1 Application of Priority Vegetation Overlay* *The Priority Vegetation Overlay should apply to the Agriculture Zone. Clearing for agricultural purposes is not regulated by LUPAA. To exclude clearing for non-agricultural purposes within the Agriculture Zone is to preference non-agricultural use of agriculture.(Section 35G Notice p 5)*
Waratah Wynyard	*The priority vegetation areas produced by the mapping have influenced the application of the Agriculture Zone, in particular. The Priority Vegetation development controls or mapping cannot be applied in this zone and as such, value judgements have been necessary given competing priorities between agriculture and vegetation preservation. Alternative zones such as the Rural Zone, which allow existing agricultural practices to occur whilst recognising important conservation vegetation, have been used in a number of areas as a compromise. (Supporting Report p 51)*

Municipality	Commentary
West Coast	No commentary in the Supporting Report
West Tamar	*The decision not to allow the priority vegetation area overlay to be applied to the Agriculture Zone is **particularly problematic** for allocating the AZ. The Guidelines provide very little guidance of how this important issue should be dealt with and there is no explanation about why this decision was made, and why both agriculture and protection of priority vegetation cannot exist.* *It should also be noted that the SPP Natural Assets Code does not require priority vegetation to be allocated a low, medium or high to help make informed decisions about prioritising native vegetation.* *The feedback from AK Consulting in a number of instances is that clearing of priority vegetation will still be covered under the Forest Practices Code. However, the Forest Practices Code doesn't consider vegetation clearing that is ancillary to agriculture, such as Visitor Accommodation, Tourist Operation, etc. Because of this, split zoning with the RZ and LCZ has been applied in limited circumstances to a number of parcels to allow for the priority vegetation area overlay to be applied. Generally, this has occurred where there are large areas of continuous vegetation, on steeper slopes with poor land capability. (Supporting Report p 59)* --- *The Planning Authority's section 35F report has recommended that the draft LPS be amended to apply the Priority Vegetation Area mapping over the Agriculture Zone to maintain the integrity of the data, provide consistency with the forest practices requirements and assists in assessment of applications for clearing vegetation outside of the Agriculture Zone.* *In considering the benefits of showing the Priority Vegetation Area over the Agriculture Zone the application of the Natural Assets Code was considered.* *Under C7.2.1(c) the Natural Assets Code only applies in a priority vegetation area in certain zones, not including the Agriculture Zone.* *A corresponding exemption is included in C7.4.1 (c) which exempts the following use or development:* Clearance of native vegetation within a priority vegetation area, (i) on existing pasture or crop production land; or (ii) if the vegetation is within a private garden, public garden or park, national park, or within State-reserved land or a council reserve, provided the native vegetation is not protected by legislation, a permit condition, an agreement made under section 71 of the Act, or a covenant. *The exclusion of the Agriculture Zone appears to assume that all use or development, in the Agriculture Zone will be related to the agricultural use of the land, however this is not the case. A more nuanced approach to management of the State's natural assets should be taken.* *The exemption under C7.4.1(c) is supported. Reducing the regulatory requirements on farmer's undertaking agricultural activities is important for the economic sustainability of the region. It is also consistent with the IPS exemption under clause 5.4.2 for the management of vegetation on pasture or cropping land.*

Municipality	Commentary
	However, the Agriculture Zone may be used for non-agricultural purposes. Extensive areas of the West Tamar municipality, and the State, that will be included in the Agriculture Zone will also include areas that should be identified as Priority Vegetation Areas consistent with the TASVEG 3.0 mapping. By not regulating any clearing of vegetation within the Agriculture Zone there is a risk that non-agricultural uses, including dwellings and visitor accommodation would be established in areas with important natural values, to no substantial benefit to the potential agricultural use of the land. *Applying the Priority Vegetation Area in the Agriculture Zone, except where exempt under C7.4.1 (c), would improve environmental outcomes while still ensuring clearing for agricultural purposes is permitted.* *(Section 35G Notice – pp 5-6)*

Endnotes

[1] Draft State Planning Provisions Explanatory Document 7 March 2016 – Natural Assets Code Section 24.1 Strategic Intent and Function – p 137

[2] Ibid –

- Nature Conservation Act 2002 ;
- Threatened Species Protection Act 1995;
- Environment Protection and Biodiversity Conservation Act 1999 (C'wealth); and
- Forest Practices Act 1995.

