State Planning Provisions Review 2022 - Submissions 61-80 (-72)

Submission No:	Name	Organisation
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65	Daniel Steiner	
66	John Brown	Break O'Day Council
67	Scott Faulkner	Mount Stuart Residents Inc
68a	Jacqui Tyson	Southern Midlands Council
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69	Associate Professor Verity Cleland	Tasmanian Active Living Coalition
70	Jennifer Nichols	Australian Institute of Architects
71	Kelly Sims	
73	Rebecca Digney and Vica Bayley	Aboriginal Land Council of Tasmania
74	Chantal Hopwood	TasNetworks
75	Wilfred Hodgman	
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11 Aug 2022

Submission on State Planning Provisions (SPPs) Review - Scoping Issues

Thank you for the opportunity to comment on the review of the SPPs, noting that ALL SPPs are up for review

Introduction

I feel very fortunate to have grown up in and to later again live in Tasmania. I have lived both overseas and in various places in mainland Australia, and I consider that those of us who live here are very fortunate indeed, both with the liveability of our island and with the highly scenic natural environment at our doorstep. However I also know that we cannot take these advantages for granted and that the SPPs do not do enough to prevent negative impacts on Tasmania as a great place to live.

What most Tasmanians DO NOT WANT is for Tasmania to become like other places – we want to preserve and protect what is unique and special here.

Consistency with LUPAA objectives

The objectives of the *Land Use Planning and Approvals Act 1993* (LUPAA) include, in Schedule 1:

- To encourage **public involvement** (bold added by me) in resource management and planning (Part 1, para 1(c))
- To promote the sharing of responsibility for resource management and planning between the different spheres of Government, **the community** (bold added by me) and industry in the State (Part 1, para 1(e))

In order to adhere to these objectives the Tasmanian community needs to be kept in the loop i.e. given the opportunity to have a say on proposed developments that will affect us – which includes almost all development proposals. However the trend of the SPPs is the exact reverse of this, with a greater number of applications being designated as 'permitted' and a reduction in those treated as 'discretionary'. **This is inconsistent with the objectives of LUPAA 1993**.

We, the community must have a say, and a seat at the table, when decisions that will affect us are being made. The community voice could happen via representatives from the Planning Matters Alliance Tasmania, which in itself represents about 70 community groups across Tasmania.

Residential standards

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended to the State government that the Residential Provisions should be reviewed as a priority. The Tasmanian Planning Commission recommended a comprehensive review of development standards in the General Residential and Inner Residential Zones to assess whether the provisions deliver greater housing choice, encourage infill development, or unreasonably impact on residential character and amenity. This has not yet happened.

I am very concerned that the SPPs reduce the public's opportunity to both be aware of, and make representation on, proposed developments, due to a greater number of DA's being treated as permitted, rather than discretionary - and the greater number of exemptions. Particularly in the General and Inner Residential Zones. Given that we, the community, will be the ones impacted by such changes as smaller block sizes, smaller setbacks, buildings with greater mass and height, potential overshadowing, loss of privacy, loss of sunlight, less green space, etc etc, we should have GREATER say, not less. To do otherwise is to impact negatively on people's health, wellbeing and quality of life – and to foment discontent.

The depressing images we see of interstate large urban housing developments - a sea of roofs with hardly any space between them, let alone open space or greenery - are what we DON'T want here in Tasmania.

Affordable housing

In the years since the statewide planning scheme was first flagged, the housing affordability crisis has well and truly arrived in Tasmania, along with Hobart being top of the list nationally for lack of affordable rentals and with the numbers of homeless people (including families, young people and older women) on the rise.

And yet this is not addressed by the SPPs. It is imperative that it IS addressed. It is a 'no brainer' to do what so many other jurisdictions, including in Australia, as well as overseas, are doing, which is to have a requirement in the SPPs for large subdivision developers to include a certain percentage of affordable housing. It needs also to be a requirement for Inner Residential high-rise developments.

Climate Change

Another significant development since the process for introducing a new planning scheme was begun has been our lived experience of the impacts of climate change. We all know that concern about climate change was a major factor (if not the biggest factor) in the outcome of the recent Federal election. Bushfires, floods, droughts, temperature extremes etc have impacted the lives of many Australians – and Tasmania is of course not immune to the impacts of climate change. Within the last 10 years Tasmania has experienced the 'Dunalley fire', unprecedented lightning-ignited fires in wilderness and

forestry areas, parts of Tasmania have had extreme flooding events, warming ocean temperatures off Tasmania's east coast have caused the demise of the kelp forests, South West Tasmania has been unusually dry, resulting in low levels in Hydro dams – and some insurance companies are looking at no longer insure people living in known bushfire-prone areas, such as Fern Tree (I know of a particular instance of this).

Coastal erosion is another impact of climate change that is already happening.

In the interests of human safety and of people not finding themselves living in uninsurable homes (as has happened in some flood-affected areas interstate) the SPP Codes need to take into account locations that are clearly at risk of climate change impacts, such as bushfires, floods and coastal inundation.

Open space/playgrounds/recreational areas

SPPs must include the requirement for open space and play/recreational areas in new housing developments. This is a necessity for human health, physical and emotional, and for children's development – as has been scientifically established. And recognised by the real estate industry which uses proximity to green/open space as a selling point.

I am fortunate to live close to a reserve which includes native vegetation, a small playground and extensive open grassy areas. It is a dog off-lead area. And it is prized and used by local people – at any time of day there are people there – definitely an asset to the community.

New housing developments also need to include walking paths as corridors between houses – as has been done in the area where I live (many of these corridors were probably put in inititally to carry sewerage lines, underground drains etc). Walking is the easiest and cheapest form of exercise for most people and it needs to be facilitated.

Environmental Management Zones

Tamania's natural areas (which are our main 'selling point' and underpin our tourist industry) need more, not less protection.

The use table for the Environmental Management Zone needs to be amended to:

- Exclude all permitted uses
- Omit all qualifications for discretionary uses

Both local Tasmanians and visitors/tourists appreciate Tasmania's natural areas and national parks because of their natural attractions, not for man-made structures, roads etc. This has been borne out by a recent survey of Australians: see National Parks are for protection not development – new national poll - Tasmanian National Parks Association (tnpa.org.au)

Zones adjoining or in the vicinity of an Environment Management Zone need to be subject to standards in order to protect the values of the EMZ.

- All coastal areas that are still in a natural state should be classified as Environmental Management Zones. They represent vital (and diminishing) habitat for threatened species and ecosystems and are being lost through creeping coastal development e.g. some (threatened) species of birds, such as pied oystercatchers and hooded plovers, require undisturbed beaches (above high tide level) for 'nests'; sea eagles use tall mature eucalypts in coastal forests for nests, some of which have been in use for hundreds of years i.e. the birds will not just 'go somewhere else' if the location is no longer suitable (including through disturbance).

Alternatively there should be the creation of a new Coastal Protection Zone.

National parks and reserves and the SPPs

It is ironic that Tasmania's biggest attraction and key element of its 'brand', our national parks, are given almost no protection under the SPPs. Commercial tourism developments can be approved in most National Parks and Reserves with no community consultation. This is in contravention of the objectives of *The Land Use Planning and Approvals Act 1993*, which state that the community be involved in resource management and planning.

The non-statutory Reserve Activity Assessment (RAA) process was an in-house process designed for assessing minor, uncontroversial plans (in an era where national parks were considered off limits for commercial ventures) but is now being used for assessing proposed commercial developments, which are highly controversial. The RAA is clearly inappropriate for this purpose and the Government has undertaken to review the RAA process. However this was promised five years ago and to date there has been no action. It is crucial that this RAA review takes place before the SPPs are rolled out or Tasmania's greatest asset will be at risk – as will our brand.

Scenic Protection Code

This is another 'blind spot' in regard to Tasmania's biggest attraction, for both residents and visitors – our unspoiled nature and outstanding scenic values should be protected by the Scenic Protection Code, and yet many are not! Currently the Scenic Protection Code is dependent on Local Provisions Schedules. It needs to be taken out of local hands! At the very least the Scenic Protection Code should apply to all EMZs. Another suggestion is for establishment of an independent panel to assess scenic values across the State and apply the code to suitable locations.

Natural Assets Code

- The Natural Assets Code must be amended so that its purpose shifts from managing and minimising loss (i.e. deterioration continues, but at a slower pace) to **promoting and improving** biodiversity, species conservation and ecological processes.
- The Code must be amended to enable assessment of impacts on biodiversity in ALL zones, including agricultural and urban zones e.g. remnant native grasslands (threatened plant communities) that exist within greater Hobart, riparian (streamside) native vegetation on rural properties.

- Amend the code to provide adequate buffer widths for urban waterways and tidal waters. (This also reduces risk of loss of structures/infrastructure caused by floods and storm surges, which we know are on the increase due to climate change).
- Exemptions need to be reviewed so that they are consistent with the objectives of maintaining ecological processes and biodiversity conservation.
- Assessment of natural values must be done on-ground (not through the use of statutory maps or aerial photos) by suitably qualified persons.
- Threatened native communities must include all communities listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
- Performance criteria must be prescriptive, with definite assessment criteria e.g. assessment of cumulative impacts.
- The wording in relation to performance criteria must be changed from 'having regard to' (in effect this means disregard) to 'must' or 'satisfy'.

Aboriginal Cultural Heritage

SPPs must have provision for mandatory consideration of impacts on Aboriginal cultural heritage, currently glaringly obvious by its omission.

This must happen in consultation with the Tasmanian Aboriginal community.

Local Historic Heritage Code

- The name of the Code needs to be simplified to 'Heritage Code'
- The objectives and purpose of the Code need to align with the *Historic Cultural Heritage Act 1993.*
- Definitions in the Code need to align with the Burra Charter.
- Conservation processes as outlined in the Burra Charter need to be reflected in Performance Criteria for the Code.
- There need to be clear, unambiguous definitions for terms such as 'demolition', 'repairs' and 'maintenance'.
- For assisting both Councils and developers the Code needs to provide a summary of application requirements.

Catharine Errey

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11 August 2022

To Whom It May Concern,

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

Phase 2 of the State Government's planning reform is underway and includes a review of the State Planning Provisions (SPPs), introduction of the Tasmanian Planning Policies, the creation of a regional land use planning framework, and a review of the three Regional Land Use Strategies.

The SPPs also require review for consistency with State Policies and the Tasmanian Planning Policies once they are finalised.

Our community group thank you for the opportunity to comment on the review of the SPPs.

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

We 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. We request that we should take part in these reference/consultative groups because our experience is that the most powerless and voiceless sector in any planning is those most affected – the community.

Overall we are calling for the SPPs to be values-based, fair and equitable, informed by PMAT's Platform Principles, and for the SPPs to deliver the objectives of the *Land Use Planning and Approvals Act 1993*.

Planning affects every inch of Tasmania, on both private and public land, and our well-being: our homes, our neighbour's house, our local shops, work opportunities, schools, parks and transport corridors. Planning shapes our cities, towns and rural landscapes. Well thought through strategic planning can build strong, thriving, healthy and sustainable communities.

Yours sincerely,

Ben Marshall – Chair – SOLVE – Supporting Our Loongana Valley Environment

[redacted] solvetasmania.org

[redacted]

We 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.

Why we care about Planning

Our community has, for three long years, been subject to the threat of an inappropriate, destructive and unnecessary industrial infrastructure project – Project Marinus (the Link and TasNetworks new transmission grid). Originally, the global renewables company, UPC, were going to build a high voltage overhead transmission line (HVOTL) from their proposed Robbins Island wind-farm through our farms, forests and wild places. When we began to realise the scope of the project, and the multiple adverse impacts it would have, we objected. Shortly after, UPC and TasNetworks made a secret deal, wherein TasNetworks would own, build and lease the line, and take on the negotiation roles with community. The details of how this deal came about remain known only to UPC, TasNetworks and the relevant Minister.

Since then, things have worsened for us, as we were, and still are, subject to a multi-million dollar PR campaign from TasNetworks / Marinus seeking 'social license' for their for-profit vast new transmission grid. This disingenuous campaign has ignored our concerns, withheld information, been deceptive, and refused to acknowledge the costs and impacts they seek to impose on us – each impact amplifying the others. Worse, we found that the project wasn't 'for the greater good' – the entire Marinus Link and Tasnetworks' new grid is designed to attract and serve foreign renewables investors to harvest Tasmanian wind-power and sell it to Mainland buyers. Worse still, TasNetworks, an old 'poles and wires' State-owned company, has been appointed Jurisdictional Planner role for the entire energy sector – a clear and egregious conflict of interest, confirmed by the fact that their ad hoc plan is simply to build more 'poles and wires', a job they will directly profit from.

To find out anything, we were obliged to became investigative journalists, renewable energy experts, citizen scientists, and reluctant activists – fighting a plan that's not just bad for us, our valley, our environment, our fire risk, our property values, our small tourism businesses, our karst caves and water catchments, but bad for grid resilience, bad for power prices, and even action on climate – which is now the ostensible reason for the project.

While our community want action on climate, and appreciate commercial proponents want to make money, we've found that none of the claims made by the proponent or their defenders in government ("jobs and growth", "downward pressure on power prices", "helping Australia transition to renewable energy" etc) are true.

In brief, with all new renewable energy being privately owned, it will go for sale on the Mainland in the National Energy Market (NEM). This means Tasmania won't have the extra energy it needs to transition our economy to all-electric. The profits, likewise, are private, and will flow offshore to the shareholders and investors. With all the power and profits going offshore, so will any jobs.

We will be left with farms, forests and wilderness scarred and dried out by hundreds of kilometres of 60 to 90 metre-wide HVOTL easements, and even more access roading and platform clearings. Refusing to even cost undergrounding, TasNetworks is planning the cheapest and fastest routes to gain profitability, which has the effect of reducing, not increasing, grid resilience. International studies show that no overhead transmission lines should go through forests when other options are possible.

The environmental damage to our valley will be immense. We have one of the most biodiverse places in Tasmania, and the HVOTL threatens that biodiversity on multiple metrics, from the bulldozing of habitat to the drying of the valley and the noise of construction and ongoing maintenance.

Our small tourism operators are facing having to shut down when our valley's walking trails and iconic views will be dominated by 45 – 60 metre high transmission towers, lines and easements.

Our property values will all decrease, assuming we can even sell, yet TasNetworks refuses to consult with anyone other than those they declare as 'directly affected' landholders. A neighbour with a line across their land is 'directly affected'; anyone next door is regarded as 'unaffected', despite the very real impacts on them.

Action on climate / biodiversity are critical planning metrics and should be connected to energy sector planning. But when all planning is directed at private profit via socialised costs borne by community, poor plans will result that do not benefit anyone other than those directly deriving a profit from a proposal.

SPP Review Process

SOLVE is very interested as to how a "minor amendment" is defined and made.

SOLVE considers public hearings facilitated by the Tasmanian Planning Commission are essential if the Tasmanian community is to be involved and understand our planning laws.

SOLVE want community placed centrally to planning, to not be exploited by those with power, and to be regarded as partners in planning to benefit the greater good.

SOLVE want resources, including funding and transparent timely information, in regard to all aspects of planning. Public need should trump commercial-in-confidence concerns except in the most extreme situations – c-in-c should not be used as a shield for private dealings between government and proponents.

SOLVE want expert independent (of proponent and government) assistance for communities to make decisions regarding planning.

SOLVE's concerns and recommendations include:

1. Ensuring the community has the right to have a say;
2. Climate Change and biodiversity as fundamental to all planning;
3. Climate / biodiversity risks should rule out a project;
4. Community connectivity, health and well-being should not be degraded;
5. Aboriginal cultural heritage should be recognised and protected;
6. Heritage buildings and landscapes protection overrides for-profit motives;
7. Tasmania's economy should not put corporate profits as central but peripheral;
8. Housing and rental affordability should be prioritised over profiteering;
9. Residential issues and amenities shouldn't be dismissed as NIMBYism;
10. Stormwater pollution be considered;
11. Onsite wastewater be removed at proponents expense;
12. Rural/Ag issues be addressed through consultation and compensation;
13. Coastal land issues should prioritise environmental concerns;
14. Coastal waters should prioritise environmental concerns;
15. National Parks and Reserves should not be privatised;

1. Ensuring the community has the right to have a say

Land use planning is the process through which governments, businesses, and residents come together to shape their communities. Having a right of say is critical to this.

The current SPPs however, with fewer discretionary developments, and more exemptions, significantly reduce the community's right to have a say and in many instances also removes appeal rights, weakening democracy. More and more uses and development are able to occur without public consultation or appeal rights. Without adequate community involvement in the planning process, there is a risk of more contested projects, delays and ultimately less efficient decision-making on development proposals.

The reduction in community involvement is clearly demonstrated by how developments are dealt with in our National Parks and Reserves and residential areas.

National Parks and Reserves and right of say

Commercial tourism development can be approved in most National Parks and Reserves without guarantee of public consultation, and with no rights to appeal. This means that the public has no certainty of being able to comment and no appeal rights over public land covering almost 50% of Tasmania. The State Government has repeatedly stated that that this issue will be dealt with through the review of the Reserve Activity Assessment (RAA) process.

The RAA process is the internal government process by which developments in national parks and reserves are assessed. However, the review has stalled with no apparent progress for at least five years[1].

Community stakeholders are unable to obtain clear information on the review progress, timelines and the formal process regarding consultation. It appears that the State Government has abandoned this critically important review of the Reserve Activity Assessment. SOLVE is concerned that proposed developments can be approved under the existing deeply flawed process without any opportunity for public

[1]Page 11 of the *Minister's Statement of Reasons for modifications to the draft State Planning Provisions* here which states '*…in response to matters raised during the hearings* [of the draft SPPs] *the Government agrees that a review of the RAA (Reserve Activity Assessment) be undertaken*'.

comment and involvement. This is inconsistent with three of the most fundamental of the objectives of the *Land Use Planning and Approvals Act 1993*: "(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity… (c) to encourage public involvement in resource management and planning; and (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State*."

There is a current Petition (closing 4 August 2022) before the Tasmanian Parliament: 'Inadequate processes for assessing and approving private tourism developments in Tasmania's national parks' which has already attracted 2609 signatures and demonstrates the level of community concern. Amongst other concerns, the petition draws to the attention of the Tasmanian Parliament that '*The Reserve Activity Assessment (RAA) process is flawed, opaque and lacks genuine public consultation*' and calls on the '*Government to abandon the Expressions of Interest process and halt all proposals currently being considered under the Reserve Activity Assessment process until a statutory assessment and approval process for private tourism developments in Tasmania's national parks is implemented*'.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, identified the level of public concern regarding the Reserve Activity Assessment process.

In 2017, the then Planning Minister Peter Gutwein acknowledged that the RAA process "needs review", but made no amendments to the SPPs in relation to developments in national parks.

In 2019 eleven community groups were so frustrated they could not obtain clarity on the RAA review they resorted to lodging a Right to Information (RTI) request to seek transparency. See PMAT Media Release: Has Hodgman abandoned the review of RAA process for developments in national parks and reserves?

Recommendation: That the State Government move quickly to **1.** finalise the RAA Review, including the exemptions and applicable standards for proposed use and development in the Environmental Management Zone **2.** To implement changes for a

more open, transparent and robust process that is consistent with the Tasmanian Planning System *Land Use Planning and Approvals Act 1993* objectives. **3**. The Environmental Management Zone should be amended to ensure the public has a meaningful right of say and access to appeal rights - in particular by amending what are "permitted" and "discretionary" uses and developments in the Environmental Management Zone.

Action on Climate Change and the biodiversity crisis

Given the extinction crisis, the rapid and dangerous rise of global temperatures, and the increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, SOLVE are seeking amendments to the SPPs which better address climate change and the biodiversity crisis. We need planning which ensures all planning, decision-making and proposals does not worsen either.

While a rapid transition to renewable energy is just one part of action on climate, we are concerned that planning has largely been handed to the private sector. As an example, around half of Tasmania is designated as potential renewable energy zoning, yet there are no no-go areas, especially for wind farms. UPC's proposed Robbins Island wind farm is a case study in how not to plan well or reasonably for both community, the environment, the economy and the people who depend on healthy seas and wetlands. TasNetworks decision to route their HVOTL through a biodiverse Loongana Valley is another corrupted planning and assessment process in action. Decision-making and assessments cannot be left to the proponent, or skewed results will be presented as factual justification. Industrialising our forests, farms, wild places and scenic landscapes must not be at the cost of action on climate, biodiversity or the needs of local environments and community

Recommendation: 1. The SPPs be amended to better address reduction of climate change risk, by ensuring Tasmania's risk mapping is based on the best available independent science and data. **2**. The SPPs be amended to better embed sustainable transport, green design of buildings and subdivisions into planning processes, including better protection of solar panels and provision for future solar access. **3**. Strategic thinking and modelling to decide where best to allow wind farms. The SPPs could include a new *No-Go Wind Farm Code.*

2. Planning, Insurance and Climate Risks

This year, the Climate Council, an independent, crowd-funded organisation providing quality information on climate change to the Australian public, released a report entitled Uninsurable Nation: Australia's Most Climate-Vulnerable Places and a climate risk map.

