

Minister for Housing, Planning and Consumer Affairs
Reasons for making Interim Amendment 02-2024 of the State
Planning Provisions

After considering the advice received from the Tasmanian Planning Commission under section 30NB(2) of the *Land Use Planning and Approvals Act 1993* (the LUPA Act), I have determined to make interim amendment 02-2024 of the State Planning Provisions (SPPs). In accordance with section 30NB(7)(b) of the LUPA Act, my reasons for making interim amendment 02-2024 of the SPPs are set out in the attached Schedule 1. The interim amendment is made in accordance with Schedule 2.

Dated: 7 January 2025



HON FELIX ASHTON ELLIS MP

MINISTER FOR HOUSING, PLANNING AND CONSUMER AFFAIRS

Schedule 1

Minister's reasons for making amendment 03-2024 of the State Planning Provisions in accordance with section 30NA(7)(b) of the *Land Use Planning and Approvals Act 1993*

Background

The Tasmanian Planning Scheme consists of two parts, the State Planning Provisions (SPPs) and each municipal council's Local Provisions Schedule. The SPPs were made on 22 February 2017 and came into effect on 2 March 2017. The SPPs are now in effect in the majority of municipalities in the State with the remaining municipalities to follow when each Local Provisions Schedule is approved.

In 2022, the Tasmanian Parliament passed legislation to introduce a Container Refund Scheme (CRS) across Tasmania. The Department of Natural Resources and Environment Tasmania (NRE Tas) has responsibility for administration of the *Container Refund Scheme Act 2022* and *Container Refund Scheme Regulations 2023*. This includes implementing the CRS by appointing a network operator to provide a minimum of 40 CRS refund points, manage bulk beverage container returns, and administer refunds.

The SPPs have been amended to support the CRS roll out. Amendment 01-2022 of the SPPs came into effect on 24 January 2024, providing exemptions and a permitted planning approval pathway for a range of CRS refund point types that were known about when the amendment was prepared in 2022.

The Tasmanian Planning Commission (the Commission) provided an assessment report to the former Minister for Planning recommending approval of Amendment 01-2022 of the SPPs. It also advised on modifications to the amendment, suggested during the hearing process, to enable the development of newly identified depot-style drive-in container refund points within the Light Industrial Zone and Commercial Zone. The Commission did not recommend these modifications be made without re-exhibiting the amendment in accordance with the *Land Use Planning and Approvals Act 1993* (LUPA Act). The former Minister took this advice on board, resulting in finalising the earlier SPP amendment 01-2022 and the preparation of a separate draft amendment 02-2024.

The proposed draft amendment 02-2024 of the SPPs is to provide for an additional CRS refund point type, called Container Refund Facilities to be permitted in convenient locations, including in the Commercial Zone or Light Industrial Zone.

Legislative requirements

Part 3, Division 2 of the LUPA Act sets out the statutory requirements for making amendments to the SPPs.

The LUPA Act enables interim SPP amendments to be made to bring amendments into effect sooner while assessment of a draft amendment of the SPPs continues to be undertaken by the Commission.

Under section 30NB(4) of the LUPA Act, the Minister may make an interim SPPs amendment in the terms of the provisions of a draft amendment of the SPPs if the Minister is satisfied that:

(a) it is necessary or desirable to make the interim SPPs amendment in order to urgently address issues relating to a natural or environmental hazard, public health, public safety or a prescribed circumstance or matter; and

(b) it is in the public interest to give effect as soon as practicable to the provisions of the draft amendment of the SPPs contained in the interim SPPs amendment.

In conjunction with Section 30NB(4) of the LUPA Act, regulation 20B of the *Land Use Planning and Approvals Regulations 2014* (LUPA Regulations) specifically provides for the implementation or operation of a container refund scheme, as established under section 10 of the *Container Refund Scheme Act 2022*, to be a prescribed circumstance where interim SPPs amendments may be made.

A draft amendment of the SPPs must be prepared in accordance with the terms of reference to which notice has been given under section 30C(2) of the LUPA Act. It must also meet the SPPs criteria outlined in section 15 of the LUPA Act.

As the then Minister for Housing and Planning, I prepared Terms of Reference for draft amendment 02-2024 of the SPPs and gave notice in the three main Tasmanian newspapers according to sections 30C of the LUPA Act. I also prepared and consulted on Draft Amendment 02-2024 of the SPPs according to section 30D of the Act.

As Minister for Housing, Planning and Consumer Affairs, I approved public exhibition of draft amendment 02-2024 of the SPPs for assessment by the Commission under section 30G of the LUPA Act and sought the opinion of the Commission on whether the draft amendment 02-2024 of the SPPs should become an interim amendment under section 30NB(2) of the LUPA Act.

Reasons for my decision

I have determined to accept the Commission's advice contained in their letter to me on 9 December 2024 providing their opinion that the draft amendment 02-2024 of the SPPs should become an interim SPPs amendment and I have determined to make Interim SPPs Amendment 02-2024 in the terms of the draft amendment 02-2024 of the SPPs.