[3] Draft State Planning Provisions – Natural Assets Code C7.2.1 (c)

[4] Draft State Planning Provisions Explanatory Document 7 March 2016 – Natural Assets Code Section 24.1 Priority Vegetation Area – p 138

[5] Report on the Draft State Planning Provisions – Appendix C – Rep No 282 – p 259

[6] Report on the Draft State Planning Provisions – Section 5.7.4 Revision of the Natural Assets Code – pp 36-37.

[7] Ibid – Item (c) – p 37

[8] Minister's Statement of Reasons for modifications to the Provisions of the draft State Planning Provisions – 22 February 2017 – p 4.

[9] Following the 2014 State election, the Tasmanian Liberal Government formed the Planning Reform Taskforce, comprising key council, business and other key stakeholders, to consult and advise on the formulation of the legislation.

[10] The NAC provisions listed in the Meander Valley Section 35G Notice of 10 April 2019 and discussed on pp 2-18 were:

- C7.3 Definition of terms
- C7.6.2 Clearance within a priority vegetation area
- C7.7.2 Subdivision within a priority vegetation area

[11] West Tamar Section 35G Notice pp 5-6 and Tasman Section 35G Notice p 5

[12] Only seven Planning Authorities have submitted Section 35G Notices: Meander Valley 11 Apr 2019, Brighton 19 Oct 2020, Glamorgan Spring Bay 31 Aug 2020 , Glenorchy 10 Mar 2021 , Circular Head 16 Mar 2021 , Tasman 30 Jun 2021 , West Tamar 5 Jan 2022

[13] The eight Planning Authorities that have not commented on the issue are Central Coast, Clarence, Dorset, George Town, Hobart, Kentish, Latrobe and West Coast. King Island is yet to submit its Draft LPS to the Commission.

[14] Forest practices – as defined in Section 3 of the Forest Practices Act 1985: (a) the processes involved in establishing forests, growing or harvesting timber, clearing trees or clearing and converting threatened native vegetation communities; and (b) works (including the construction of roads and the development and operation of quarries.

[15] Forest Practices Regulations 2017 - Clause 4(j)

[16] Vulnerable land is defined in the Forest Practices Regulations 2017 as

(a) is within a streamside reserve or a machinery exclusion zone within the meaning of the Forest Practices Code; or
(b) has a slope of more than the landslide threshold slope angles within the meaning of the Forest Practices Code; or
(c) is within the High or Very High Soil Erodibility Class within the meaning of the Forest Practices Code; or
(d) consists of, or contains, a threatened native vegetation community; or
(e) is inhabited by a threatened species within the meaning of the Threatened Species Protection Act 1995; or
(f) contains vulnerable karst soil within the meaning of the Forest Practices Code; or
(g) contains an area of trees reserved from the harvesting of timber or the clearing of trees under a forest practices plan where the period specified in the plan has expired.

[17] State Planning Provisions - C7.6.2 Clearance within a priority vegetation area – Performance Criterion P2.1

Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:
(a) the design and location of buildings and works and any constraints such as topography or land hazards;
(b) any particular requirements for the buildings and works;

(c) minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings;
(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;
(e) any on-site biodiversity offsets; and
(f) any existing cleared areas on the site.