Key findings of the Report concluded climate change is creating an insurability crisis in Australia due to worsening extreme weather and sky-rocketing insurance premiums. It is our understanding that the modelling found that approximately 2% of homes in Tasmania would be effectively uninsurable by 2030 due to the effects of climate change. The major risk to the areas of the state are the north east and the east - in Bass, 3.7% of homes and in Lyons, 2.8% of homes.

Risks include flooding, storm surges and wildfires. The SPPs deal with these risks under the following Codes:

- Coastal Erosion Hazard Code
- Coastal Inundation Hazard Code
- Flood-Prone Areas Hazard Code
- Bushfire-Prone Areas Code
- Landslip Hazard Code

However, we understand that the code risk mapping is based on conservative climate data. There is also a concern that the State Government's risk mapping and the insurance sector's risk mapping are inconsistent.

Recommendation: the SPPs Codes be reviewed and updated to ensure they reflect the best available science about current and likely bushfire, flood and coastal inundation risks. The State Government, through its Tasmanian Planning Scheme, has a responsibility to ensure that the planning system does not allow the building of homes in areas that will become uninsurable. Consideration should also be given in the review as to how the SPPs can ensure that developments and uses approved can be retrofitted to better respond to changing climatic conditions.

We would like to know the status of *Tasmania's Climate Change Action Plan 2017-2021* which contained a proposal for: "…***land-use planning reforms*** *to manage natural hazards and climate impacts. Instruments under development include a Tasmanian Planning Policy on Hazards and Environmental Risks, and State Planning*

Public Open Space – We recommend creating tighter provisions for the Public Open Space Zone and /or the creation of a Public Open Space Code. The planning system must ensure local access to recreation areas with the provision of public open space. Public open space has aesthetic, environmental, health and economic benefits. The *2021 Australian Liveability Census*, based on over 30,000 responses, found that the number 1 *'attribute of an ideal neighbourhood is where 'elements of the natural environment' are retained or incorporated into the urban fabric as way to define local character or uniqueness. In the 2021 Australian Liveability Census 73% of respondents selected this as being important to them. That is a significant consensus.'*

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.

3. Aboriginal Cultural Heritage

The current SPPs have no provision for mandatory consideration of impacts on Aboriginal Heritage, including Cultural Landscapes, when assessing a new development or use that will impact on Aboriginal cultural heritage.

This means, for example, that under current laws, there is no formal opportunity for Tasmanian Aboriginal people to comment on or object to a development or use that would adversely impact their cultural heritage, and there is no opportunity to appeal permits that allow for adverse impacts on Aboriginal cultural heritage values.

While SOLVE acknowledges that the Tasmanian Government has committed to developing a new Tasmanian Aboriginal Cultural Heritage Protection Act to replace the woefully outdated *Aboriginal Heritage Act* 1975 (Tas), it is unclear whether the proposed "*light touch*" integration of the new legislation with the planning system will provide for adequate protection of Aboriginal Cultural heritage, involvement of Tasmanian Aboriginal people in decisions that concern their cultural heritage, and consideration of these issues in planning assessment processes.

Indeed, it is unclear if the new Act will "*give effect to the Government's commitment to introducing measures to require early consideration of potential Aboriginal heritage impacts in the highest (State and regional) level of strategic planning, and in*

all assessments of rezoning proposals under the LUPA Act to ensure major planning decisions take full account of Aboriginal heritage issues."[2]

One way that the planning scheme and SPPs could ensure Aboriginal cultural heritage is better taken into account in planning decisions, is through the inclusion of an Aboriginal Heritage Code to provide mandatory assessment requirements and prescriptions that explicitly aim to conserve and protect Aboriginal cultural heritage. Assessment under this code could serve as a trigger for assessment under a new Tasmanian Aboriginal Cultural Heritage Protection Act. Until that Review is complete, it will be unclear how the new Act will give effect to the objective of cross reference with the planning scheme. **The planning scheme should therefore set up a mechanism that ensures maximum assessment, consideration and protection of Aboriginal heritage.**

SOLVe recognises 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.

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

Tasmania's Brand and Economy

SOLVE supports the Tasmanian brand for our tourism operators, noting that a planning system which protects Tasmania's cherished natural and cultural heritage

[2] Jaensch, Roger (2021) *Tabling Report: Government Commitment in Response to the Review Findings, Aboriginal Heritage Act 1975: Review under s.23* – see here: https://nre.tas.gov.au/Documents/Tabling%20Report%20-%20Review%20of%20the%20Aboriginal%20Heritage%20Act.pdf

underpins our economy, now and into the future. We consider that the current SPPs threaten Tasmania's brand, as they place our natural and cultural heritage and treasured urban amenity at risk. The current planning system may deliver short-term gain but at the cost of our long-term identity and economic prosperity.

As Michael Buxton, former Professor of Environment and Planning, RMIT University, stated "*The Government argues the new [planning] system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.*" Source: Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016 (attached in Appendix 1).

As per Brand Tasmania's 2019-2024 Strategic Plan, it could be argued that the SPPs are inconsistent with Brand Tasmania's main objectives which are to: '*To develop, maintain, protect and promote a Tasmanian brand that is differentiated and enhances our appeal and competitiveness nationally and internationally; To strengthen Tasmania's image and reputation locally, nationally and internationally; and To nurture, enhance and promote the Tasmanian brand as a shared public asset.*'

Recommendation: A brand lens should be placed over the top of the SPPs to ensure they are consistent with the objectives of Brand Tasmania. This consistency could also be facilitated via the Tasmanian Planning Policies.

Stormwater

The current SPPs provide no provision for the management of stormwater.

In 2016, the Tasmanian Planning Commission recommended the Planning Minister consider developing a stormwater Code, to ensure Councils have the capacity to consider stormwater runoff implications of new developments. That recommendation was not accepted. The Minister considered that Building Regulations adequately deal with that issue, despite Council concerns that stormwater run-off was a planning issue, not just a building development issue.

Due to severe stormwater run-off issues for community, environment, biodiversity and water catchment from TasNetworks HVOTL, SOLVE considers that stormwater needs to be managed as part of the SPPs. For example, there is a State Policy on

Water Quality Management with which the SPPs need to comply. Relevant clauses include the following:

31.1 - Planning schemes should require that development proposals with the potential to give rise to off-site polluted stormwater runoff which could cause environmental nuisance or material or serious environmental harm should include, or be required to develop as a condition of approval, stormwater management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

31.5 Planning schemes must require that land use and development is consistent with the
physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised.

Recommendation: The SPPs should include a new *Stormwater Code*.

On-site Waste Water

The current SPPs provide no provision for on-site waste water.

Waste water issues are currently dealt with under the Building Act. This is an issue that needs to be addressed in the Tasmanian Planning Scheme to ensure that water quality management issues arising from onsite waste water treatment are properly considered earlier at the planning stage. That is, if a site does not have appropriate space or soils for on-site waste water treatment system, a use or development that relies on this should not be approved by the planning authority.

Recommendation: On-site waste water issues need to be properly addressed in the Tasmanian Planning Scheme.

Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which SOLVE considers will further degrade the countryside and Tasmania's food bowl. Commercial and extractive uses are not always compatible with food production and environmental stewardship. Food security, soil health and environmental and biodiversity issues need to be 'above' short-term commercial and extractive uses of valuable rural/agricultural land resources.

Recommendation: SOLVE urges a re-consideration of the rural/agricultural zones with regards to the permitted commercial and extractive uses.

National Parks and Reserves (Environmental Management Zone)

The purpose of the Environmental Management Zone (EMZ) is to '*provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value',* and largely applies to public reserved land. Most of Tasmania's National Parks and Reserves have been Zoned or will be zoned Environmental Management Zone. SOLVE main concerns regarding the Environmental Management Zone is what is permitted in this zone plus the lack of set-back provisions that fail to protect the integrity of for example our National Parks.

Permitted Uses

The EMZ allows a range of *Permitted* uses which SOLVE considers are incompatible with protected areas. ***Permitted* uses include:** Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Pleasure Boat Facility, Research and Development, Residential, Resource Development, Sports and Recreation, Tourist Operation, Utilities and Visitor Accommodation.

These uses are conditionally permitted, for example they are permitted because they have an authority issued under the *National Parks and Reserves Management Regulations 2019*, which does not guarantee good planning outcomes will be achieved and does not allow for an appropriate level of public involvement in important decisions concerning these areas.

Set Backs

There are no setback provisions for the Environmental Management Zone from other Zones as is the case for the Rural and Agricultural Zones. This means that buildings can be built up to the boundary, encroaching on the integrity of our National Parks and/or coastal reserves.

Recommendation: SOLVE recommends: **1.** All current Environmental Management Zone Permitted uses should be at minimum *Discretionary*, as this will guarantee public comment and appeal rights on developments on public land such as in our National Parks and Reserves. **2.** There should be setback provisions in the

Environmental Management Zone to ensure the integrity of our National Parks and Reserves. Further to SOLVE's **submission, we also endorse the recommendations made by the Tasmanian National Parks Association as outlined in their submission to the 2022 SPP review here.**

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. However, it does not provide for the protection of *significant natural values* as was the original intent of the LCZ articulated on p 79 of the Draft SPPs Explanatory Document. With a Zone Purpose limited to protecting 'landscape values', LCZ is now effectively a Scenic Protection Zone for private land.

Recommendation: SOLVE endorses the recommendations in the 2022 SPP review submission: '*State Planning Provisions Scoping Paper re Landscape Conservation Zone provisions by Conservation Landholders Tasmania'* which calls for a Zone to properly protect natural values on private land.

Healthy Landscapes (Natural Assets Code - NAC)

The Natural Assets Code (NAC) fails to meet the objectives and requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA) and does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

A key objective of LUPAA is to promote and further the sustainable development of natural and physical resources, and as an integral part of this, maintain ecological processes and conserve biodiversity. More specifically, s15 of LUPAA requires the SPPS, including the NAC, to further this objective.

As currently drafted, the NAC reduces natural values to a procedural consideration and undermines the maintenance of ecological processes and conservation of biodiversity. As a result, the, NAC fails to adequately reflect or implement the objectives of LUPAA and fails to meet the criteria for drafting the SPPs.

There are also significant jurisdictional and technical issues with the NAC, including:

- poor integration with other regulations, particularly the Forest Practices System, resulting in loopholes and the ability for regulations to be played off against each other;
- significant limitations with the scope of natural assets and biodiversity values considered under the NAC, with landscape function and ecosystem services and non-threatened native vegetation, species and habitat largely excluded;
- wide-ranging exemptions which further jurisdictional uncertainty and are inconsistent with maintenance of ecological processes and biodiversity conservation;
- extensive exclusions in the application of the Natural Assets Code through Zone exclusion relating to the Agriculture, Industrial, Commercial and Residential Zones and limiting biodiversity consideration to mapped areas based on inaccurate datasets which are not designed for this purpose. As a consequence, many areas of native vegetation and habitat will not be assessed or protected, impacting biodiversity and losing valuable urban and rural trees;
- poorly defined terms resulting in uncertainty;
- a focus on minimising and justifying impacts rather than avoiding impacts and conserving natural assets and biodiversity
- inadequate buffer distances for waterways, particularly in urban areas; and
- watering down the performance criteria to 'having regard to' a range of considerations rather than meeting these requirements, which enables the significance of impacts to be downplayed and dismissed.

As a consequence, the NAC not only fails to promote sustainable development, maintain ecological processes and further biodiversity conservation, it also fails to achieve its stated purpose. The NAC as drafted also fails to provide aspiration to improve biodiversity conservation and can only lead to a reduction in biodiversity and degradation of natural assets.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended that the Natural Assets Code be scrapped in its entirety, with a new Code developed after proper consideration of the biodiversity implications of

proposed exemptions, the production of adequate, State-wide vegetation mapping, and consideration of including protection of drinking water catchments.

The then Planning Minister Peter Gutwein rejected that recommendation. Some amendments were made to the Code (including allowing vegetation of local significance to be protected), but no review of exemptions was undertaken. SOLVE understands that while no state-wide mapping was provided, the Government provided $100,000 to each of the three regions to implement the SPPs – the southern regional councils pooled resources to engage an expert to prepare biodiversity mapping for the whole region.

Note that despite concerns raised by TasWater, no further amendments were made to protect drinking water catchments.

Recommendation: The NAC does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

SOLVE supports PMAT's detailed submission, that will be attached to the broad submission, regarding the *Natural Assets Code* which has been prepared by expert environmental planner Dr Nikki den Exter. Nikki den Exter completed her PhD thesis investigating the role and relevance of land use planning in biodiversity conservation in Tasmania. Nikki also works as an Environmental Planner with local government and has over 15 years' experience in the fields of biodiversity conservation, natural resource management and land use planning. As both a practitioner and a researcher, Nikki offers a unique perspective on the importance of land use planning in contributing to biodiversity conservation. The detailed submission has also been reviewed by PMAT's *Natural Assets Code Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience and knowledge.

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, SOLVE 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. Concerns regarding the Scenic Protection Code have also been provided to the Tasmanian Planning Commission from the Glamorgan Spring Bay Council on the SPPs in accordance with section 35G of LUPAA.

It should also be noted, that not only does the Code fail to protect scenic values, SOLVE understands that in many instances Councils are not even applying the Code to their municipal areas. Given that Tasmania's scenic landscapes are one of our greatest assets and point of difference, this is extremely disappointing. Local Councils should be given financial support to undertake the strategic assessment of our scenic landscapes so they can populate the Scenic Protection Code within their municipal area via either their LPS process or via planning scheme amendments.

Recommendation: The Scenic Protection Code of the SPPs should be subject to a detailed review, with a view to providing appropriate use and development controls and exemptions to effectively manage and protect all aspects of scenic landscape values.

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[3]. 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[4]. 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[5]. 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*

[3] Gray M 2004 *Geodiversity. Valuing and conserving abiotic nature*. Wiley, Chichester UK
[4] 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.
[5] 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.

the prefix "geo" necessarily implies a robust character, but many elements of geodiversity are quite the opposite. For example, stalactites in limestone caves can be accidentally brushed off by passing visitors or seriously damaged by changes to the over-lying land surface that derange the natural patterns or chemistry of infiltrating seepage moisture; various types of sand dunes can readily be eroded away if a binding vegetation cover is removed; artificial derangement of drainage can cause stream channels to choke with debris or be eroded; important fossil or rare mineral sites can be destroyed by excavation, burial or even by increased public to a site where a lack of protective management allows over-zealous commercial or private collection; and larger scale landforms are commonly destroyed by such things as excavation or burial during housing, forestry, quarrying, inundation beneath artificial water storages, or mining.

Damage to geodiversity is not undone simply because vegetation may later re-colonise and camouflage a disturbed ground surface. While some landforms may possess the potential for a degree of self-healing if given sufficient time and appropriate conditions, many landforms are essentially fossil features that have resulted from environmental process that no longer occur, such 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[6]*. 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*

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

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***[7]*.*

The Australian Natural Heritage Charter[8] *provides one very useful contribution towards better recognition and management of geodiversity by various levels of government. Significant progress has already been made in Tasmania where the state government has established a geoconservation database that can be readily accessed by planners and development proponents. The establishment of a geoconservation code within the Tasmanian planning machinery would facilitate utilisation and development of this important tool for planners and development proponents. No impediment to develop generally exists where geoconservation sites are robust or lacking significance, but important and vulnerable sites require higher levels of planning intervention.'*

Further to the above, the **Tasmanian Geoconservation Database** is '*a source of information about geodiversity features, systems and processes of conservation significance in the State of Tasmania. The database is a resource for anyone with an interest in conservation and the environment. However, the principal aim is to make information on sites of geoconservation significance available to land managers, in order to assist them manage these values.* ***Being aware of a listed site can assist parties involved in works or developments to plan their activities. This may involve measures to avoid, minimise or mitigate impacts to geoconservation values.*** *More than a thousand sites are currently listed. These range in scale from individual rock*

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[7] 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.

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

outcrops and cuttings that expose important geological sections, to landscape-scale features that illustrate the diversity of Tasmania's geomorphic features and processes. Many of the sites are very robust and unlikely to be affected by human activities; others are highly sensitive to disturbance and require careful management.'

Recommendation: The SPPs must provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code.

Integration of Land Uses

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

Recommendation: SOLVE 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.

Various Other Concerns

- Application requirements in cl 6.1 and the need for planning authorities to be able to require certain reports to be prepared by suitable persons (for example, Natural Values Assessments), or for these reports to be mandatory where certain codes apply.
- General exemptions in cl 4.0 of the SPPs particularly those relating to vegetation removal and landscaping.
- The need to better plan for renewable energy and infrastructure.
- SOLVE considers that the SPP Acceptable Solutions (i.e. what is permitted as of right) are not generally acceptable to the wider community.
- The system and Tasmanian Planning Scheme language is highly complex and analytical and most of the public are not well informed. More is required in the way of public education, and a user friendly document should be produced, if our planning system is to be trusted by the wider community.
- It is disappointing also that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. The*re is nothing to guide Councils when making discretionary decisions.*

- *Whilst SOLVE accepts that Desired Future Character Statements and Local Area Objectives may be* hard to provide in the context of SPPs, which by definition, apply state-wide, we consider that greater latitude could be provided in the SPPs for LPSs to provide these types of statements for each municipality.

Related General Comments/Concerns regarding the SPPs

SOLVE also has a range of concerns relating to the SPPs more broadly:

1. Amendments to SPPs - 35G of LUPAA
2. The Process for making Minor and Urgent Amendments to SPPs
3. The SPPs reliance on outdated Australian Standards
4. The SPPs vague and confusing terminology
5. The SPPs were developed without a full suite of State Policies
6. Increased complexity
7. Tasmanian Spatial Digital Twin
8. Difficult to Protect local Character via the LPS process

Amendments to SPPs - 35G of LUPAA

Under Section 35 G of the *Land Use Planning and Approvals Act 1993*, see here, a planning authority may notify the Minister as to whether an amendment of the SPPs is required. However, the Act does not set out a process that deals with the 35G issues.

Recommendation: 1. It is SOLVE's view that the *Land Use Planning and Approvals Act 1993* should set out a transparent and robust process for dealing with 35G issues. **2.** Consistent with the Objectives of the *Land Use Planning and Approvals Act 1993* communities that are going through their local LPS process, should be allowed and encouraged by their local Council to comment not only on the application of the SPPs but on any issues they may have in regards to the contents of the SPPs. It is logical that this is when communities are thinking about key concerns, rather than only having the opportunity to raise issues regarding the content of the SPPs during the statutory five year review of the SPPs. SOLVE recommends the *Land Use Planning and Approvals Act 1993* should be amended to reflect this.

Process for Making Minor and Urgent Amendments to SPPs

In 2021, the Tasmanian Government amended the *Land Use Planning and Approvals Act 1993* to change the process for making minor amendments to the SPPs and introduce a separate process for making urgent amendments to the SPPs. These amendments give more power to the Planning Minister with no or a very delayed opportunity for public comment. The definition of both a minor and urgent amendment is also unclear. In SOLVE's view, amendments processes provide the Minister with too much discretion to make changes to the SPPs and fail to adopt appropriate checks and balances on these significant powers.

Also, legal advice is that when the Tasmanian Planning Policies are introduced, the minor amendment process does not allow for changes to bring the SPPs into line with Tasmanian Planning Policies.

Recommendation: 1. Amending the *Land Use Planning and Approvals Act 1993* to provide a clear definition of what constitutes a *minor* and *urgent* SPP amendment. 2. Ensure that the process for creating a minor or urgent amendment includes meaningful public consultation that is timely effective, open and transparent.

The SPPs Vague and Confusing Terminology

There are many specific words in the SPPs, as well as constructs in the language used, that lead to ambiguity of interpretation. Often this results in sub-optimal planning outcomes for the community and can contribute to delays, unnecessary appeals and increased costs to developers and appellants. Words like SPPs 8.4.2 "provides reasonably consistent separation between dwellings" 8.4.4 "separation between multiple dwellings provides reasonable opportunity for sunlight". Other terms used throughout the SPPs which are highly subjective include "compatible", "tolerable risk", and "occasional visitors" where numbers are not defined.