I consider the proposed changes to the SPPs are necessary to urgently address specific implementation issues for a coordinated roll out of the CRS which I consider to be in the broader public interest for the following reasons:

1. There is a need to introduce the CRS as soon as possible to enable container recycling to commence statewide, making better use of finite resources.
2. The details of the CRS were not known at the time the SPPs were drafted, and as such the SPPs did not provide for the CRS, giving reason to update them.
3. There is a need to provide clear pathways for the approval of CRS components and avoid delays for the rollout of the CRS across the State.
4. The interim SPP amendment will remove existing prohibitions and enable consistent application in planning decisions for drive-in CRS facilities.
5. It is in the public interest to give effect to the SPP amendment as soon as practicable to enable the timely rollout of the CRS to further assist with reducing landfill, increasing reuse of material, and creating an additional source of revenue.
6. There are clear benefits to the environment if the community has an opportunity to significantly reduce drink container litter through recycling for reward.

7. The SPP amendment is urgently required to enable the CRS operator to start implementing the CRS by seeking the necessary planning permits for the various CRS components around the State for the majority of the CRS program to be rolled out at the same time.

The SPPs criteria require an amendment of the SPPs to comply with the following:

- (a) only contains provisions that the SPPs may contain under section 14 of the LUPA Act;
- (b) furthers the objectives set out in Schedule 1 of the LUPA Act;
- (c) is consistent with each State Policy;
- (d) is consistent with the TPPs that are in force before the instrument is made; and
- (e) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

The draft amendment only contains provisions that section 14 of the LUPA Act allows the SPPs to contain. It intends to clarify the assessment pathway for particular use and development for container refund points under existing zones and codes and does not introduce any new prohibitions above what is currently in the SPPs. The SPPs have already been determined as meeting the criteria in section 15 of the LUPA Act, including furthering the objectives in Schedule 1 of the LUPA Act, consistency with State Policies and having regard to the safety requirements in the *Gas Safety Act 2019*. The proposed changes do not intend to alter the policy intent of the relevant zones and codes, they will facilitate the rollout of the CRS in existing activity centres with consideration for potential impacts on residential amenity and other existing use and development. The CRS is considered to align with the goals of the State Policies and NEPMs and the draft SPP amendment will facilitate rollout of the CRS which is designed to reduce the impact of drink containers in the environment. The Tasmanian Planning Policies (TPPs) are not yet in effect however the amendment is consistent with the draft policies on improving neighbourhood amenity and avoiding potential land use conflicts by managing incompatible use and development, providing for colocation of similar activities in industrial areas, and supporting circular economies by facilitating a variety of recycling facilities.

Schedule 2

Interim Amendment 02-2024 of the State Planning Provisions

Container Refund Facility

1. In Table 3.1 insert the following definition in alphabetical order:

container refund facility	means use of land for a drive-in container refund point providing: <ul style="list-style-type: none">(a) for receiving, sorting and paying refunds for approved containers;(b) temporary storage of the approved containers on-site for collection;(c) queuing areas for vehicles carrying approved containers;(d) for vehicles to drive-in, unload approved containers and move through the facility in a forward direction; and(e) staff or multiple container refund machines, or a combination of both.
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2. In Table 6.2 Use Classes, amend the definition of Recycling and Waste Disposal by inserting the text shown underlined as follows:

Recycling and Waste Disposal	use of land to collect, dismantle, store, dispose of, recycle or sell used or scrap material. Examples include <u>a container refund facility</u> , recycling depot, refuse disposal site, scrap yard, vehicle wrecking yard and waste transfer station.
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3. In clause 7.14 insert a new subclause 7.14.6 as follows:

7.14.6 Clauses 7.14 is not applicable to an application for a container refund facility.

4. Amend clause 17.2 Use Table and clause 18.2 Use Table by inserting (in alphabetical order) a new “Permitted” Use Class “Recycling and Waste Disposal” with the qualification “If for a container refund facility.”, as follows:

Recycling and Waste Disposal	If for a container refund facility.
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5. Amend clause 18.2 Use Table in the qualification for the “Discretionary” Use Class Recycling and Waste Disposal by inserting “, if not a container refund facility” after “station”, as follows:

Recycling and Waste Disposal	If for a: a) scrap yard; or b) waste transfer station, if not a container refund facility .
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6. In C2.3.1, revise the definition for container refund scheme space by inserting the text shown as underlined as follows:

Term	Definition
container refund scheme space	means an area of land required to house a container refund machine or a bag drop refund point plus space for pedestrians to queue at the container refund machine or bag drop refund point, <u>excluding land in a container refund facility.</u>

7. Amend Table C2.1, in the row for Recycling and Waste Disposal, to insert specific car parking requirements for container refund facility, as set out below:

Use		Parking Space Requirements	
		Car	Bicycle
Recycling and Waste Disposal	Container refund facility	1 space per employee + 3 queuing spaces for queuing area (if applicable)	No requirement
	Other Recycling and Waste Disposal use	1 space per 500m ² of site area + 1 space per employee	No requirement