[18] The Forest Practices Act 1995 - Schedule 7 - Objective of the Forest Practices System of Tasmania - Sections 4B and 37B

The objective of the State's forest practices system is to achieve sustainable management of Crown and private forests with due care for the environment and taking into account social, economic and environmental outcomes while delivering, in a way that is as far as possible self-funding–

(a) an emphasis on self-regulation; and
(ab) . . . . . .
(b) planning before forest operations; and
(c) delegated and decentralized approvals for forest practices plans and other forest practices matters; and
(d) a forest practices code which provides practical standards for forest management, timber harvesting and other forest operations; and
(e) an emphasis on consultation and education; and
(ea) an emphasis on research, review and continuing improvement; and
(eb) the conservation of threatened native vegetation communities; and
(f) provision for the rehabilitation of land in cases where the forest practices code is contravened; and
(g) an independent appeal process; and
(h) through the declaration of private timber reserves– a means by which private land holders are able to ensure the security of their forest resources.

[19] *Threatened Species Protection Act 1995* Clause 51. Offences relating to listed taxa

(1) Subject to subsections (2) and (3) , a person must not knowingly, without a permit –

(a) take, keep, trade in or process any specimen of a listed taxon of flora or fauna; or
(b) disturb any specimen of a listed taxon of flora or fauna found on land subject to an interim protection order; or
(c) disturb any specimen of a listed taxon of flora or fauna contrary to a land management agreement; or
(d) disturb any specimen of a listed taxon of flora or fauna that is subject to a conservation covenant entered into under Part 5 of the Nature Conservation Act 2002 ; or
(e) abandon or release any specimen of a listed taxon of flora or fauna into the wild.

Penalty: Fine not exceeding 629 penalty units or imprisonment for a term not exceeding 12 months, or both, and a further fine not exceeding 126 penalty units for each day during which the offence continues after conviction. [Note – current value of Penalty Unit in Tasmania is $173]

[20] *Environmental Protection and Biodiversity Conservation Act* 1999

Part 3 - Requirements for environmental approvals
Division 1 - Requirements relating to matters of national environmental significance
Subdivision C - Listed threatened species and communities
Section 18 - Actions with significant impact on listed threatened species or endangered community prohibited without approval
Civil penalty:

(a) for an individual—5,000 penalty units;
(b) for a body corporate—50,000 penalty units.

Section 18A - Offences relating to threatened species etc.

(3) An offence against subsection (1) or (2) is punishable on conviction by imprisonment for a term not more than 7 years, a fine not more than 420 penalty units, or both.

[Note – current value of Penalty Unit in Commonwealth is $222]

[21] Representation No 1 on exhibited Northern Midlands Draft LPS – Department of Natural Resources and Environment Tasmania – 21 December 2021

[22] In its Draft Zone Maps the Northern Midlands Planning Authority rezoned nearly all private land zoned Rural Resource to Agriculture including 185 titles not identified in the 'Land Potentially Suitable for Agriculture' map without further analysis, contrary to Guideline AZ7. It justified this blanket application of Agriculture Zone on the basis that the primary use of land in Northern Midlands is agriculture and that it was required to implement a 1 to 1 transition (see Northern Midlands Draft LPS Supporting Report pp 88-89).

[23] Northern Midlands Draft LPS – Section 35F Report – p 5

> As noted in the representation, the Planning Authority is not able to apply the Priority Vegetation Area Overlay to the Agriculture Zone, in line with the Ministerial Guideline No. 1, and the SPP. The Council's methodology within the draft LPS has sought to ensure that the primary objective in applying zones should be to achieve the zone purpose to the greatest possible extent considering the land's primary use, with zoning providing the primary mechanism for regulating land use and development.

[24] SPPs 5.2 Operation of Zones

> 5.2.1 The primary controls for the use or development of land are set out in the zones.

[25] SPPs 5.5 Operation of Codes

> 5.5.1 The codes identify areas of land or planning issues which require compliance with additional provisions.
> 5.5.2 Codes set out provisions for:
> (a) particular types of use or development that may apply to land in one or more zones; and
> (b) matters that affect land that are not appropriately described by zone boundaries.

[26] Regional Ecosystem Model Priority Vegetation Area Overlay Data Prior to Application of Zones – as exhibited

[27] See Representation No 42 on the Northern Midlands Draft LPS by Conservation Landholders Tasmania for more details.