Similarly, the use of constructs such as 'having regard to' may mean that sub- criteria can effectively be disregarded in decision making. Alternative wording such as 'demonstrate compliance with the following' would provide greater confidence that the intent of such provisions will be realised.

While this ambiguity leads to delays and costs for all parties, it particularly affects individuals and communities where the high costs involved mean they have reduced

capacity to participate in the planning process – contrary to the intent of LUPAA objective 1.(c).

Recommendation: That the terminology and construction of the SPPs be reviewed to provide clearer definitions and shift the emphasis under performance criteria towards demonstrated compliance with stated objectives.

1. **The SPPs were developed with few State Policies**

The SPPs are not about strategic or integrated planning, but are more aptly described as development controls. The creation of the SPPs should have been guided by a comprehensive suite of State Policies. This did not happen before the development of the SPPs by the Planning Reform Task Force. Hence the SPPs exist without a vision for Tasmania's future.

The SPPs are still not supported by a comprehensive suite of State Policies to guide planning outcomes. In 2016, the Tasmanian Planning Commission acknowledged, in particular, the need to review the State Coastal Policy as a matter of urgency, but no action has been taken. Other areas without a strategic policy basis include integrated transport, population and settlements, biodiversity management, tourism and climate change.

In 2018, instead of developing a suite of State Policies, the State Government created a new instrument in the planning system – the Tasmanian Planning Policies. As at 2022, the Tasmanian Planning Polices are still being developed. The Tasmanian Planning Policies are expected to be lodged with the Tasmanian Planning Commission by the end of 2022. The Tasmanian Planning Commission will undertake its own independent review, including public exhibition and hearings.

SOLVE's position has been that we need State Policies rather than Tasmanian Planning Polices because they are signed off by the Tasmanian Parliament and have a whole of Government approach and a broader effect. The Tasmanian Planning Polices are only signed off by the Planning Minister and only apply to the Tasmanian Planning Scheme and not to all Government policy and decisions.

2. **Increased Complexity**

The Tasmanian Planning Scheme is very complex, is only available in a poorly bookmarked pdf and is very difficult for the general public to understand. This creates real difficulties for local communities, governments and developers with the assessment and development process becoming more complex rather than less so. Community members cannot even find the Tasmanian Planning Scheme online because of the naming confusion between the Tasmanian Planning Scheme and the State Planning Provisions. PMAT often fields phone enquiries about how to find the Tasmanian Planning Scheme.

Repeated amendments to Tasmania's planning laws and thus how the Tasmanian Planning Scheme is being rolled out is unbelievably complicated. From a community advocacy point of view, it is almost impossible to communicate the LPS process to the general public. For example, see PMAT Media Release: Solicitor General's Confusion Highlights Flawed Planning Change Nov 2021.

Recommendations: It is recommended that illustrated guidelines are developed to assist people in understanding the Tasmanian Planning Scheme. It would be helpful if the Tasmanian Planning Scheme could also be made available as with previous interim schemes through iPlan (or similar) website. This should also link the List Map so there is a graphical representation of the application of the Tasmanian Planning Scheme (which expands when new LPSs come on board). It should also be noted, that for the average person, iPlan is difficult to use.

Recommendations: Create a user friendly version of the Tasmania Planning Scheme such as the provision of pdfs for every LPS and associated maps. IPlan is impenetrable for many users.

3. Tasmanian Spatial Digital Twin

Digital Twin, a digital story telling tool, would revolutionise planning data and public consultation in Tasmania. The Spatial Digital Twin could bring together data sources from across government including spatial, natural resources and planning, and integrate it with real time feeds from sensors to provide insights for local communities, planners, designers and decision makers across industry and government.

It enables communities, for example, to gain planning information about their streets, neighbourhoods and municipalities. It would allow the general public to visualise how the SPPs are being applied to how a development looks digitally before it is physically built, making it easier to plan and predict outcomes of infrastructure projects, right down to viewing how shadows fall, or how much traffic is in an area.

See a NSW Government media release by the Minister for Customer Service and Digital Government: *Digital Twin revolutionises planning data for NSW*, December 2021.

From a community point of view, it is almost impossible to gain a landscape/municipality scale understanding of the application of the SPPs from two dimensional maps. One of PMAT's alliance member groups, Freycinet Action Network, requested the shape files of Glamorgan Spring Bay Council's draft LPS but was unable to obtain a copy. This would have enabled FAN to better visualise how the LPS is being applied over the landscape.

Recommendation: To introduce a Tasmanian Spatial Digital Twin to aid community consultation with regards to the application of the Tasmanian Planning Scheme via each Council's Local Provisions Schedule process and public consultation more broadly.

4. Difficult to Protect local Character via the LPS process

In 2016, the Tasmanian Planning Commission acknowledged[9] that the SPPs were designed to limit local variation, but queried whether a "one-size fits all" model will deliver certainty:

"*If local character is a point of difference and an attribute of all Tasmanian places, unintended consequences may flow from denying local differences. The 'one size fits all' approach is likely to result in planning authorities seeking more exceptions through the inclusion of particular purpose zones, specific area plans and site-specific qualification*."

[9] See page 17: *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016.*

In SOLVE's *view the SAP/PPZ/SSQ threshold are too high. As the SAP/PPZ/SSQ are the mechanisms to preserve character, possibly the only way to preserve character, in the Tasmanian Planning Scheme, it is essential that they or like mechanisms, are available to maintain local character. Common standards across the Zones whilst being efficient, could destroy the varied and beautiful character of so much of this state.*

It is also extremely disappointing that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. Currently, there is nothing to guide Councils when making discretionary decisions, (unless in Discretionary Land Use decision as at 6.10.2b).

Recommendation: Amend section 6.10.2 of the SPPs to read:

6.10.2 In determining an application for a permit for a Discretionary use "**and development**" the planning authority must, in addition to the matters referred to in sub-clause 6.10.1 of this planning scheme, "**demonstrate compliance with"**:

(a) the purpose of the applicable zone;

(b) any relevant local area objective for the applicable zone;

(c) the purpose of any applicable code;

(d) the purpose of any applicable specific area plan;

(e) any relevant local area objective for any applicable specific area plan; and

(f) the requirements of any site-specific qualification, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

Thank you for considering our submission.

Ben Marshall – Chair – SOLVE – Supporting Our Loongana Valley Environment.

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Scoping the State Planning Provisions Review

Thank you for the opportunity to comment on the review of the State Planning Provisions (SPPs). I can advise that the Department of Natural Resources and Environment Tasmania (the Department) has reviewed the SPPs and has the following comments to make. Detailed commentary on the SPPs is provided in the Attachment.

Heritage provisions

The Department supports the general approach of the SPPs to provide an overarching State planning framework for Tasmania and a consistent Local Historic Heritage Code ('the Code') for the protection of local heritage. The Department has some reservations regarding certain aspects of the Code and wishes to reiterate some of the issues raised in its previous representation made on 25 May 2016. These are detailed in the relevant sections of the Attachment.

Zone Provisions for Forestry

The Department is of the view that none of the current 23 Zones neatly apply to either the Permanent Timber Production Zone (PTPZ) or Future Potential Production Forest (FPPF) land tenure. For context, there are 812 000 hectares of PTPZ land in Tasmania and an additional 356 000 hectares of FPPF land (outside of the Tasmanian Wilderness World Heritage Area). Together, these land tenures cover over 15 per cent of Tasmania's total land area. Given the scale and spread of FPPF and PTPZ land across the State, it is the Department's view that the SPP review process offers an opportunity to consider the zoning framework for these Crown land tenure types.

While the limitations of the interim planning scheme are acknowledged, the former Rural Resources Zone was beneficial from a forest policy perspective as its purpose was "to provide for the sustainable use or development of resources for agriculture, aquaculture, **forestry,** mining and other primary industries, including opportunities for resource processing."

Under the Tasmanian Planning Scheme (TPS), while resources development is a permitted use within the Rural Zone it is less explicit in its stated purpose (i.e. industries such as forestry are not named up).

While it is acknowledged that this review is not considering where zones are applied in Local Provision Schedules, a lack of clarify within the SPP is resulting in zoning being applied (or being proposed for application) inconsistently to FPPF and PTPZ parcels. This is occurring both within and across municipalities. We also understand from officer-level discussions with colleagues at Private Forest Tasmania (PFT) that zones are also often inconsistently applied to Private Timber Reserves. On this point I am advised that PFT is intending to make its own submission to the SPP review as an independent statutory body.

While forestry is essentially exempt from the *Land Use Planning & Approvals Act 1993* (LUPAA), it remains the Department's view that the zoning of PTPZ and FPPF land should be consistent with the Government's policy objections for the management of such land as provided for in the *Forest Management Act 2013* and the *Forestry (Rebuilding the Forest Industry) Act 2014* respectively. Under the current SPP, the Rural Zone – while not an ideal fit based on the zone's current purpose as stated in the SPP – is the most appropriate zoning for PTPZ and FFPF land.

Consideration of this matter, as part of either the SPP review process, or more broadly within the program of work underway by the State Planning Office would be welcomed.

The Department notes that the SPP Summary of Issues paper refers to issues previously raised about forestry provisions. There are several comments within the paper (p. 12) that relate to the interaction between the Natural Assest Code and the forest practices system. It is understood that the Forest Practices Authority's Chief Forest Practices Officer has provided a response directly to the State Planning Office on some of these matters. The Department would appreciate the opportunity to be involved in subsequent discussions on these issues to ensure that any amendments to the SPP are appropriately considered from both a regulatory and a policy perspective.

Aquaculture and the SPPs

The Department notes that while marine farming (aquaculture) is managed under separate legislation (*Marine Farming Planning Act 1995*) aquaculture is defined in the TPS as '*use of land to keep or breed aquatic animals, or cultivate or propagate aquatic plants, and inc. the use of tanks or impoundments on land*'. This definition captures land-based aquaculture activities and shore-based facilities that support marine aquaculture enterprises.

Land based aquaculture enterprises have specific needs with high water/ space and energy demands and the Department would be interested in exploring the viability of existing zones and codes to meet the demands of any future land-based aquaculture enterprises.

Similarly a discussion about the application of existing zones and codes on land surrounding existing marine farming activities to minimise conflict may be warranted.

Proposed amendments to the *National Parks and Reserves Management Act 2002* (NPRM Act)

The Department notes that there was no acknowledgement in the SPPs Scoping Paper that the TPS operates alongside the Tasmanian Parks and Wildlife Service (PWS) Reserve Activity Assessment (RAA) process, policies and reserve management plans under the NPRM Act.

The Tasmanian Government has announced proposed amendments to the NPRM Act dealing with an environmental assessment process in place of the LUPAA planning permit process for some proposals on reserve land made under the *Nature Conservation Act 2002* (NCA). The proposed amendments will affect the operation of the TPS on reserves. The proposed amendments will include the removal of duplication of the assessment process for major developments from LUPAA.

Currently the Environmental Management Zone SPP refers to an acceptable solution *"if an authority under the NPRM Regs is granted by the Managing Authority"*. This will need to be amended to align with current reforms to the RAA process e.g. when a PWS authority decision is not yet made or when multiple PWS authorities are required (not necessarily including an authority under the NPRM Regulations), or when PWS refuses to issue an authority thus informing Council not to issue a planning permit. The zone and codes will also need to be amended when the amendments to the NPRM Act are made.

The Department looks forward to working with the State Planning Office to review the SPPs as the NPRM Act amendments are being developed. The timetable is likely Quarter 4 2022 into Quarter 2 2023. The State Planning Office will need to consider the extent and requirement for public consultation and hearings in view of the non-minor amendments that may be required to the SPPs.

Reserved land – application of Environmental Management Zone (EMZ)

The issue of the inconsistent application of the EMZ to reserved land and public reserves persists. Whilst the Tasmanian Planning Commisison Guideline No. 1 Local Provisions Schedule: zone and code application clearly requires reserved land under the NCA Act and public reserves under the *Crown Lands Act 1976* (CL Act) to be included in the EMZ, the EMZ has not been applied consistently to these land classes by all councils.

Under the structure of the TPS, the implications of not zoning reserved land or public reserves as EMZ include:

- Conflicts with the Department's responsibility for administering the relevant legislation for reserved land and public reserves.
- Duplication of assessment between the PWS RAA process and the SPPs.
- Restriction of PWS reserve management works by loss of the 'no permit required' pathway provided for in the EMZ for the 'natural and cultural values' use (within which most routine PWS works would be included).
- Potential loss of Standards that seek to conserve natural and cultural values (e.g. those standards contained within the EMZ and applicable codes).

In addition, the Department suggests a change to the language used in EMZ 23.1 Zone Purpose (refer to the Attachment).

The purpose of the EMZ (23.1.2) is to allow for compatible use or development where it is consistent with:

(a) the protection, conservation and management of the values of the land; and

(b) applicable reserved land management objectives and objectives of reserve management plans.

Some activities are likely to be consistent with the management objectives for that reserve class, or a management plan, under the NPRM Act yet incompatible with the strict 'protection, conservation, and management' of the values required in 23.1.2 (a).

For example, works may require the taking of plants, removal of timber or minerals, or interfere with wildlife; and are consistent with the management objectives of a particular reserve classes. The Department would welcome the opportunity to be involved in further discussions on this issue with the State Planning Office.

Reserved land – application of Natural Assets Code

The Department notes that the Natural Assets Code (NAC) is generally applied to reserved land. The NAC does not contain a standard recognising the prior granting of an authority under the NPRM Regulations or approval under the CLA.

In certain circumstances the application of the NAC to reserved land may duplicate assessment of natural values, despite these matters already being assessed in the RAA process.

Furthermore, while a third party use or development on reserved land may be permitted by way of the EMZ Use Table and standards, the limited acceptable solutions under the NAC may trigger a discretionary application.

The Department has complex examples of the interaction between the current TPS SPPs and the CLA & NPRM Act (RAA process) and third party environmental impact assessment processes (*Environmental Management and Pollution Control Act 1994*, *Environmental Protection and Biodiversity Conservation Act 1999*, *Major Intrastructure Development Approvals Act 1997*, and Major Projects assessments under LUPAA). The Department would appreciate the opportunity to workshop these with the State Planning Office.

Thank you for the opportunity to contribute to this important review of the SPPs.

If you have any further questions on this matter please contact [redacted]

[redacted]

Jason Jacobi
Acting Secretary

11 August 2022

Attachment: State Planning Provisions – Scoping Reivew – Department of Natural Resources and Environment Tamania's comments (August 2022)

State Planning Provisions – Scoping Review – Department of Natural Resources and Environment Tasmania's comments (August 2022)

Section	Clause / Provision	Comment
General comments	-	The quick 'Click for definition' links on *iplan* was very valuable in assisting practitioners and the public navigate the Defined Terms of the Interim Schemes. NRE Tas recommends this feature be re-introduced.
		Support the suggestion of introducing a Filling and Excavation Code addressing: • impacts on character and amenity; • stability and appearance (including retaining walls); • environmental impact; • flooding and drainage; • management of stockpiles; and • impacts on infrastructure, public utilities and easements.
		Impact of zoning changes downstream of existing dams and impacts on dam risk rating of existing dams with changes of downstream zones. Investigate inclusion in the Flood-Prone Areas Hazard Code?
		Suggest requirement for councils to develop Specific Area Plans for karst (See Meander Valley TPS) and acid sulfate soils management. Given the particularities of karst landscapes, including those on reserved land, there may be merit in a specific karst management code, similar to the current Meander Valley Specific Area Plan.
		The Container Refund Scheme (CRS) team within the Department of Natural Resources and Environment Tasmania (NRE Tas) working with the State Planning Office (SPO) to examine how the current planning schemes (via the SPPs) would allow for the establishment of CRS refund points. In other jurisdictions there has been the need to alter planning provision/schemes to account for the nature of the refund points (resource recovery/recycling infrastructure in places where it may not usually be permitted – e.g., supermarket carparks, etc). While this is a project/product specific matter, it points to the need for SPPs to account for the future growth in waste and resource recovery infrastructure in Tasmania and in the infrastructure and networks that will sustain that sector.
		It is critical that any strategic planning for waste and resource recovery by councils is informed and supported by appropriate and supportive provisions in the SPPs. Local Government makes up one of the largest parts of the waste sector in Tasmania, particularly in relation to Municipal Solid Waste and resource recovery related to that waste stream.

		It is important that the SPPs set an appropriate framework for the development of not only the larger examples of waste and resource recovery infrastructure (e.g., material recovery facilities, transfer stations, resource recovery businesses), but other relevant aspects of the waste and recovery supply chain. This would include but not be limited to: • transport routes; • allowable business/industry types in appropriate zones; • waste and recovery infrastructure in high-density housing developments (collection points for three or more bin systems, etc.); and • consideration of novel and emerging technologies such as Automated Underground Waste Collection (https://www.infrastructure.gov.au/territories-regions-cities/cities/smart-cities/collaboration-platform/Underground-waste-collection) and local microfactories (https://www.anzrp.com.au/anzrp-to-build-worlds-first-commercial-e-waste-plastic-micro-factory/).
		All references to DPIPWE should be updated to refer to the Department of Natural Resources and Environment Tasmania (NRE Tas)
		TASVEG 3.0 has been superseded by TASVEG 4.0, all references to TASVEG 3.0 should be updated.
	Off-site impacts on reserved land	It is possible that use or development can generate off-site impacts on reserved land (e.g., exterior light spill which may affect bird habitat, impact of stormwater on downstream receiving bodies, recreational tracks leading onto reserved land). There are currently no standards addressing potential off-site impacts of use or development on land outside the EMZ, on the values of reserved land. Although information is sought on potential impacts where use or development is adjacent to reserved land, the degree to which it can be considered in decision-making is somewhat limited. Consideration could be given to including additional clauses in relevant performance criteria to consider off-site or downstream impacts on reserved land.
4.0 Exemptions	4.0.3 Exemptions	Support the issue identified in 'Summary of Issues Paper' that some of the exemptions in the SPPs should include a full range of limitations expressed in Planning Directive No.1 (e.g. heritage, scenic, threatened vegetation, wetlands and watercourses, potentially contaminated land, salinity, and landslip).
	4.0.3 Actively mobile landforms	The Summary paper identifies the need to clarify what "actively mobile landforms" are, particularly in limiting the exemptions. NRE Tas can assist in identifying these landforms.
	4.4.1 (e) Vegetation exemptions	It is recommended that descriptors for this exemption be better defined to enable the exemption to apply.

	4.4.1 (f)	Under clause 4.4.1(f), vegetation removal within 2m of lawfully constructed buildings and infrastructure for maintenance and repair could allow private landowners to remove significant trees or heritage gardens. The provisions do not allow protection of vegetation protected under other parts of the SPPs, including the Scenic Protection Code, Local Historic Heritage Code and the Natural Assets Code.
	4.3.9 Ag buildings in Rural/Ag Zone	Support the line item in the Summary Paper that the exemption for "agricultural works" should exclude works subject to the Natural Assets Code (see also comments on application of NAC in 21.0 Agriculture Zone).
6.0 Assessment of an Application for Use or Development	6.11.2	Consider listing landscaping and vegetation protection along with the other condition options noted.
7.0 General Provisions	7.4 Change of Use of a Place listed on the Tasmanian Heritage Register or a Local Heritage Place	Issue raised in the Summary paper (p8) states that any 'Change of Use' under this clause, "*Should require the preparation of a heritage impact statement and conservation management plan.*" The position of NRE Tas is that a Heritage Impact Statement should be a mandatory requirement for any application under this Clause, but a Conservation Management Plan should not be required.
11.0 Rural Living Zone	11.4 Development Standards	Part of the purpose of the Rural Living Zone is *to provide for residential use or development in a rural setting where existing natural and landscape values are to be retained* (11.1.1[b]). However, none of the Acceptable Solutions provide for the retention of existing natural and landscape values. NRE Tas recommends re-instating such measures.
12.0 Village Zone	General	Consideration could be given to including a development standard(s) that encourages the retention of native vegetation. This does not need to overly prohibit development and can be directly linked to the zone purpose statements regarding promoting the amenity of small rural centres.
21.0 Agriculture Zone	Removal of PVAO	It is recommended that the Priority Vegetation Area Overlay (PVAO) should apply to land in the Agriculture Zone. See discussion in C7.2.1 Natural Assets Code.
22.0 Landscape Conservation Zone	General	Recommend that as conservation covenants may be present within the zone that they be referenced in the development standards for buildings, works and subdivision. See, for example, Meander Valley's *Particular Purpose Zone - Natural Living (Larcombes Road)* (MEA-P1.0).
	22.5.1 P1 (c)	This performance criterion should also include the consideration of existing vegetation corridor(s).

	Lot design	
23.0 Environmental Management Zone	23.1 Zone Purpose	There is an inconsistency between several uses that can occur in a reserve with an authority under the *National Parks and Reserves Management Regulations 2019* (NPRM Regulations) and the purpose of the EMZ. Suggest the replacement of 'and' with 'or' at the end of 23.1.2(a), and the EMZ purpose should more clearly recognise the primacy of plans and objectives of the NPRMA Act (see discussion in NRE Tas submission).
	23.2 Use Table	All references to Authorities granted under the *National Parks and Reserved Land Regulations 2009* should refer to the *National Parks and Reserves Management Regulations 2019*.
C1.0 Signs Code	Table C1.4 Exempt Signs	It is unclear whether Parks and Wildlife Service (PWS) signage on reserved land is exempt. Given the volume of PWS signage installed and replaced on reserved land throughout Tasmania, and the critical role of these signs in reserve management, the signage code should be reviewed to confirm PWS reserve management signage is exempt. Signage is not explicitly included in the exemptions for minor exemptions at cl 4.2.7 of the SPPs. PWS signage would be classified under the 'use' of natural and cultural values management. In the EMZ, 'natural and cultural values management would be no permit required', meaning if that signage does not require a permit elsewhere within the planning scheme (including a code), then no permit is required for that use or development. However, the majority of PWS entry signs under the current PWS style guide, do not appear to be exempt sign types under C1.4 of the Signage Code. PWS signs are similar to 'ground based signs' under C1.3. In some instances, and depending on content, they may also be 'regulatory signs' under C1.3. The defined 'regulatory sign' (C1.3) are exempt signs type under C1.4. but 'ground based signs' are not.
C6.0 Local Historic Heritage Code	Language 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. 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 the Code	NRE Tas acknowledges the 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 also acknowledged that the Code will only apply to local heritage places in *part* of the State until appropriate resources are channelled into local heritage studies, planning scheme amendments to populate local heritage lists and local heritage advisory services.
	C6.4 Development	NRE Tas recommends that items (e) and (f) be removed from this section. This point was made in the Heritage Council's 2016 representation but was not ratified in the adopted version of the SPPs.

Exempt from this Code Table 6.4.1 Exempt Development Development involving a place or precinct of archaeological potential	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 20m^2. NRE Tas is concerned that the inclusion of these exemptions in the Code has the potential to result in unmitigated impacts on significant archaeological resources.
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 that outline different performance criteria that relate to each. The reason for this suggestion is that the complete demolition of a heritage building has an irreversible impact and should be subject to more stringent threshold than what is proposed in the Code. The Tasmanian Heritage Council's Works Guidelines (section 6. Demolition, Relocation and Moveable Heritage) offers some guidance on appropriate outcomes for partial demolition, total demolition and relocating buildings. This point was made in the Heritage Council's 2016 representation but was not ratified in the adopted version of the SPPs.
C6.6.5 Fences	The language used in this clause is problematic and too ambiguous leaving the wording open to a very liberal interpretation. It could benefit from re-wording. The Heritage Council's Works Guidelines (section 12. Residential Fences and Gates) offer a good example of appropriate wording to achieve positive heritage outcomes. 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.
C6.6.6 Roof form and materials	The language used in this clause is problematic and too ambiguous leaving the wording open to a very liberal interpretation. It could benefit from re-wording. The Heritage Council's Works Guidelines (section 1.2 'Roofs – cladding replacement') offer an appropriate heritage response to roofing for heritage buildings. 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 C6.6.3 Height and Bulk of buildings C6.6.7 Building alterations, excluding roof form and materials	These Clauses could benefit from some re-wording to avoid adverse conservation outcomes. NRE Tas would like to work with the SPO to achieve this aim.
C7.0 Natural Assets Code	General	NRE Tas supports the SPPs facilitating an adaptive best-practice approach, noting that new data is becoming available all the time (i.e., TASVEG ground-truthing resulting in updated TASVEG map releases; new threatened species records in the NVA).
		Support the suggestion in the Summary document (p12) of reviewing Natural Assets Code (NAC) to: • recognise the Regional Ecosystem Model as the basis for the Priority Vegetation overlay. • review the composition of the Regional Ecosystem Model to ensure it provides a suitable data base to deliver the functions and protections of the Natural Assets Code, RMPS and the Act. NRE Tas would like to work with the SPO on finding ways to ensure that the data used for setting overlays is up to date, accurate and correctly applied.
	C7.1 Code purpose	Any redefinition of *natural assets* should be reflected in revision of the code purpose statements.
	C7.1.1	This is a complicated statement. Suggest rewording to: *To minimise impacts on native riparian vegetation, river condition and the natural ecological function of watercourses, wetlands and lakes.*
	C7.2.1 Application of NAC	It is recommended that the Priority Vegetation Area Overlay should apply to land in the Agriculture Zone. This would appear to be consistent with the objectives of the Resource Management and Planning System (RMPS), (as outlined in Schedule 1 of LUPAA) to promote sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity including clause 2(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

		There are many Threatened Native Vegetation Communities (TNVC) and threatened flora records within land currently zoned for Agriculture under the SPPs. While the SPPs guide states that, 'Clearing of priority vegetation in the Agriculture Zone is managed through the forest practices process under the *Forest Practices Act 1985*', this does not take into consideration circumstances where no forest practices plan is required e.g. clearing vegetation up to 1 hectare per property per year provided it does not include 'vulnerable land' or clearing for any type of building and works in the Zone. These are areas which could contain threatened flora species but are not required to have natural values surveys undertaken for development planning applications. As such, there are potentially threatened flora species likely to be cleared unknowingly from these parcels of land.
	C7.3.1 Definitions	*Natural assets* The definition of natural assets is very limited and largely focused upon water, with no mention of geodiversity, ecological processes or other essential ecosystem services (e.g., productive soils, carbon sequestration). Introduction of a more comprehensive definition is recommended.
	C7.3.1 C7.6.1(A3) Definitions	*Priority vegetation* Suggest removing reference to 'integral' as the intent should be to include all Threatened Native Vegetation Communities (which by definition already excludes less 'integral' vegetation)
		Significant habitat The 'high priority' measure utilised in (a) should be clearly defined. The definition currently only considers breeding habitat and breeding populations. Foraging and dispersal habitat can be important and should also have consideration. The definition should also allow for the protection of remnant vegetation, which is important to maintain habitat connectivity between larger patches of habitat and enable dispersal and geneflow between populations. The definition does not appear to include eagle nests which are a layer in the LIST and should be considered significant threatened fauna habitat.
		The NAC may not adequately address the impact of stormwater on reserved land due to the limited spatial extent of the NAC overlays. At 7.6.1A3/P3, the NAC manages the impacts of stormwater from development within a 'waterway', 'coastal protection area' or a 'future coastal refugia area'. This standard may be sufficient to manage downstream impacts in these overlay areas. However, outside these overlays, there appears to be few standards addressing the potential impact of storm water on reserved land (where it is a receiving body).
	Application on Reserved land	Application of the NAC on land reserved under the *Nature Conservation Act 2002* (NCA) (reserved land) is likely to give rise to duplication of assessment between the Reserve Activity Assessment (RAA) process and the TPS and may also block what would otherwise be a permitted pathway for authorised reserved land use and development.

		To reduce duplication, a mechanism recognising the granting of an authority under the NPRM Regulations should be included in the NAC (e.g., an additional clause within an acceptable solution).
	Application on Crown land	Application of the NAC on Crown land to which the *Crown Lands Act 1976* (Crown land) applies is supported. The Crown land assessment processes, often undertaken for the purposes of providing Crown landowner consent for planning permit applications to Councils, is different to that undertaken for reserved land and NRE Tas currently relies on the planning process to ensure appropriate environmental impact assessment is undertaken. After the planning process, including public exhibition if appropriate, has run NRE Tas is afforded the opportunity to impose conditions and obtain further information, if required, at the works/grant of authority/lease or licence agreement stage. Currently, NRE Tas relies on the Council planning process to address some environmental issues prior to providing a final authority in the form of a lease for example. Due to the large numbers of Crown landowner consent applications NRE Tas receives, and the variety of land types they pertain to (from undisturbed foreshore reserves to very built up, urban and industrial areas), this approach allows NRE Tas to manage the risks and workload appropriately.
	LP1.7.5 Code Overlay Maps	(c)(iii) states that significant habitat for threatened fauna must be derived from threatened fauna records in the Natural Values Atlas (NVA). It appears this does not allow for the consideration of the Wedge-tailed Eagle nest habitat model layers available on LISTmap. These layers indicate the likelihood of unrecorded nests occurring in a given area. (c)(ii) and (iii) – it is unclear how the PVAO allows for threatened species occurring in areas that have not been surveyed, i.e., areas that do not show records of threatened species. It is recommended that the requirement for additional surveys be included as required.
	LP1.7.5 Code Overlay Maps Recognition of authority granted by managing authority	It is unclear how disturbance buffers for threatened fauna are considered. For example, a disturbance buffer of 500m direct distance and 1km line-of-sight should be applied to all active eagle nests.
		Many records in the Natural Values Atlas have a low location accuracy as they are older records. It is unclear how this is accounted for in the mapping of the PVAO. Agreed buffer distances should apply to known records.
		It has been noted above that conservation covenants were not always considered in the application of the zoning and the PVAO. As these are legally binding agreements between landowners and the Tasmanian Government under the NCA to protect conservation values, usually in perpetuity, they should be recognised, consistent with other reserve classes under the NCA.
		NRE Tas recommends that more guidance be provide on how to implement the PVAO to ensure that critical habitat is covered, for example: • Information on nest sites of the Masked Owl and Swift Parrot is available on the NVA, but this involves interrogation of the threatened fauna records.

		Swift Parrots need hollow-bearing trees to breed. These are not confined to specific vegetation communities. Information on hollow-bearing trees is not available on the NVA.
C8.0 Scenic Protection Code		Application of the Scenic Protection Code (SPC) on reserved land is likely to give rise to duplication of assessment between the RAA and SPP and may block the permitted pathway for authorised reserved land use and development. To reduce duplication, a mechanism recognising the granting of an authority under the Regulations should be included in the SPP (e.g., an additional clause within an acceptable solution). Furthermore, while a third party use or development on reserved land may be permitted by way of the EMZ Use Table and standards, the limited acceptable solutions under the SPC may trigger a discretionary application.
C13.0 Bushfire-Prone Areas Code	C13.6 A1 (c)	NRE Tas proposes that reserved land should not be included in hazard management areas. Reserved land should be excluded from the acceptable solution (C13.6 A1 (c)), and/or trigger the performance criteria (C13.6 P1) so that the inclusion of reserved land triggers a discretionary application. The acceptable solution allows for hazard management areas on land outside the development site to be included in a bushfire hazard management plan. It recognises the primacy of landowner consent to this approach (e.g., written consent, Part V Agreement) and the establishment of hazard management areas on Reserved land is generally not supported by PWS policy. However, where this approach is deviated from, the public should have an opportunity to comment on this matter. NRE Tas has been experiencing similar issues with Crown land being impacted by the bushfire hazard management (BFHM) provisions of the SPPs. The issue is that in the post-planning phase it is being identified that proposed BFHM zones extend onto adjoining Crown land, and Future Potential Production Forest. While the SPPs do address the need for BFHM within subdivision developments, however but a new house on an existing vacant lot, is now left to the building stage. This can leave developers having to re-design and go through planning again if the adjoining land isn't able to be sold (due to a prohibition, relating to the type of tenure or due to the Minister not wishing to sell) or if a licence isn't suitable (i.e. is a temporary licence suitable for a house with a 50+ year lifespan) or agreeable.

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

Gwenda Sheridan
[redacted]

August 2022

The State Planning Provisions: A critique

Dear Planning Office and related,

This is a response to the Government/State Planning Office call for comments re the State Planning Provisions (or the Tasmanian Planning Scheme).

It has been done in dot-points, but it is important too, to read both Appendices.

Headings for dot-points are as follows: Heritage, Government, State Planning Provisions.

Heritage:

- The heritage of place(s) is connected to everything; the natural, cultural, social, perceptual and aesthetic environments. Heritage is therefore connected to everything that is a recognised Land Use.

- Tasmanian land has evolved and is a very ancient land with a series of very diverse, very beautiful, but with very different landscapes that occur on this relatively small island.

- Landscape(s) and place(s) are what matters. It's what tourists come to see.

- Place and character of place(s) must be restored into the SPP and thence into local planning schemes.

- The Burra Charter (2013) must be placed in State planning decision making and in local planning schemes.

- The character of place is critical in decision making where new development is to the considered.

- Land and place evolves whether it has the human component as part of it or not. It's been doing that for millions of years.

- Viewscapes and scenic views are not cultural landscapes. They are quite different. It is a "seen" view, one not necessarily involved with any knowledge or history of land occupation.

- The Australian Government Productivity Commission's Inquiry Report: *Conservation of Australia's Historic Heritage Places* signalled that the Commonwealth (by 2006) would no longer honour the Register of the National Estate.

- This was a disaster for Tasmania. The "new" Government here in 2014, abrogated that responsibility in my view and passed it down to local government.

- Heritage has to become much more of a state government responsibility.

- From 2014 forwards with the Liberal Government in power, heritage was all but ignored in the "new" planning system. Appendix 1, provides insights as to why this happened.

- It was a mantra of growth and more growth, irrespective of how, or if, the environment and or its heritage would be respected. Then included in the responsible way it should been (See Appendix 1).

- Place matters, character of place is critical to understand for regulatory authorities.

- Culturally evolved landscape(s) are a part of that. The Tasmanian Government needs to understand, then properly include cultural landscape into the SPPs. They are recognised nationally and internationally.

- As David Yenken[1] quoting Gough Whitlam noted, "The Australian Government should see itself as the curator not the liquidator of the national estate."

- The current Government as I see it, is intent on going for the liquidation end of the national estate and Tasmania's vast heritage.

- It appears to not only not recognise the heritage of so many heritage properties, but it fails to understand that the land which surrounds built form, includes views and prospects (e.g. outwards), gardens, orchards, paddocks,

[1] Yencken David. *Valuing Australia's National Heritage.* Future Leaders. 2019

old trees etc.; this all a contributing part of what the "heritage" of that place entails.

- the Burra Charter indicates this clearly. That Charter used nationally and internationally must be put into every local government planning scheme. It must become part of the State Planning Provisions.

- It is very disconcerting in my view that a state with a population as small as this one, can think of potentially funding $750 million to build one stadium for the AFL. This on the Queen's Domain, a most historic venue. Particularly when it doesn't fund its heritage department adequately and there are so many much more urgent community needs.

- The comments raised by the President of ICOMOS Australia,[2] (2016) are most relevant in 2022. That letter is attached to this submission.

Government:

- We need legislation that works for us now in the 21st century; it ought not be hundreds of pages long and constantly changing. This re the Land Use Planning and Approvals Act 1993, and then ditto The State Planning Provisions.

- What we currently have has to change.

- Currently it is weighted far too far across to the development-at-all- costs side.

- It cannot continue like this; because it simply does not acknowledge what Schedule 1 of LUPPA demands.

- Big is not necessarily better in this state.

- Government has to ameliorate its outdated thinking that the environment and or heritage are of little or no consequence.

- My view is that the current Government made a grave mistake in 2014 when it ushered in what it called a "Fairer, Faster, Cheaper, Simpler" model of planning. (See Appendix 1)

- It is neither fairer, nor faster and is certainly not simpler.

- It serves as a splendid example of what NOT to do in respect of planning.

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[2] International Council on Monuments and Sites; the world heritage body that reports to UNESCO and the IUCN.

- Planning is complex, and that has not been understood by many politicians.

- Tasmania as I understand it, is the only jurisdiction that does not have a State Planning Department at arms-length from the Government of the day. Currently the "planning office" is embedded in the Office of the Premier. This is considered utterly nonsensical.

The State Planning Provisions, (see also Appendix 2).

1. The character of place is critical in decision making where new development is to the considered.

2. Because Tasmania has never had an independent Department of Planning, Heritage has never really been joined closely to it. They operate quite separately as though one is not important, (ie heritage).

3. This also means that LUPAA Schedule 1 Part 2 (g) is simply ignored.

4. In fact, when the "new Planning Scheme" was mooted and then carried through from 2014, Schedule 1, Parts 1 and 2 have almost always been ignored, particularly Part 1.

5. That cannot be allowed to continue.

6. It must be rectified and attended to urgently.

7. Tasmania desperately needs a new updated Heritage Act.

8. One that makes provision for cultural landscapes.

9. What the State Planning Provisions have done is to provide a mechanical-like single template to be inserted across the entire state. This at local government level. What this will do, is doing, is to take away the diversity that was there and simply put in its place, a pattern of sameness for every place. This is NOT planning.

10. For example, quite small historic towns in Tasmania are currently not recognised as being very special in an historical (and landscape) sense; every one of them quite unique. Currently the urban-city oriented SPP regulations have to be used for them just as they are for an urban suburb such as Kingston. This is what the SPP allows.

11. This is considered the quickest way to absolutely wreck the wonderful diversity in places that made Tasmania what the visitors come to see. They don't come to see what they can see in outer Western Sydney, Melbourne or Kingston.

12. The Productivity Commission Report of 2011, remains relevant (See Appendix 2). Given then were two triangles one inverted. The inverted one put Strategy as being the most important, (Goal for Planning Effort) the other, showing Development Assessment as being the most important, this labelled as "The Current Planning Effort." Tasmania still adheres to development assessment as being the most important.

13. Strategy is all but ignored. Still, there are only three State Policies, all out of date.

14. Tasmanian Planning Policies, (whenever they emerge?) will not do. This because they have to come "under" the State Planning Provisions, rather than informing how these Provisions ought to be formulated in the first place.

15. Again, the Productivity Commission is useful. It noted, "in the extreme, planning systems suffer on the one hand, from planners who try to prescriptively determine how every square metre of land will be used" (etc, See Appendix 2).

16. This above in 15 is exactly what the Government apparently wanted for its "fairer, faster, cheaper, simpler" model.

17. Documents such as the SPP, must display a balance between environment-heritage and then development-growth, in the regulatory management of it all.

18. Currently there is no balance.

19. PD. 4.1 when it first appeared in 2014 was well on track to implement what the "new" government wanted. It was the forerunner of the present State Planning Provisions.

20. Appendix 1 offers some insights into what the Government put forward in 2014. Please read carefully. Politics and planning should not happen in the way it has happened in Tasmania.

21. Given what we now have across the state; the vital strategy required planning work is missing.

Appendix 1.

A Majority Liberal Government[3] has a plan to

fix the Labor-Green planning mess:

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

State policies to provide consistency

We will commence drafting state policies to provide the necessary guidance to councils.

Where are they?

A fairer planning system

Cracking down on third party appeals

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

Ministerial call-in powers

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

A faster planning system

24 hour approvals

Shorter assessment timeframes

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

A cheaper planning system

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

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[3] Tasmanian Liberals: A fairer, faster, cheaper, simpler planning system. A Majority Liberal Government has a plan to fix the Labor-Green planning mess. See https://nla.gov.au/nla.obj-1382203604/view

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

In-principle approval for major developments

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

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

Costings

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

Various URL sites are useful.

https://nla.gov.au/nla.obj-1382203604/view

https://www.premier.tas.gov.au/releases/delivering_on_our_commitment_to_make_planning_faster,_fairer,_simpler_and_cheaper 24 September 2015

https://www.tasconservation.org.au/tas-conservationist/2014/11/10/planning-reform-november-2014

https://www.planning.org.au/documents/item/6244

Appendix 2

A very potted relevant history: When I entered planning in Tasmania in the 1980s planning occurred under the Local Government. I subsequently witnessed the suite of legislation of 1993 with a then planning scheme act that that was 67 pages. Now the Act is over 500 pages and the State Planning Provisions are 516 pages of convoluted, very complicated, intricate, mechanical, repetitive instructions with 23 zones and 16 codes.

The idea that it would be simpler and faster has proven to be nothing more than a myth.

Because of digitisation (and its slow response) it seems now impossible to actually download a local government entire planning scheme. Even to obtain a series of codes and or zones takes a long time. Time is now more than critical for persons wishing to access digitally their own local government planning scheme. Looking and assessing over 1,000 pages, (Act and SPP); who has time to do that?

The LUPA Act does not cover all land uses. It is very selective. If the Act is looked at, Forestry, Mining, Fishing are all exempted from LUPAA. Tourism is not there as a land use either, but given Cambria Green, (and its intended scope etc) it ought to be.

This situation is seen by this author as a most unsatisfactory manner in which to conduct the state's planning regime. It has to change.

Environment and the SPP:

Global warming is said to be the existential crisis that the world (and Tasmania) faces. So where is a State Planning Policy that addresses how the current SPP will address this enormous issue. So far, it is nowhere to be seen.

(Bill McGuire is emeritus professor of geophysical and climate hazards at University College London and was also an adviser to the UK government).

> McGuire finished writing *Hothouse Earth* at the end of 2021. He includes many of the record high temperatures that had just afflicted the planet, including extremes that had struck the UK. A few months after he completed his manuscript, and as publication loomed, he found that many of those records had already been broken. "That is the trouble with writing a book about climate breakdown," says McGuire. "By the time it is published it is already out of date. That is how fast things are moving."[4]

The Government can either choose to deal with global warming or not. Currently the Tasmanian Government in my view is not dealing with it, certainly not where planning is concerned. It is urgently warranted.

Planning needs to be right at the front of global warming in respect of the State Planning Provisions. GLOBAL WARMING IS HERE.

Global warming needs to have urgent attention paid to it. It will affect all land-uses, all land, the natural environment, (topography, vegetation, water, ecosystems, soils, coasts, etc). As well, our cities and suburbs, (lots of grey roofed houses, little or no additional green spaces?) will also be impacted. Nothing will escape. Tasmania (as being done in Britain, Europe) needs a form of rewilding and regenerative agriculture.[5] Tasmania has a lot of "catching-up" to occur and rapidly.

Heritage and the SPP.

When the entire idea for a "new Planning system" was put into place, it appears to have totally forgotten that heritage of place existed, or that the environment was really an important (if not critical) element that had to be taken into account.

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[4] The Observer 31 July 2022, Robin McKie: Soon the world will be unrecognisable; is it still possible to prevent total climate meltdown? Bill McGuire's latest book *Hothouse Earth*…..

[5] I purchased George Monbiot's latest book: *Regenesis; Feeding the world without devouring the Planet*, 2022 some months back. This has been reviewed in the latest *PIA: Planning News: Vol 48 No 7, August 2022*, Laura Aston. P. 24.

Tasmanian land has evolved and is a very ancient land with a series of very diverse, very beautiful, but very different landscapes. Cultural landscape knowledge and assessment is not something the upper executive (or the government) appear to want to take on board. That puts Tasmania at a disadvantage compared with the Mainland states and internationally. As a land first settled by the First Nations' Peoples for thousands of years, followed by white people, (both the convict and free peoples), it was the second state settled (1803) after NSW (1788). It is a progression of change to landscape and what that evolution means. This is the key to understanding the state's heritage places and of what moving respectfully forward is.

Viewscapes, scenic views, are not cultural landscapes. Viewscapes, scenic views are parts of the land which people "view" from a high point or from a road, or perhaps from another vantage point at a particular time. It is a 'seen' experience but not one necessarily involved with any knowledge or history or of land occupation.

Cultural landscapes are as follows from Australian ICOMOS in 2021.

> ICOMOS:
>
> Below are some simple outlines from ICOMOS in a 2-page pamphlet issued by ICOMOS re Australia in recent past.[6]
>
> Cultural landscapes are all around us and are the result of the interaction of humans with their environment over many years.
>
> Many cultural landscapes are valued by communities because they:
> • show the evolution of settlement and societies
> • hold myths, legends, spiritual and symbolic meanings
> • are highly regarded for their beauty
> • tell us about societies' use of natural resources, past events and sustainable land-use
> • display landscape design and technology achievements.
>
> Some cultural landscapes should be protected for future generations.

In 2016 the then Australian President of ICOMOS[7] wrote to the Tasmanian Government in respect of what the then State Planning Provisions were then called (DTSPP) this specifically in response to the then Heritage Code. That letter is sent with this representation; so many of the concerns raised then are still not addressed in 2022 when this SPP is up for review.

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6 Understanding Cultural Landscapes: Australia-ICOMOS. A PDF document.

7 Australia ICOMOS. MS Kerime Danis, President Australia ICOMOS. To the TPC 17 May 2016.

This is because heritage was lost in my view after 2014; this is because heritage was never really joined at the hip to planning. They operate separately as though one is not important (ie. heritage).

This also means that LUPAA Schedule 1, Part 2 (g) is simply being ignored.

That cannot be allowed to continue.

It must be rectified and attended to urgently.

Tasmania desperately needs a new updated Heritage Act.

One that makes provision for cultural landscapes.

Tasmania's cultural landscapes will not "look after" themselves. Given that the Government have pursued a rapid course for development and growth at all costs, (see Appendix 1) *then landscapes of significant merit are being changed as we watch them. Those in rural areas are particularly at risk.*

Once the landscape of a place is changed; it is irreversible and cannot be put back.

For example, historic quite small towns in Tasmania are not recognised as being very special in an historical (and landscape) sense. Currently the urban-city SPP oriented regulations can be used for them just as they are for a suburb such as Kingston. This is a nonsense. A person buys up a block of land in or on the surrounds of the historic town; hey presto, then the same small lots of grey roofed houses, very close together, the same concrete-dominant surrounds can be put on the land. The lack of green spaces, trees, gardens, etc. disappears. This apparent "new" landscape change is irreversible such that it is death by a thousand cuts.

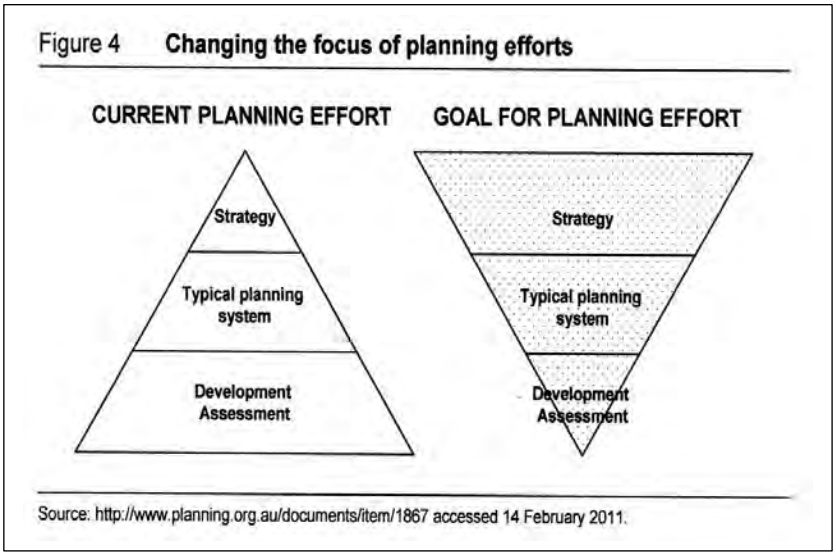
This is then what the current SPP allows. This is the quickest way to absolutely wreck what are more than two centuries of Tasmania's small towns. There has to be a much better planning approach to such places and small towns/historic villages. This is what tourists come to see. They don't come to see what they can see in outer Western Sydney, Melbourne or like Kingston Tasmania.

What the State Planning Provisions mean:

Apparently, this review of the SPP is only supposed to concentrate on this end of what has been radically changed since 2014. In 2015 I spoke to the Legislative Council and then in response to the then DSPP told them that the "cart" was before the horse". This had actually been taken from the Productivity Commission documents of 2011.

Sheridan (2015) put in considerable research concerning the then local government scheme; particularly related to the General Residential Code. The work of the Productivity Commission in 2011 formed a part of those representations. Much of what was written is still applicable in 2022.

This was the illustration given to the Legislative Councillors in 2015. Two councillors thought it more than amusing.[8]



What these two triangles are showing (plus inserts) was that the energy for change ought to be concentrated on the right-hand triangle. Tasmania by contrast has consistently stayed in what the left-hand triangle showed. All of the energy has been siphoned into Development Assessment.

Thus in 2022 the cart still seems to be before the horse. The public is being asked to comment on what is actually happening at the local government level (ie. SPP).

The State Planning Policies which might have theoretically provided at least some of the "strategy", some of the direction, and insights to move forward, did not. There are only three and they are all out of date. No new ones have emerged.

This a small insight into what the newly installed Government wrote in 2014: re State Policies: See Appendix 1.

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

This then was the crux of where Tasmania was headed and where the course of it subsequently went. Even back in 2011, the Productivity Commission made comments relevant to the present time. For example,

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[8] Part of the initial introduction to refer to the Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments. Productivity Commission Report Volume 1. April 2011 [I referred to this report as PCPZDA Report 2011). There are two volumes and 776 pages in these reports. See Leading practices XLIII

- In 200910 Tasmania was the only jurisdiction to leave land supply and planning entirely to the discretion of individual local councils.

Then too the Productivity Commission noted re the Council of City Lord Mayors,

> In Hobart there has been an absence of any real metropolitan or regional planning framework and the rate of growth has been relatively slow when compared with major cities on the mainland. As a consequence, there has been an approach of not pre-empting demand but more responding to increase needs as they reach a certain threshold. The failures of this approach and the absence of a coherent metropolitan plan are becoming increasingly evident with the unfettered growth in the south east beaches area that has placed increasing pressure on the road network.

Really? We might add there all the "unfettered" peri-urban growth from Sorell to New Norfolk, Brighton to Kingston, Margate, etc. etc. etc. transport all having to travel on the same 1950s road systems. Macquarie Street etc. is daily clogged with very large heavy vehicles that are travelling through a capital street of a city. This is just nonsense planning.

More from the Productivity Commission:

> Both infill and Greenfield developments are either irreversible or very difficult to reverse.... Originally the primary objective of planning was to segregate land uses which were considered incompatible; but today planning is being asked to serve much more complex objectives. In the extreme, planning systems suffer on the one hand, from planners who try to prescriptively determine how every square metre of land will be used and on the other hand, from developers who play a strategic game of buying relatively low-value land and attempting to rezone it to make a windfall gain.

This in my view is exactly what has happened re the State Planning Provisions, then copied by local government, etc. Tasmanian developers in my view, are having a "field day". The state gets more and more grey roofed houses, on midget blocks of land, so close to their neighbour, you would hear them cough. There are little or no additional green spaces added where children might play or kick a ball. This is then the 2014 government's vision of the "new" Tasmania and its landscapes.

Planning Directive 4.1.

The first apparent Planning Directive PD. 4.1 was issued in 2014 although something was issued in February of that year. The Labour Government was then still in power. A revised one or perhaps an alternate one came 18 June 2014. It was just 31 pages in length and didn't contain diagrams. The 18th June "try" was for the General

Residential Zone.[9] It was quite modest; the site area of dwellings had to be no less than 325m², [what had happened to 400 m², or even 600 m²?) protection of historic heritage was included plus protection of wetlands and watercourse and vegetation, and or areas subject to flood risk mentioned as well.

The second PD 4.1 was also dated on 18 June and had 100 pages. Zones of different colours were shown, followed by a few almost blank pages. These, where local government obvious was supposed to fill in, (A-Purpose and Objectives; B-Administration, Interpretation, General Exemptions Planning Scheme Operation etc. There were 32 zones allowable in this PD 4.1. Part E was for Codes, (none cited) Part F for Specific Area Plans, then Appendices. At 5.8 Strata Division entered the planning lexicon under the General Exemptions.

It is interesting to peer at what the Specific Area Plan was to look like

> 7.4 Operation of Specific Area Plans
>
> 7.4.1 Part F sets out specific area plans which plans identify areas either within a single zone or covered by a number of zones and set out in more detailed planning provisions for use of development in those areas.
>
> 7.4. Where there is a conflict between a provision in a specific area plan and a provision in a zone or code, the specific area plan provision prevails.

What just a short expose of these earlier documents tells us is exactly what PD 4.1 was about, and what it was to become. This might be called more than a skeletal framework of what became the Tasmanian Planning Scheme or SPP. It illustrates exactly what had been outlined in 2014 by the then incoming Liberal Government. It suggests that a great deal of work had already been completed about which the general public remained largely ignorant. By 2016 the first Tasmanian Planning Scheme had appeared online.

Author record: Sheridan has spent almost 40 years in planning, in heritage and assessing landscape. In fact, most of my working life. I'm a member of the Planning Institute of Australia, a Full-ICOMOS member (International Council on Monuments and Sites) and an A-ICOMOS-ISC-CL Australian member Cultural Landscapes, (International Scientific Council).

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[9] Issued by the Minister for Planning under S 13 (1) of LUPAA alterations to which had also come into effect on 18 June 2014.

State Planning Office
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

Phase 2 of the State Government's planning reform is underway and includes a review of the State Planning Provisions (SPPs), introduction of the Tasmanian Planning Policies, the creation of a regional land use planning framework, and a review of the three Regional Land Use Strategies.

The SPPs also require review for consistency with State Policies and the Tasmanian Planning Policies once they are finalised.

I thank you for the opportunity to comment on the review of the SPPs, noting that ALL SPPs are up for review. I also welcome the opportunity to recommend new provisions i.e. new codes and/ zones.

My submission covers:

- Who I am and why I care about planning;
- A summary of the SPP Review process;
- An overview of where the SPPs sit in the Tasmanian Planning Scheme;
- My concerns and recommendations regarding the SPPs; and
- Related general comments/concerns regarding the SPPs.

My concerns and recommendations regarding the SPPs cover 22 broad issues. I also endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions including which includes detailed submissions compiled by expert planners regarding three key areas: the *Natural Assets Code*, the *Local Historic Heritage Code* and the residential standards. Each of the three detailed submissions, have also been reviewed by a dedicated PMAT review subcommittee involving a total of 15 expert planners, environmental consultants and community advocates with relevant expertise.

I note that the *State Planning Provisions Review Scoping Paper* states that the State Planning Office will establish reference and consultative groups to assist with detailed projects and amendments associated with the SPPs. I request in the strongest possible terms that we should take part in these reference/consultative groups because group work has a stronger community voice It is vital to have a community voice in these processes.

Overall I are calling for the SPPs to be values-based, fair and equitable, informed by PMAT's Platform Principles, and for the SPPs to deliver the objectives of the *Land Use Planning and Approvals Act 1993*.

Planning affects every inch of Tasmania, on both private and public land, and our well-being: our homes, our neighbour's house, our local shops, work opportunities, schools, parks and transport

corridors. Planning shapes our cities, towns and rural landscapes. Well thought through strategic planning can build strong, thriving, healthy and sustainable communities.

Yours sincerely,

Daniel Steiner

Daniel Steiner
[redacted]
[redacted]

[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.

Who am I and why I care about Planning

- *My background is in surveying and planning. For over 35 years I worked in a private planning consultancy, and I'm now retired.*

  I know that good planning is one of the cornerstones of a good and just society.

  I wholeheartedly support PMAT's views and admire the initiative they have taken to spell out the complexity of the planning system and to help the community to understand it better.

  I support all recommendations made by PMAT and its contributors to this most thorough submission and know that the Tasmanian Planning system will be improved by the submissions recommendations.

  I share all concerns and recommendations in this submission.

  Kind regards

Daniel Steiner
dsabc@skymesh.com.au

SPP Review Process

The Tasmanian Government is currently seeking input to help scope the issues for the five yearly review of the State Planning Provisions (SPPs) in the Tasmanian Planning Scheme, which will be conducted over two stages.

The current review of the SPPs is the best chance the community has now to improve the planning system. The SPPs are not scheduled to be reviewed again until 2027.

As per the State Planning Office website '*The SPPs are the statewide set of consistent planning rules in the Tasmanian Planning Scheme, which are used for the assessment of applications for planning permits. The SPPs contain the planning rules for the 23 zones and 16 codes in the Tasmanian Planning Scheme, along with the administrative, general, and exemption provisions.* ***Regular review of the SPPs is best practice ensuring we implement constant improvement and keep pace with emerging planning issues and pressures.'***

The SPPs are now operational in 14 of Tasmania's 29 local council areas.

The State Planning Provisions Review Scoping Paper outlines the six steps of the review of the SPPs. Broadly speaking the review will be conducted in two stages as outlined below.

SPP Review - Stage 1 – SPP Scoping Issues

Public consultation is open from 25 May to 12 August 2022. This review or scoping exercise phase is known as Stage 1.

The aim of Stage 1 is to identify the State Planning Provisions that may require review, as well as if there is a need for any new State Planning Provisions. E.g. new Zones and/or Codes.

Stage 1 may include some amendments to the SPPs, before Stage 2 goes on to consider more substantive issues and the consistency of the SPPs with the Tasmanian Planning Policies. The State Planning Office may characterise those amendments to the SPPs which occur in Stage 1 (or step 3 in the Scoping paper diagram) as minor amendments not requiring public consultation. I/ am very interested as to how a "minor amendment" is defined and made?

SPP Review - Stage 2 – SPP Amendments

There is a legislative requirement for the State Planning Provisions to be revised for consistency with the Tasmanian Planning Policies, once approved.

The current Stage 1 scoping exercise, along with the approved Tasmanian Planning Policies, will inform draft amendments to the SPPs, which will be considered through the SPP amendment process prescribed under the *Land Use Planning and Approvals Act 1993*.

This process includes a 42 day period of public exhibition and independent review by the Tasmanian Planning Commission and may also include public hearings. I considers such public hearings facilitated by the Tasmanian Planning Commission are essential if the Tasmanian community is to be involved and understand our planning laws.

See flowchart for the SPP amendment process here. This review phase is known as Stage 2 and is likely to occur in 2023.

An overview of where the SPPs sit in the Tasmanian Planning Scheme

The State Government's new single statewide planning scheme, the Tasmanian Planning Scheme, will replace the planning schemes in each of the 29 local government areas. The Tasmanian Planning Scheme is now operational in 14 of Tasmania's 29 local government areas.

The new Tasmanian Planning Scheme has two parts:

1. A single set of State Planning Provisions (SPPs) that apply to the entire state on private and public land (except Commonwealth controlled land); and
2. Local planning rules, the Local Provisions Schedule (LPS) which apply the SPPs to each municipal area on both private and public land.

1. State Planning Provisions (SPPs)

The SPPs are the core of the Tasmanian Planning Scheme, they set the new planning rules and in my view are blunt planning instruments that are more likely to deliver homogenous and bland planning outcomes. The SPPs state how land can be used and developed and outline assessment criteria for new use and development. These rules set out 23 zones and 16 codes that may be applied by Councils under their LPSs. Not all zones or codes will be relevant to all Councils, for example in Hobart there will be no land zoned Agriculture, and in the Midlands there will be no land subject to the Coastal Inundation Hazard Code.

Read the current version of the SPPs here.

- **The Zones**: the 23 zones set the planning rules for use and development that occurs within each zone (i.e. applicable standards, specific exemptions, and tables showing the land uses that are allowed, allowable or prohibited - No Permit Required, Permitted, Discretionary or Prohibited). The zones are: General Residential, Inner Residential, Low Density Residential, Rural Living, Village, Urban Mixed Use, Local Business, General Business, Central Business, Commercial, Light Industrial; General Industrial, Rural, Agriculture, Landscape Conservation, Environmental Management Zone, Major Tourism, Port and Marine, Utilities, Community Purpose, Recreation, Open Space; and the Future Urban Zone.
- **The Codes:** the 16 codes can overlay zones and regulate particular types of development or land constraints that occur across zone boundaries, and include: Signs, Parking and Sustainable Transport, Road and Railway Assets, Electricity Transmission Infrastructure Protection, Telecommunications, Local Historic Heritage, Natural Assets, Scenic Protection, Attenuation, Coastal Erosion Hazard, Coastal Inundation Hazard, Flood-Prone Areas Hazard, Bushfire-Prone Areas, Potentially Contaminated Land, Landslip Hazard and Safeguarding of Airports Code.

In addition to the zone and code provisions, the SPPs contain important information on the operation of the Tasmanian Planning Scheme, including Interpretation (Planning Terms and Definitions), Exemptions, Planning Scheme Operation and Assessment of an Application for Use or Development. These up-front clauses provide important context for the overall planning regime as they form the basis for how planning decisions are made. The terminology is very important, as often planning terms do not directly align with plain English definitions.

2. Local Planning Rules/Local Provisions Schedule (LPS)

The local planning rules, known as the Local Provisions Schedule, are prepared by each Council and determine where zones and codes apply across each municipality. The development of the LPS in each municipality is the last stage in the implementation of the Tasmanian Planning Scheme. Once the LPS for a municipality is signed off by the Tasmanian Planning Commission, the Tasmanian Planning Scheme becomes operational in that municipality.

The LPS comprise:

- maps showing WHERE the SPP zone and codes apply in a local municipal area; and
- any approved departures from the SPP provisions for a local municipal area.

View the Draft LPS approval process here.

If Councils choose to apply a certain zone in their LPS (e.g. Inner Residential, Rural Living or Agriculture Zone), the rules applying to that zone will be the prescriptive rules set out in the SPPs and are already approved by the State Government. **Councils cannot change the SPPs which will be applied. Councils only have control over where they will be applied through their LPS.**

Site Specific Local Planning Rules

If a Council or local community decides that areas within its municipality are not suited to one of the standard 23 zones then they may consider applying one of three site specific local planning rules. These three local planning rules are the only tool the Council/Community has to protect local character. However, from a community point of view, they are disappointingly difficult to have applied (see example outlined under point 8 in the section below entitled '*Related General Comments/Concerns regarding the SPP*').

The three planning tools are:

- **Particular Purpose Zone (PPZ)** – is a zone that can be created in its own right. It is a group of provisions consisting of (i) a zone that is particular to an area of land; and (ii) the provisions that are to apply in relation to that zone. It usually will apply to a particular land use (e.g. UTAS Sandy Bay campus or a hospital, Reedy Marsh, Dolphin Sands, The Fisheries).
- **Specific Area Plan (SAP)** - being a plan consisting of (i) a map or overlay that delineates a particular area of land; and (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs. SAPs are specific to that site and sit over the top of a zone. For example, a proposed Coles Bay SAP would have sat over the underlying Low Density Residential Zone and the SAP rules would have allowed for a broader scope of new non-residential uses across the whole of Coles Bay. SAPs can be used for greenfield residential subdivision to allow higher density housing, to plan for roads and to protect areas of vegetation and open space (e.g. SAPs are also proposed for Cambria Green, Huntingfield, Jackeys Marsh, Blackmans Bay Bluff).
- **Site Specific Qualification (SSQ)** is used to facilitate particular types of activities at certain sites (e.g. New Town Plaza Shopping Centre) and sit over the top of a zone.

My concerns and recommendations regarding the SPPs

In PMAT's view the State Government's Tasmanian Planning Scheme fails to adequately address a range of issues, which will likely result in poor planning outcomes. A planning system that deals effectively with these issues is essential for Tasmania's future and for the well-being of communities across the state.

The SPP review is thus critically important and is a particular priority for me, as it is the best chance we have to improve planning outcomes until 2027.

My key concerns and recommendations cover the following topics:

1. Ensuring the community has the right to have a say;
2. Climate Change Adaptation and Mitigation;
3. Planning, Insurance and climate risks;
4. Community connectivity, health and well-being;
5. Aboriginal cultural heritage;
6. Heritage buildings and landscapes (Local Historic Heritage Code);
7. Tasmania's brand and economy;
8. Housing;
9. Residential issues;
10. Stormwater;
11. Onsite wastewater;
12. Rural/Agricultural issues;
13. Coastal land issues;
14. Coastal waters;
15. National Parks and Reserves (Environmental Management Zone);
16. Healthy Landscapes (Landscape Conservation Zone);
17. Healthy Landscapes (Natural Assets Code);
18. Healthy Landscapes (Scenic Protection Code);
19. Geodiversity;
20. Integration of land uses;
21. Planning, Loss of Character Statements and Good Design;
22. Other various issues with the SPPs.

1. Ensuring the community has the right to have a say

Land use planning is the process through which governments, businesses, and residents come together to shape their communities. Having a right of say is critical to this.

The current SPPs however, with fewer discretionary developments, and more exemptions, significantly reduce the community's right to have a say and in many instances also removes appeal rights, weakening democracy. More and more uses and development are able to occur without public consultation or appeal rights. Without adequate community involvement in the planning process, there is a risk of more contested projects, delays and ultimately less efficient decision-making on development proposals.

The reduction in community involvement is clearly demonstrated by how developments are dealt with in our National Parks and Reserves and residential areas.

National Parks and Reserves and right of say

Commercial tourism development can be approved in most National Parks and Reserves without guarantee of public consultation, and with no rights to appeal. This means that the public has no certainty of being able to comment and no appeal rights over public land covering almost 50% of Tasmania. The State Government has repeatedly stated that that this issue will be dealt with through the review of the Reserve Activity Assessment (RAA) process.

The RAA process is the internal government process by which developments in national parks and reserves are assessed. However, the review has stalled with no apparent progress for at least five years[1].

Community stakeholders are unable to obtain clear information on the review progress, timelines and the formal process regarding consultation. It appears that the State Government has abandoned this critically important review of the Reserve Activity Assessment. I am concerned that proposed developments can be approved under the existing deeply flawed process without any opportunity for public comment and involvement. This is inconsistent with three of the most fundamental of the objectives of the *Land Use Planning and Approvals Act 1993*: "(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity… (c) to encourage public involvement in resource management and planning; and (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State*."

There is a current Petition (closing 4 August 2022) before the Tasmanian Parliament: 'Inadequate processes for assessing and approving private tourism developments in Tasmania's national parks' which has already attracted 2609 signatures and demonstrates the level of community concern. Amongst other concerns, the petition draws to the attention of the Tasmanian Parliament that '*The Reserve Activity Assessment (RAA) process is flawed, opaque and lacks genuine public consultation*' and calls on the '*Government to abandon the Expressions of Interest process and halt all proposals currently being considered under the Reserve Activity Assessment process until a statutory*

[1]Page 11 of the *Minister's Statement of Reasons for modifications to the draft State Planning Provisions* here which states '*…in response to matters raised during the hearings* [of the draft SPPs] *the Government agrees that a review of the RAA (Reserve Activity Assessment) be undertaken*'.

assessment and approval process for private tourism developments in Tasmania's national parks is implemented'.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, identified the level of public concern regarding the Reserve Activity Assessment process.

In 2017, the then Planning Minister Peter Gutwein acknowledged that the RAA process "needs review", but made no amendments to the SPPs in relation to developments in national parks.

In 2019 eleven community groups were so frustrated they could not obtain clarity on the RAA review they resorted to lodging a Right to Information (RTI) request to seek transparency. See PMAT Media Release: Has Hodgman abandoned the review of RAA process for developments in national parks and reserves?

Recommendation: That the State Government move quickly to **1.** finalise the RAA Review, including the exemptions and applicable standards for proposed use and development in the Environmental Management Zone **2.** To implement changes for a more open, transparent and robust process that is consistent with the Tasmanian Planning System *Land Use Planning and Approvals Act 1993* objectives. **3**. The Environmental Management Zone should be amended to ensure the public has a meaningful right of say and access to appeal rights - in particular by amending what are "permitted" and "discretionary" uses and developments in the Environmental Management Zone.

Residential areas and right of say

PMAT commissioned an architectural planning study (Figures 1 and 2) to demonstrate what is permitted in the General Residential Zone to visually demonstrate what can be built without public comment, appeal rights and notification to your adjoining neighbour.

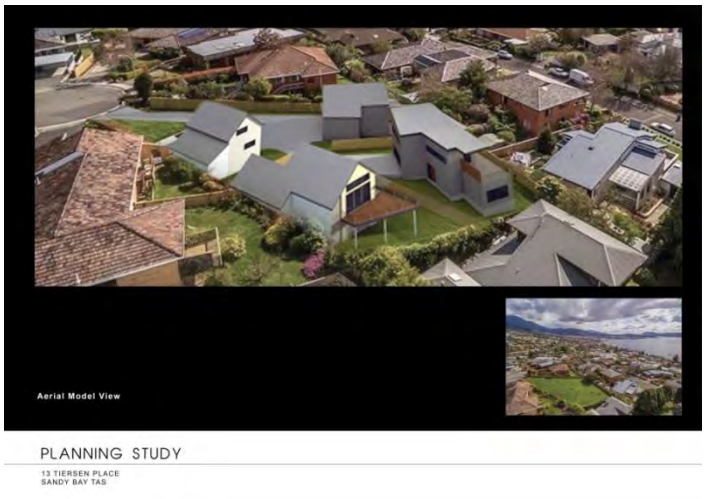

Figure 1 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment, and no appeal rights.

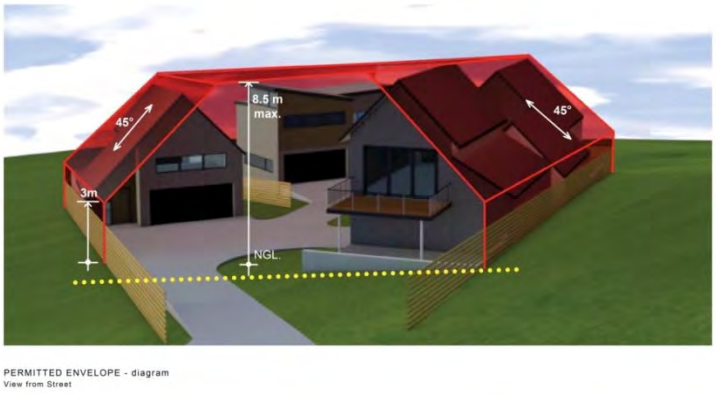

Figure 2 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment and no appeal rights.

PMAT's planning study helps highlight issues that have led to confusion and anxiety in our communities including lack of say about the construction of multiple and single dwellings(especially by adjoining neighbours), bulk, height, overshadowing, loss of privacy, loss of sunlight/solar access, loss of future solar access for Solar PV arrays and Solar Hot Water panels on, north-east, north, and north-west -facing roofs, lack of private open space and inappropriate site coverage, overlooking private open space and blocking existing views

Recommendation: The SPPs should be amended to ensure the public has a meaningful right of say and access to appeal rights across the residential zones, in particular by amending what is "permitted" and "discretionary" use and development. Our planning system must include meaningful public consultation that is timely effective, open and transparent.

2. Climate Change Adaptation and Mitigation

Adaptation

Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, I am seeking amendments to the SPPs which better address adaptation to climate change. We need planning which ensures people build out of harm's way.

Mitigation

Climate Change Mitigation refers to efforts to reduce or prevent emissions of greenhouse gases. I would like to see increased opportunity for mitigation by for example embedding sustainable transport, 'green' (i.e. regenerative) design of buildings and subdivisions in planning processes. One current concern is that across residential zones solar panels on adjoining properties are not adequately protected nor the foresight to enable future rooftop solar panel installations with unencumbered solar access.

On the subject of renewable energy, which will become increasingly important as the world moves to Net Zero, we are concerned that there appears to be no strategically planned Wind Farm designated area. I do not want open slather wind farms right across the state industrialising our scenic landscapes but would like to see appropriately placed wind farms, decided after careful modelling of all environmental data. This is especially important as based on the *200% Tasmanian*

Renewable Energy Target, **I understand that this could equate to approximately 89 wind farms and over 3000 wind turbines**. The new target aims to double Tasmania's renewable energy production and reach 200 per cent of our current electricity needs by 2040.

Recommendation: 1. The SPPs be amended to better address adaptation to climate change, by ensuring Tasmania's risk mapping is based on the best available science and up to date data. **2**. The SPPs be amended to better embed sustainable transport, green design of buildings and subdivisions into planning processes, including better protection of solar panels and provision for future solar access. **3**. Strategic thinking and modelling to decide where best to allow wind farms. The SPPs could include a new *No Go Wind Farm Code.*

3. Planning, Insurance and Climate Risks

This year, the Climate Council, an independent, crowd-funded organisation providing quality information on climate change to the Australian public, released a report entitled Uninsurable Nation: Australia's Most Climate-Vulnerable Places and a climate risk map.

Key findings of the Report concluded climate change is creating an insurability crisis in Australia due to worsening extreme weather and sky-rocketing insurance premiums. It is My understanding that the modelling found that approximately 2% of homes in Tasmania would be effectively uninsurable by 2030 due to the effects of climate change. The major risk to the areas of the state are the north east and the east - in Bass, 3.7% of homes and in Lyons, 2.8% of homes.

Risks include flooding, storm surges and wildfires. The SPPs deal with these risks under the following Codes:

- Coastal Erosion Hazard Code
- Coastal Inundation Hazard Code
- Flood-Prone Areas Hazard Code
- Bushfire-Prone Areas Code
- Landslip Hazard Code

However, I understand that the code risk mapping is based on conservative climate data. There is also a concern that the State Government's risk mapping and the insurance sector's risk mapping are inconsistent.

Recommendation: the SPPs Codes be reviewed and updated to ensure they reflect the best available science about current and likely bushfire, flood and coastal inundation risks. The State Government, through its Tasmanian Planning Scheme, has a responsibility to ensure that the planning system does not allow the building of homes in areas that will become uninsurable. Consideration should also be given in the review as to how the SPPs can ensure that developments and uses approved can be retrofitted to better respond to changing climatic conditions.

I would like to know the status of *Tasmania's Climate Change Action Plan 2017-2021* which contained a proposal for: "…***land-use planning reforms*** *to manage natural hazards and climate impacts. Instruments under development include a Tasmanian Planning Policy on Hazards and Environmental Risks, and State Planning Provisions for natural hazards."*

4. Community connectivity, health and well-being

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

Recommendation:

Liveable Streets Code – I endorse the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' (attached) which calls for the creation of a new '*Liveable Streets Code*'. In their representation they stated '*In addition to, or as alternative, the preferred position is for provisions for streets to be included in a Liveable Streets code. Such a code would add measurable standards to the assessment of permit applications. An outline for a Liveable Streets code is included at Annexure 1 as at this stage such a code requires further development and testing. For this representation the concept of a Liveable Streets code is advocated as a foreshadowed addition to the SPPs*.' *Annexure 1 – Draft for a Liveable Streets Code* (page 57) of the '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016'* sets out the code purpose, application, definition of terms, street design parameters, Street connectivity and permeability, streets enhance walkability, streets enhance cycle-ability, and streets enhance public transport. Our streets are also corridors for service infrastructure – such as telecommunications, electricity and water. It is important that placement of these services does not detract from liveable streets design, for example through limiting street trees.

Food security – I also endorse the recommendations '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' for amendments to the State Planning Provisions to facilitate food security.

Public Open Space – I recommend we create tighter provisions for the Public Open Space Zone and /or the creation of a Public Open Space Code. The planning system must ensure local access to recreation areas with the provision of public open space. Public open space has aesthetic, environmental, health and economic benefits. The *2021 Australian Liveability Census,* based on over 30,000 responses, found that the number 1 *'attribute of an ideal neighbourhood is where 'elements of the natural environment' are retained or incorporated into the urban fabric as way to define local character or uniqueness. In the 2021 Australian Liveability Census 73% of respondents selected this as being important to them. That is a significant consensus.'*

I am seeking mandatory provisions and standards for public open space and riparian and littoral reserves as part of the subdivision process. We understand these are not mandated currently and that developers do not have to provide open space as per for example the voluntary Tasmanian Subdivision Guidelines.

It may be that mandated provisions of Public Open Space can be addressed adequately in the Open Space Zone already in the SPPs. Very specifically, I am seeking the inclusion of requirements for the provision of public open space for certain developments like subdivisions or multiple dwellings.

I understand that a developer contribution can be made to the planning authority in lieu of the provision of open space and that those contributions can assist in upgrading available public open space. However, there appears to be no way of evaluating the success of this policy.

Neighbourhood Code - I recommends we create a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 *Residential issues* section below as a tool to protect/enhance urban amenity.

5. Aboriginal Cultural Heritage

The current SPPs have no provision for mandatory consideration of impacts on Aboriginal Heritage, including Cultural Landscapes, when assessing a new development or use that will impact on Aboriginal cultural heritage.

This means, for example, that under current laws, there is no formal opportunity for Tasmanian Aboriginal people to comment on or object to a development or use that would adversely impact their cultural heritage, and there is no opportunity to appeal permits that allow for adverse impacts on Aboriginal cultural heritage values.

While I acknowledges that the Tasmanian Government has committed to developing a new Tasmanian Aboriginal Cultural Heritage Protection Act to replace the woefully outdated *Aboriginal Heritage Act* 1975 (Tas), it is unclear whether the proposed "*light touch*" integration of the new legislation with the planning system will provide for adequate protection of Aboriginal Cultural heritage, involvement of Tasmanian Aboriginal people in decisions that concern their cultural heritage, and consideration of these issues in planning assessment processes.

Indeed, it is unclear if the new Act will "*give effect to the Government's commitment to introducing measures to require early consideration of potential Aboriginal heritage impacts in the highest (State and regional) level of strategic planning, and in all assessments of rezoning proposals under the LUPA Act to ensure major planning decisions take full account of Aboriginal heritage issues*."[2]

One way that the planning scheme and SPPs could ensure Aboriginal cultural heritage is better taken into account in planning decisions, is through the inclusion of an Aboriginal Heritage Code to provide mandatory assessment requirements and prescriptions that explicitly aim to conserve and protect Aboriginal cultural heritage. Assessment under this code could serve as a trigger for assessment under a new Tasmanian Aboriginal Cultural Heritage Protection Act. Until that Review is complete, it will be unclear how the new Act will give effect to the objective of cross reference with the planning scheme. **The planning scheme should therefore set up a mechanism that ensures maximum assessment, consideration and protection of Aboriginal heritage.**

I recognises this is an imperfect approach in that the proposed Aboriginal Heritage Code may not be able to fully give effect to the *United Nations Declaration of the Rights of Indigenous Peoples* by providing Tasmanian Aboriginal people the right to free, prior and informed consent about developments and uses that affect their cultural heritage or give them the right to determining those applications.

However, while the Tasmanian Government is in the process of preparing and implementing the new Aboriginal Cultural Heritage Protection Act, it will at least allow for consideration and protection of Aboriginal cultural heritage in a way that is not presently provided under any Tasmanian law.

[2] Jaensch, Roger (2021) *Tabling Report: Government Commitment in Response to the Review Findings, Aboriginal Heritage Act 1975: Review under s.23* – see here: https://nre.tas.gov.au/Documents/Tabling%20Report%20-%20Review%20of%20the%20Aboriginal%20Heritage%20Act.pdf

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

6. Heritage Buildings and Heritage Landscape Issues (Local Historic Heritage Code)

I/community group name considers that limited protections for heritage places will compromise Tasmania's important cultural precincts and erode the heritage character of listed buildings. I understand that many Councils have not populated their Local Historic Heritage Codes as they are resource and time limited and there is a lack of data.

PMAT engaged expert planner Danielle Gray of Gray Planning to draft a detailed submission on the Local Historic Heritage Code. The input from Gray Planning has provided a comprehensive review of the Local Historic Heritage Code and highlights deficiencies with this Code. There is considerable concern that the wording and criteria in the Local Historic Heritage Code will result in poor outcomes for sites in Heritage Precincts as well as Heritage Places that are individually listed. There is also a lack of consistency in terminology used in the Local Historic Heritage Code criteria that promote and easily facilitate the demolition of and unsympathetic work to heritage places, Precinct sites and significant heritage fabric on economic grounds and a failure to provide any clear guidance for application requirements for those wanting to apply for approval under the Local Historic Heritage Code. The Local Historic Heritage Code also fails to provide incentives for property owners in terms of adaptive reuse and subdivision as has previously been available under Interim Planning Schemes. It is considered that the deficiencies in the current Local Historic Heritage Code are significant and will result in poor outcomes for historic and cultural heritage management in Tasmania.

A summary of the concerns and recommendations with respect to the review of the Local Historic Heritage Code by Gray Planning is outlined below.

Gray Planning - Summary of concerns and recommendations with respect to the Local Historic Heritage Code

- The name of the Local Historic Heritage Code should be simplified to 'Heritage Code'. This simplified naming is inclusive of historic heritage and cultural heritage rather than emphasising that heritage is about historic values only.
- Definitions in the Local Historic Heritage Code are currently brief and inexhaustive and do not align with definitions in the Burra Charter.
- There are no clear and easily interpreted definitions for terms repeatedly used such as 'demolition, 'repairs' and 'maintenance'.
- Conservation Processes (Articles 14 to 25) as outlined in the Burra Charter should be reflected in the Local Historic Heritage Code Performance Criteria. Issues covered in the Burra Charter are considered to be very important to maintaining historic and cultural heritage values such as setting, context and use are not mentioned in the Local Historic Heritage Code at all.
- The Local Historic Heritage Code does not deal with any place listed on the Tasmanian Heritage register and there is a hard line separate of local and state listed places. This fails to recognise the complexity of some sites which have documented state and local values.

- Failure to also consider state and local heritage values as part of the Local Historic Heritage Code will result in important issues such as streetscape and setting and their contribution to heritage values not being considered in planning decisions.
- The SPP Code does not provide a summary of application requirements to assist both Councils and developers. This approach results in a failure to inform developers of information that may be required in order to achieve compliance.
- The Objectives and Purpose of the Local Historic Heritage Code is too limited and should align with the *Historic Cultural Heritage Act 1995* in terms of purpose.
- The Exemptions as listed in the Local Historic Heritage Code are in some cases ambiguous and would benefit greatly from further clarification and basic terms being defined under a new Definitions section.
- Previously, some Interim Planning Schemes included special provisions that enabled otherwise prohibited uses or subdivision to occur so long as it was linked to good heritage outcomes. Those have been removed.
- Development standards for demolition are concerning and enable the demolition of heritage places and sites for economic reasons.
- Development standards use terminology that is vague and open to misinterpretation.
- The words and phrases 'compatible' and 'have regard to' are repeatedly used throughout the Local Historic Heritage Code and are considered to be problematic and may result in unsympathetic and inconsistent outcomes owing to their established legal translation.
- Performance criteria do not make definition between 'contributory' and 'non contributory' fabric. This may result in poor heritage outcomes where existing unsympathetic development is used as justification for more of the same.
- The Local Historic Heritage Code as currently written will allow for unsympathetic subdivision to occur where front gardens can be subdivided or developed for parking. This will result in loss of front gardens in heritage areas and contemporary development being built in front of and to obstruct view of buildings of heritage value.
- The Local Historic Heritage Code as currently written does not place limits on extensions to heritage places which enables large contemporary extensions that greatly exceed the scale of the heritage building to which they are attached to.
- Significant tree listing criteria are not always heritage related. In fact most are not related to heritage. Significant trees should have their own separate code.
- Currently there is no requirement for Councils to populate the Local Historic Heritage Code with Heritage Precincts of Places. Failure to do so is resulting in buildings and sites of demonstrated value being routinely destroyed.

Recommendation:

Burra Charter: I recommend that the *Local Historic Heritage Code* in the Tasmanian Planning Scheme should be consistent with the objectives, terminology and methodology of the Burra Charter. I also endorse Gray Planning's recommendations regarding the *Local Historic Heritage Code as outlined above.*

Significant trees: Consistent with the Tasmanian Planning Commission's 2016 recommendations on the draft SPP's outlined on page 63[3] '*a stand-alone code for significant trees to protect a broader range of values be considered as an addition to the SPPs*'.

7. Tasmania's Brand and Economy

I support the Tasmanian brand noting that a planning system which protects Tasmania's cherished natural and cultural heritage underpins our economy, now and into the future. We consider that the current SPPs threaten Tasmania's brand, as they place our natural and cultural heritage and treasured urban amenity at risk. The current planning system may deliver short-term gain but at the cost of our long-term identity and economic prosperity.

As Michael Buxton, former Professor of Environment and Planning, RMIT University, stated "*The Government argues the new [planning] system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.*" Source: Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016 (attached in Appendix 1).

As per Brand Tasmania's 2019-2024 Strategic Plan, it could be argued that the SPPs are inconsistent with Brand Tasmania's main objectives which are to: '*To develop, maintain, protect and promote a Tasmanian brand that is differentiated and enhances our appeal and competitiveness nationally and internationally; To strengthen Tasmania's image and reputation locally, nationally and internationally; and To nurture, enhance and promote the Tasmanian brand as a shared public asset.*'

Recommendation: A brand lens should be placed over the top of the SPPs to ensure they are consistent with the objectives of Brand Tasmania. This consistency could also be facilitated via the Tasmanian Planning Policies.

8. Housing

I understand the critical need for housing, including social and affordable housing. Disappointingly the Tasmanian Planning Scheme contains no provisions to encourage affordable or social housing.

I believe that good planning, transparent decision making and the delivery of social and affordable housing need not be mutually exclusive. Indeed good planning can result in delivery of both more and better housing.

Instead of managing housing through Tasmania's key planning document, the Tasmanian Planning Scheme, in 2018 the Tasmanian Government introduced a fast track land rezone process called the Housing Land Supply Orders (e.g. Housing Order Land Supply (Huntingfield). Taking this approach compromises strategic planning and transparent decision making. For example, the State Government is the proponent and the assessor. Fast-tracking planning, such as through Housing Land Supply Orders for large subdivisions, will not assist with community cohesion and/or trust in both the planning system or social/affordable housing projects.

[3] *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016 – see page 63.*

Taking zoning and planning assessments outside the Tasmanian Planning System risks an ad hoc approach to housing that makes an integrated approach more difficult. This works against delivering quality housing outcomes.

I support policies and SPPs which encourage development of well-planned quality social and affordable housing. As mentioned above there is no provision for affordable or social housing within the SPPs. We understand this is also the case with the Subdivision Standards. I am/We are concerned that there are no requirements in the SPPs which require developers to contribute to the offering of social and affordable housing. For example, in some states, and many other countries, developers of large subdivisions or multiple dwellings in certain inner city zones, are required to offer a certain percentage of those developments as affordable housing, or pay a contribution to the state in lieu of providing those dwellings.

Recommendation:

Need to encourage delivery of social and affordable housing: New developments should contain a proportion of social and/or affordable housing.

Best practice house and neighbourhood design: should be adopted so that housing developments not only provide a place for people to live but result in better amenity, health and environmental outcomes. Plus we need to ensure that consideration is given to local values in any new large developments.

Provision of infrastructure to support communities: including transport, schools, medical facilities, emergency services, recreation and jobs should be part of the planning process and not an afterthought.

9. Residential Issues

One of My main concerns is how residential density is being increased with minimal to no consideration of amenity across all urban environments. I understand that the push for increasing urban density is to support the Tasmanian Government's growth plan to grow Tasmania's population to 650,000 by 2050. In our view, we are not doing density or the provision of public open space well.

Currently infill development in our residential zones is not strategically planned but "as of right", and Councils cannot reject Development Applications even though they may fail community expectations. I consider the residential standards are resulting in an unreasonable impact on residential character and amenity. Additionally, they remove a right of say and appeal rights over what happens next door to home owners, undermining democracy. People's homes are often their biggest asset but the values of their properties can be unduly impacted due to loss of amenity. This also impacts people's mental health and well-being.

Specifically, the SPPs for General Residential and Inner Residential allow smaller block sizes, higher buildings built closer to, or on site boundary line, and multi-unit developments "as of right" in many urban areas as per the permitted building envelope. In the Low Density Residential Zone multiple dwellings are now discretionary (i.e. have to be advertised for public comment and can be appealed), whereas in the past they were prohibited by some Councils such as Clarence City Council.

The Village Zone may not be appropriate for purely residential areas, as it allows for commercial uses and does not aim to protect residential amenity.

Neighbourhood amenity and character, privacy and sunlight into backyards, homes and solar panels are not adequately protected, especially in the General and Inner Residential Zones. Rights to challenge inappropriate developments are very limited. Subdivisions can be constructed without the need for connectivity across suburbs or the provision of public open space. Residential standards do not encourage home gardens which are important for food security, connection to nature, biodiversity, places for children to play, mental health/well-being and beauty.

The permitted building envelope, especially in the General Residential Zone, for both single and multiunit developments, for example has led to confusion and anxiety in the community (as seen by examples in the video PMAT commissioned in Clarence Municipality – see here) with regards to overshadowing, loss of privacy, sun into habitable rooms and gardens, the potential loss of solar access on an adjoining property's solar panels, height, private open space and site coverage/density. Neighbourly relations have also been negatively impacted due to divisive residential standards.

Since the SPPs were created in 2017, PMAT has done a lot of work on the residential standards which reflects the level of community concern and the need for improvement. This work includes:

- PMAT plays an important role as a contact point and referral agent for individuals and community groups regarding planning issues, including residential issues, within the Tasmanian community. PMAT is contacted very regularly regarding residential issues.
- PMAT Launched two TV ads focusing on planning issues during the 2018 State election, including one on the residential issues of the Tasmanian Planning Scheme. Watch here at the end of the video the TV ad will play.
- PMAT commissioned a video highlighting residential standard planning issues. Watch video here.
- PMAT ran the largest survey of candidates for the 2018 Local Government elections. The survey demonstrated a majority of the candidates surveyed take the planning responsibilities of local government very seriously and believe Councils should have greater capacity to protect local character, amenity and places important to their local communities. There was strong candidate sentiment for local government planning controls that protect local character, sunlight and privacy for our homes. Candidates also agreed with increased public involvement in planning decisions in national parks and reserves.

I also concur with government agencies that have also raised concerns regarding our residential standards:

- In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended to the State Government that the Residential Provisions should be reviewed as a priority. **The Tasmanian Planning Commission recommended a comprehensive review of development standards in the General Residential and Inner Residential Zones (i.e. the standards introduced by Planning Directive 4.1) to assess whether the provisions deliver greater housing choice, encourage infill development, or unreasonably impact on residential character and**

amenity. The Minister acknowledged the recommendation, but deferred any review until the five year review of the SPPs.

- In 2018 the Local Government Association of Tasmania's pushed for review of the residential standards, which it says '*have led to confusion and anxiety in our communities with overshadowing, loss of privacy, solar access, height, private open space and site coverage to name a few. A review will highlight these concerns across the State and give the community some expectation of change that can ensure their concerns are heard*.'
- See Appendix 2 which is a story of "Mr Brick Wall' which demonstrates the tragic failing of the residential standards and was submitted as a submission to the darft SPPs in 2016.

Recommendation:

I also endorse PMAT's detailed submission regarding the residential zones and codes which has been prepared by expert planner Heidi Goess of Plan Place. The detailed submission has also been reviewed by PMAT's *Residential Standards Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience.

I endorse how the detailed PMAT submission advocates for improved residential zones/codes in the Tasmanian Planning Scheme in order to:

- Adapt to the impacts of climate change in urban and sub-urban settings
- Increase residential amenity/liveability
- Improve subdivision standards including strata title
- Improve quality of densification
- Improve health outcomes including mental health
- Provide greater housing choice/social justice
- Improve public consultation and access to rights of appeal
- Improve definitions and subjective language used in TPS
- Benchmark the above against world's best practice community residential standards (e.g. The Living Community Challenge).
- Review exemptions to see if they deliver on the above dot points.

Neighbourhood Code – I would also like to see the introduction of a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 Residential issues section below as a tool to protect/enhance urban amenity.

10. Stormwater

The current SPPs provide no provision for the management of stormwater.

In 2016, the Tasmanian Planning Commission recommended the Planning Minister consider developing a stormwater Code, to ensure Councils have the capacity to consider stormwater runoff implications of new developments. That recommendation was not accepted. The Minister considered that Building Regulations adequately deal with that issue, despite Council concerns that stormwater run-off was a planning issue, not just a building development issue.

I considers that stormwater needs to be managed as part of the SPPs. For example, there is a State Policy on Water Quality Management with which the SPPs need to comply. Relevant clauses include the following:

31.1 - Planning schemes should require that development proposals with the potential to give rise to off-site polluted stormwater runoff which could cause environmental nuisance or material or serious environmental harm should include, or be required to develop as a condition of approval, stormwater management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

31.5 Planning schemes must require that land use and development is consistent with the physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised.

Recommendation: The SPPs should include a new *Stormwater Code*.

11. On-site Waste Water

The current SPPs provide no provision for on-site waste water.

Waste water issues are currently dealt with under the Building Act. This is an issue that needs to be addressed in the Tasmanian Planning Scheme to ensure that water quality management issues arising from onsite waste water treatment are properly considered earlier at the planning stage. That is, if a site does not have appropriate space or soils for on-site waste water treatment system, a use or development that relies on this should not be approved by the planning authority.

Recommendation: On-site waste water issues need to be properly addressed in the Tasmanian Planning Scheme.

12. Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which I considers will further degrade the countryside and Tasmania's food bowl. Commercial and extractive uses are not always compatible with food production and environmental stewardship. Food security, soil health and environmental and biodiversity issues need to be 'above' short-term commercial and extractive uses of valuable rural/agricultural land resources.

Recommendation: I urge a re-consideration of the rural/agricultural zones with regards to the permitted commercial and extractive uses.

13. Coastal land Issues

I considers that weaker rules for subdivisions and multi-unit development will put our undeveloped beautiful coastlines under greater threat. For example, the same General Residential standards that apply to Hobart and Launceston cities also apply to small coastal towns such as Bicheno, Swansea and Orford. The SPPs are not appropriate for small coastal settlements and will damage their character.

Recommendation: I urge stronger protections from subdivision, multi-unit development and all relevant residential standards that cover Tasmania's undeveloped and beautiful coastlines and small coastal settlements.

14. Coastal Waters

The SPPs only apply to the low water mark and not to coastal waters. The SPPs must be consistent with State Policies including the *State Coastal Policy 1996*. The *State Coastal Policy 1996 states that it applies to the 'Coastal Zone' which 'is to be taken as a reference to State waters and to all land to a distance of one kilometre inland from the high-water mark.'*[4] *State waters are defined as the waters which extend out to three nautical miles*[5].

Recommendation: The SPPs should again apply to coastal waters e.g. the Environmental Management Zone should be applied again to coastal waters.

15. National Parks and Reserves (Environmental Management Zone)

The purpose of the Environmental Management Zone (EMZ) is to '*provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value',* and largely applies to public reserved land. Most of Tasmania's National Parks and Reserves have been Zoned or will be zoned Environmental Management Zone. I main concerns regarding the Environmental Management Zone is what is permitted in this zone plus the lack of set-back provisions that fail to protect the integrity of for example our National Parks.

Permitted Uses

The EMZ allows a range of *Permitted* uses which I considers are incompatible with protected areas. ***Permitted* uses include:** Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Pleasure Boat Facility, Research and Development, Residential, Resource Development, Sports and Recreation, Tourist Operation, Utilities and Visitor Accommodation.

These uses are conditionally permitted, for example they are permitted because they have an authority issued under the *National Parks and Reserves Management Regulations 2019*, which does not guarantee good planning outcomes will be achieved and does not allow for an appropriate level of public involvement in important decisions concerning these areas.

Set Backs

There are no setback provisions for the Environmental Management Zone from other Zones as is the case for the Rural and Agricultural Zones. This means that buildings can be built up to the boundary, encroaching on the integrity of our National Parks and/or coastal reserves.

Recommendation: I recommends: **1.** All current Environmental Management Zone Permitted uses should be at minimum *Discretionary*, as this will guarantee public comment and appeal rights on developments on public land such as in our National Parks and Reserves. **2.** There should be setback provisions in the Environmental Management Zone to ensure the integrity of our National Parks and Reserves. Further to my **submission I also endorse the recommendations made by the Tasmanian National Parks Association as outlined in their submission to the 2022 SPP review here.**

16. Healthy Landscapes (Landscape Conservation Zone)

[4] https://www.dpac.tas.gov.au/__data/assets/pdf_file/0010/11521/State_Coastal_Policy_1996.pdf
[5] *https://www.ga.gov.au/scientific-topics/marine/jurisdiction/maritime-boundary-definitions*

The purpose of the Landscape Conservation Zone (LCZ) is to provide for the protection, conservation and management of landscape values on private land. However, it does not provide for the protection of *significant natural values* as was the original intent of the LCZ articulated on p 79 of the Draft SPPs Explanatory Document. With a Zone Purpose limited to protecting 'landscape values', LCZ is now effectively a Scenic Protection Zone for private land.

Recommendation: I endorses the recommendations in the 2022 SPP review submission: '*State Planning Provisions Scoping Paper re Landscape Conservation Zone provisions by Conservation Landholders Tasmania'* which calls for a Zone to properly protect natural values on private land.

17. Healthy Landscapes (Natural Assets Code - NAC)

The Natural Assets Code (NAC) fails to meet the objectives and requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA) and does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

A key objective of LUPAA is to promote and further the sustainable development of natural and physical resources, and as an integral part of this, maintain ecological processes and conserve biodiversity. More specifically, s15 of LUPAA requires the SPPS, including the NAC, to further this objective.

As currently drafted, the NAC reduces natural values to a procedural consideration and undermines the maintenance of ecological processes and conservation of biodiversity. As a result, the, NAC fails to adequately reflect or implement the objectives of LUPAA and fails to meet the criteria for drafting the SPPs.

There are also significant jurisdictional and technical issues with the NAC, including:

- poor integration with other regulations, particularly the Forest Practices System, resulting in loopholes and the ability for regulations to be played off against each other;
- significant limitations with the scope of natural assets and biodiversity values considered under the NAC, with landscape function and ecosystem services and non-threatened native vegetation, species and habitat largely excluded;
- wide-ranging exemptions which further jurisdictional uncertainty and are inconsistent with maintenance of ecological processes and biodiversity conservation;
- extensive exclusions in the application of the Natural Assets Code through Zone exclusion relating to the Agriculture, Industrial, Commercial and Residential Zones and limiting biodiversity consideration to mapped areas based on inaccurate datasets which are not designed for this purpose. As a consequence, many areas of native vegetation and habitat will not be assessed or protected, impacting biodiversity and losing valuable urban and rural trees;
- poorly defined terms resulting in uncertainty;
- a focus on minimising and justifying impacts rather than avoiding impacts and conserving natural assets and biodiversity
- inadequate buffer distances for waterways, particularly in urban areas; and
- watering down the performance criteria to 'having regard to' a range of considerations rather than meeting these requirements, which enables the significance of impacts to be downplayed and dismissed.

As a consequence, the NAC not only fails to promote sustainable development, maintain ecological processes and further biodiversity conservation, it also fails to achieve its stated purpose. The NAC as drafted also fails to provide aspiration to improve biodiversity conservation and can only lead to a reduction in biodiversity and degradation of natural assets.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended that the Natural Assets Code be scrapped in its entirety, with a new Code developed after proper consideration of the biodiversity implications of proposed exemptions, the production of adequate, State-wide vegetation mapping, and consideration of including protection of drinking water catchments.

The then Planning Minister Peter Gutwein rejected that recommendation. Some amendments were made to the Code (including allowing vegetation of local significance to be protected), but no review of exemptions was undertaken. I understands that while no state-wide mapping was provided, the Government provided $100,000 to each of the three regions to implement the SPPs – the southern regional councils pooled resources to engage an expert to prepare biodiversity mapping for the whole region.

Note that despite concerns raised by TasWater, no further amendments were made to protect drinking water catchments.

Recommendation: The NAC does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

I supports PMAT's detailed submission, that will be attached to the broad submission, regarding the *Natural Assets Code* which has been prepared by expert environmental planner Dr Nikki den Exter. Nikki den Exter completed her PhD thesis investigating the role and relevance of land use planning in biodiversity conservation in Tasmania. Nikki also works as an Environmental Planner with local government and has over 15 years' experience in the fields of biodiversity conservation, natural resource management and land use planning. As both a practitioner and a researcher, Nikki offers a unique perspective on the importance of land use planning in contributing to biodiversity conservation. The detailed submission has also been reviewed by PMAT's *Natural Assets Code Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience and knowledge.

18. Healthy Landscapes (Scenic Protection Code)

The purpose of the Scenic Protection Code is to recognise and protect landscapes that are identified as important for their scenic values. The Code can be applied through two overlays: scenic road corridor overlay and the scenic protection area overlay. However, I 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. Concerns regarding the Scenic Protection Code have also been provided to the Tasmanian Planning Commission from the Glamorgan Spring Bay Council on the SPPs in accordance with section 35G of LUPAA.

It should also be noted, that not only does the Code fail to protect scenic values, I understand that in many instances Councils are not even applying the Code to their municipal areas. Given that

Tasmania's scenic landscapes are one of our greatest assets and point of difference, this is extremely disappointing. Local Councils should be given financial support to undertake the strategic assessment of our scenic landscapes so they can populate the Scenic Protection Code within their municipal area via either their LPS process or via planning scheme amendments.

Figure 3 - Rocky Hills, forms part of the Great Eastern Drive, one of Australia's greatest road trips. The Drive underpins east coast tourism. As per www.eastcoasttasmania.com states '*this journey inspires rave reviews from visitors and fills Instagram feeds with image after image of stunning landscapes and scenery*'. The Rocky Hills section of the road is subject to the Scenic road corridor overlay but has allowed buildings which undermine the scenic landscape values.

Recommendation: The Scenic Protection Code of the SPPs should be subject to a detailed review, with a view to providing appropriate use and development controls and exemptions to effectively manage and protect all aspects of scenic landscape values.

19. Geodiversity

The current SPPs have no provision for mandatory consideration of impacts on geodiversity when assessing a new development or use that impacts geodiversity. This means, for example, that under current laws, that there is no formal opportunity for the public to comment on or object to a development or use that would adversely impact geodiversity, and there is no opportunity to appeal permits that allow for adverse impacts on geodiversity.

The below section on geodiversity definitions, values, vulnerability and the need to embrace geodiversity in planning has been written by geomorphologist Kevin Kiernan.

***'Definitions** - The terms geodiversity and biodiversity describe, respectively, the range of variation within the non-living and living components of overall environmental diversity. Geodiversity comprises the bedrock geology, landforms and soils that give physical shape to the Earth's surface,*

and the physical processes that give rise to them[6]. Action to conserve those elements is termed geodiversity conservation/geoconservation and biodiversity conservation/bioconservation. Such efforts may be focused on the full range of that diversity by ensuring that representative examples of the different geo and bio phenomena are safeguarded. In other cases efforts may be focused only on those phenomena that are perceived as being outstanding in some way, such as particularly scenic landforms and landscapes or particularly charismatic animals such as lions or tigers. The term geoheritage describes those elements we receive from the past, live among in the present, and wish to pass on to those who follow us.

***Values** - The geodiversity that surrounds us sustains and enriches our lives in much the same ways as does biodiversity, indeed there can be no biodiversity without the varied physical environments that provide the essential stage and diverse habitats upon which it depends. Although many of the world's earliest protected areas were established to safeguard landforms and scenery, over recent decades the emphasis has shifted towards living nature. This probably reflects in part such things as more ready human identification with charismatic animals, but existence of the Linnean classification system that facilitates ready differentiation of the varying types of animals and plants has facilitated rapid recognition of the concept of biodiversity. But just as there are different species of plants and animals, so too are there different types of rocks, minerals, landforms and soils, and indeed the need to safeguard this geodiversity was being promulgated several years prior to adoption of the international convention on biodiversity[7]. These non-living components of the environment are of value in their own right just as living species are – for their inherent intrinsic value; because they sustain natural environmental process (including ecological processes); or because of their instrumental worth to humankind as sources of scientific, educational, aesthetic scenery, spiritual, inspirational, economic and other opportunities.*

***Vulnerabilty** - Effective management is required if these values are to be safeguarded[8]. As with plant and animal species, some are common and some are rare, some are robust and some are fragile. There is a common misconception that the prefix "geo" necessarily implies a robust character, but many elements of geodiversity are quite the opposite. For example, stalactites in limestone caves can be accidentally brushed off by passing visitors or seriously damaged by changes to the over-lying land surface that derange the natural patterns or chemistry of infiltrating seepage moisture; various types of sand dunes can readily be eroded away if a binding vegetation cover is removed; artificial derangement of drainage can cause stream channels to choke with debris or be eroded; important fossil or rare mineral sites can be destroyed by excavation, burial or even by increased public to a site where a lack of protective management allows over-zealous commercial or private collection; and larger scale landforms are commonly destroyed by such things as excavation or burial during housing, forestry, quarrying, inundation beneath artificial water storages, or mining.*

Damage to geodiversity is not undone simply because vegetation may later re-colonise and camouflage a disturbed ground surface. While some landforms may possess the potential for a degree of self-healing if given sufficient time and appropriate conditions, many landforms are essentially fossil features that have resulted from environmental process that no longer occur, such

[6] Gray M 2004 *Geodiversity. Valuing and conserving abiotic nature*. Wiley, Chichester UK
[7] Gray M Geodiversity: the origin and evolution of a paradigm. Pp.31-36 in Burek CV, Prosser CD (eds.) *The history of geoconservation*. Geological Society Special Publication 300, London UK.
[8] Kirkpatrick JB, Kiernan K 2006 Natural heritage management. Chap 14 in Lockwood M, Worboys GL, Kothari A (eds.) *Managing protected areas: a global guide*. IUCN/Earthscan, London.

as episodes of cold glacial era climate – for example, small glacial meltwater channels less than 1 m deep have survived intact in Tasmania through several glacial cycles (over 300, 000 years or more) so there is no justification for assuming that excavations for roadways or driveways will magically disappear any sooner.

For a soil to form requires the process of pedogenesis, which involves progressive weathering, clay mineral formation, internal redistribution of minerals and other material, horizon development and various other processes that require a very long period of time - even where climatic conditions are warm and moist rock weathering rates rock weathering rates may allow no more than 1 m of soil to form in 50,000 years on most rock types[9]. The uppermost horizons of a soil are the most productive part of a profile but are usually the first to be lost if there is accelerated erosion, churning and profile mixing by traffic, compaction, nutrient depletion, soil pollution or other modes of degradation. Hence, soil degradation should be avoided in the first place rather than being addressed by remediation attempts such as dumping loose "dirt" onto a disturbed surface, because a soil is not just "dirt".

***The need to embrace geodiversity in planning** - Sites of geoconservation significance can be valued at a variety of scales, from the global to the very local. Only those sites recognised as important at a state or national scale are ever likely to be safeguarded as protected areas, but many more are nonetheless significant at regional or local level, or even considered important by just a few adjacent neighbours. **The need for a planning response outside formal protected areas by various levels of government has long been recognised overseas, and also in Tasmania[10]**.*

The Australian Natural Heritage Charter[11] provides one very useful contribution towards better recognition and management of geodiversity by various levels of government. Significant progress has already been made in Tasmania where the state government has established a geoconservation database that can be readily accessed by planners and development proponents. The establishment of a geoconservation code within the Tasmanian planning machinery would facilitate utilisation and development of this important tool for planners and development proponents. No impediment to develop generally exists where geoconservation sites are robust or lacking significance, but important and vulnerable sites require higher levels of planning intervention.'

Further to the above, the **Tasmanian Geoconservation Database** is '*a source of information about geodiversity features, systems and processes of conservation significance in the State of Tasmania. The database is a resource for anyone with an interest in conservation and the environment. However, the principal aim is to make information on sites of geoconservation significance available to land managers, in order to assist them manage these values.* ***Being aware of a listed site can assist parties involved in works or developments to plan their activities. This may involve measures to avoid, minimise or mitigate impacts to geoconservation values.*** *More than a thousand sites are*

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

[10] For example see Erikstad L 1984 Registration and conservation of sites and areas with geological significance in Norway. *Norsk Geografisk Tidsskriuft* 38: 200-204; Nature Conservancy Council 1989 *Earth Science Conservation. A draft strategy*. NCC, London, UK; Kiernan K 1991 Landform conservation and protection. pp. 112-129 in *Fifth regional seminar on national parks and wildlife management, Tasmania 1991. Resource document*. Tasmanian Parks, Wildlife & Heritage Department, Hobart.

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

currently listed. These range in scale from individual rock outcrops and cuttings that expose important geological sections, to landscape-scale features that illustrate the diversity of Tasmania's geomorphic features and processes. Many of the sites are very robust and unlikely to be affected by human activities; others are highly sensitive to disturbance and require careful management.'

Recommendation: The SPPs must provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code.

20. Integration of Land Uses

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

Recommendation: I consider that the planning system should provide an integrated assessment process across all types of developments on all land tenures which includes consistent provision of mediation, public comment and appeal rights.

21. Planning and Good Design

Quality design in the urban setting means "doing density better". We need quality in our back yards (QIMBY), an idea promoted by Brent Toderian, an internationally recognised City Planner and Urban Designer based in Vancouver.

Liveable towns and suburbs: For most people this means easy access to services and public transport, a reduced need for driving, active transport connections across the suburb, easily accessible green public open spaces, improved streetscapes with street trees continually planted and maintained, with species which can coexist with overhead and underground services. This means well designed subdivisions where roads are wide enough to allow services, traffic, footpaths and street trees. Cul de sacs should not have continuous roofs. There should be less impervious surfaces, continuous roofs and concrete.

Dwelling design: Apartment living could allow more surrounding green space, though height and building form and scale which become important considerations due to potential negative impact on nearby buildings. We also need passive solar with sun into habitable rooms.

Individual dwellings: There must be adequate separation from neighbours to maintain privacy, sunlight onto solar panels and into private open space, enough room for garden beds, play and entertaining areas, and this space should be accessible from a living room. The Residential SPPs do not deliver this. *New research confirms, reported here on the 13 August 2021 'Poor housing has direct impact on mental health during COVID lockdowns, study finds', that poor housing had a direct impact on mental health during COVID lockdowns: 'Your mental health in the pandemic "depends on where you live", new research suggests, with noisy, dark and problem-plagued homes increasing anxiety, depression, and even loneliness during lockdowns.' Lockdowns are likely to continue through the pandemic and other climate change impacts – thus its critical, our housing policy and standards 'make it safe for everyone … to shelter in place without having poor mental health'.*

Building materials: Low cost development will impact sustainability and increase heating/cooling costs, creating a poor lived experience for future owners. There should be stronger building controls. Consider the heat retention effects of dark roofs. There should be less hard surfaces and increased tree canopy. Too often the effect of a development which changes the existing density of a street is allowed to proceed without any consideration for place. Neighbours have rights not just the developer.

Recommendation: All residential zones in the SPPs should be rethought to 1. Mandate quality urban design in our subdivisions, suburbs and towns, **2**. Improve design standards to prescribe environmentally sustainable design requirements including net zero carbon emissions - which is eminently achievable, now **3**. Provide a Zone or mechanism which allows apartment dwellings and/or targeted infill based on strategic planning, **4**. Deliver residential standards in our suburbs which maintain amenity and contribute to quality of life. I also recommend that subdivision standards be improved to provide mandatory requirements for provision of public open space for subdivisions and for multiple dwellings.

21 Various Other Concerns

- Application requirements in cl 6.1 and the need for planning authorities to be able to require certain reports to be prepared by suitable persons (for example, Natural Values Assessments), or for these reports to be mandatory where certain codes apply.
- General exemptions in cl 4.0 of the SPPs particularly those relating to vegetation removal and landscaping.
- The need to better plan for renewable energy and infrastructure.
- I consider that the SPP Acceptable Solutions (i.e. what is permitted as of right) are not generally acceptable to the wider community.
- The system and Tasmanian Planning Scheme language is highly complex and analytical and most of the public are not well informed. More is required in the way of public education, and a user friendly document should be produced, if our planning system is to be trusted by the wider community.
- It is disappointing also that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. The*re is nothing to guide Councils when making discretionary decisions.*
- *Whilst* I *accept that Desired Future Character Statements and Local Area Objectives may be* hard to provide in the context of SPPs, which by definition, apply state-wide, we consider that greater latitude could be provided in the SPPs for LPSs to provide these types of statements for each municipality.

Related General Comments/Concerns regarding the SPPs

I also have a range of concerns relating to the SPPs more broadly:

1. Amendments to SPPs - 35G of LUPAA
2. The Process for making Minor and Urgent Amendments to SPPs
3. The SPPs reliance on outdated Australian Standards
4. The SPPs vague and confusing terminology
5. The SPPs were developed without a full suite of State Policies
6. Increased complexity
7. Tasmanian Spatial Digital Twin
8. Difficult to Protect local Character via the LPS process

1. Amendments to SPPs - 35G of LUPAA

Under Section 35 G of the *Land Use Planning and Approvals Act 1993*, see here, a planning authority may notify the Minister as to whether an amendment of the SPPs is required. However, the Act does not set out a process that deals with the 35G issues.

Recommendation: 1. It is my view that the *Land Use Planning and Approvals Act 1993* should set out a transparent and robust process for dealing with 35G issues. **2.** Consistent with the Objectives of the *Land Use Planning and Approvals Act 1993* communities that are going through their local LPS process, should be allowed and encouraged by their local Council to comment not only on the application of the SPPs but on any issues they may have in regards to the contents of the SPPs. It is logical that this is when communities are thinking about key concerns, rather than only having the opportunity to raise issues regarding the content of the SPPs during the statutory five-year review of the SPPs. I recommend the *Land Use Planning and Approvals Act 1993* should be amended to reflect this.

2. Process for Making Minor and Urgent Amendments to SPPs

In 2021, the Tasmanian Government amended the *Land Use Planning and Approvals Act 1993* to change the process for making minor amendments to the SPPs and introduce a separate process for making urgent amendments to the SPPs. These amendments give more power to the Planning Minister with no or a very delayed opportunity for public comment. The definition of both a minor and urgent amendment is also unclear. In my view, amendment processes provide the Minister with too much discretion to make changes to the SPPs and fail to adopt appropriate checks and balances on these significant powers.

Also, legal advice is that when the Tasmanian Planning Policies are introduced, the minor amendment process does not allow for changes to bring the SPPs into line with Tasmanian Planning Policies.

Recommendation: 1. Amending the *Land Use Planning and Approvals Act 1993* to provide a clear definition of what constitutes a *minor* and *urgent* SPP amendment. 2. Ensure that the process for creating a minor or urgent amendment includes meaningful public consultation that is timely effective, open and transparent.

3. The SPPs Vague and Confusing Terminology

There are many specific words in the SPPs, as well as constructs in the language used, that lead to ambiguity of interpretation. Often this results in sub-optimal planning outcomes for the community and can contribute to delays, unnecessary appeals and increased costs to developers and appellants. Words like SPPs 8.4.2 "provides reasonably consistent separation between dwellings" 8.4.4 "separation between multiple dwellings provides reasonable opportunity for sunlight". Other terms used throughout the SPPs which are highly subjective include "compatible", "tolerable risk", and "occasional visitors" where numbers are not defined.

Similarly, the use of constructs such as 'having regard to' may mean that sub- criteria can effectively be disregarded in decision making. Alternative wording such as 'demonstrate compliance with the following' would provide greater confidence that the intent of such provisions will be realised.

While this ambiguity leads to delays and costs for all parties, it particularly affects individuals and communities where the high costs involved mean they have reduced capacity to participate in the planning process – contrary to the intent of LUPAA objective 1.(c).

Recommendation: That the terminology and construction of the SPPs be reviewed to provide clearer definitions and shift the emphasis under performance criteria towards demonstrated compliance with stated objectives.

4. The SPPs were developed with few State Policies

The SPPs are not about strategic or integrated planning, but are more aptly described as development controls. The creation of the SPPs should have been guided by a comprehensive suite of State Policies. This did not happen before the development of the SPPs by the Planning Reform Task Force. Hence the SPPs exist without a vision for Tasmania's future.

The SPPs are still not supported by a comprehensive suite of State Policies to guide planning outcomes. In 2016, the Tasmanian Planning Commission acknowledged, in particular, the need to review the State Coastal Policy as a matter of urgency, but no action has been taken. Other areas without a strategic policy basis include integrated transport, population and settlements, biodiversity management, tourism and climate change.

In 2018, instead of developing a suite of State Policies, the State Government created a new instrument in the planning system – the Tasmanian Planning Policies. As at 2022, the Tasmanian Planning Polices are still being developed. The Tasmanian Planning Policies are expected to be lodged with the Tasmanian Planning Commission by the end of 2022. The Tasmanian Planning Commission will undertake its own independent review, including public exhibition and hearings.

My **position has been that we need State Policies rather than Tasmanian Planning Polices** because they are signed off by the Tasmanian Parliament and have a whole of Government approach and a broader effect. The Tasmanian Planning Polices are only signed off by the Planning Minister and only apply to the Tasmanian Planning Scheme and not to all Government policy and decisions.

5. Increased Complexity

The Tasmanian Planning Scheme is very complex, is only available in a poorly bookmarked pdf and is very difficult for the general public to understand. This creates real difficulties for local communities, governments and developers with the assessment and development process becoming more complex rather than less so. Community members cannot even find the Tasmanian Planning Scheme online because of the naming confusion between the Tasmanian Planning Scheme and the State Planning Provisions. PMAT often fields phone enquiries about how to find the Tasmanian Planning Scheme.

Repeated amendments to Tasmania's planning laws and thus how the Tasmanian Planning Scheme is being rolled out is unbelievably complicated. From a community advocacy point of view, it is almost impossible to communicate the LPS process to the general public. For example, see PMAT Media Release: Solicitor General's Confusion Highlights Flawed Planning Change Nov 2021.

Recommendations: It is recommended that illustrated guidelines are developed to assist people in understanding the Tasmanian Planning Scheme. It would be helpful if the Tasmanian Planning Scheme could also be made available as with previous interim schemes through iPlan (or similar) website. This should also link the List Map so there is a graphical representation of the application of the Tasmanian Planning Scheme (which expands when new LPSs come on board). It should also be noted, that for the average person, iPlan is difficult to use.

Recommendations: Create a user friendly version of the Tasmania Planning Scheme such as the provision of pdfs for every LPS and associated maps. IPlan is impenetrable for many users.

6. Tasmanian Spatial Digital Twin

Digital Twin, a digital story telling tool, would revolutionise planning data and public consultation in Tasmania. The Spatial Digital Twin could bring together data sources from across government including spatial, natural resources and planning, and integrate it with real time feeds from sensors to provide insights for local communities, planners, designers and decision makers across industry and government.

It enables communities, for example, to gain planning information about their streets, neighbourhoods and municipalities. It would allow the general public to visualise how the SPPs are being applied to how a development looks digitally before it is physically built, making it easier to plan and predict outcomes of infrastructure projects, right down to viewing how shadows fall, or how much traffic is in an area.

See a NSW Government media release by the Minister for Customer Service and Digital Government: *Digital Twin revolutionises planning data for NSW*, December 2021.

From a community point of view, it is almost impossible to gain a landscape/municipality scale understanding of the application of the SPPs from two dimensional maps. One of PMAT's alliance member groups, Freycinet Action Network, requested the shape files of Glamorgan Spring Bay Council's draft LPS but was unable to obtain a copy. This would have enabled FAN to better visualise how the LPS is being applied over the landscape.

Recommendation: To introduce a Tasmanian Spatial Digital Twin to aid community consultation with regards to the application of the Tasmanian Planning Scheme via each Council's Local Provisions Schedule process and public consultation more broadly.

7. Difficult to Protect local Character via the LPS process

In 2016, the Tasmanian Planning Commission acknowledged[12] that the SPPs were designed to limit local variation, but queried whether a "one-size fits all" model will deliver certainty:

"*If local character is a point of difference and an attribute of all Tasmanian places, unintended consequences may flow from denying local differences. The 'one size fits all' approach is likely to result in planning authorities seeking more exceptions through the inclusion of particular purpose zones, specific area plans and site-specific qualification*."

In my *view the SAP/PPZ/SSQ threshold are too high. As the SAP/PPZ/SSQ are the mechanisms to preserve character, possibly the only way to preserve character, in the Tasmanian Planning Scheme, it is essential that they or like mechanisms, are available to maintain local character. Common standards across the Zones whilst being efficient, could destroy the varied and beautiful character of so much of this state.*

It is also extremely disappointing that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. Currently, there is nothing to guide Councils when making discretionary decisions, (unless in Discretionary Land Use decision as at 6.10.2b).

Recommendation: Amend section 6.10.2 of the SPPs to read:

6.10.2 In determining an application for a permit for a Discretionary use "**and development**" the planning authority must, in addition to the matters referred to in sub-clause 6.10.1 of this planning scheme, "**demonstrate compliance with"**:

(a) the purpose of the applicable zone;

(b) any relevant local area objective for the applicable zone;

(c) the purpose of any applicable code;

(d) the purpose of any applicable specific area plan;

(e) any relevant local area objective for any applicable specific area plan; and

(f) the requirements of any site-specific qualification, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

[12] See page 17: *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016.*

Appendix 1 - Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016

AUSTRALIAN states have deregulated their planning systems using a national blueprint advanced largely by the development industry. Tasmania is the latest.

Planning system change is always disguised as reform, but the real intent is to advantage the development industry.

In Tasmania, this reform introduces a single statewide planning system. This allows the government to dictate planning provisions regardless of differences in local conditions and needs.

State provisions can easily be changed. In some states, standard statewide provisions have been weakened over time to reduce citizen rights and local planning control.

The Tasmanian planning minister will be able to alter them without reference to Parliament, and potentially gain greater power from the Planning Commission and councils. It is yet to be seen whether the government will permit strong local policy to prevail over state policy.

Some states have allowed a wide range of applications to be assessed without need for permits under codes and by largely eliminating prohibited uses. The Tasmanian system has continued much of the former planning scheme content, but introduces easier development pathways.

An application for development or use need not be advertised if allowed without a permit or considered a permitted activity.

Alternative pathways allow public comment and appeal rights, but these often reduce the level of control.

Serious problems are likely to arise from the content of planning provisions.

For example, while the main residential zone, the General Residential Zone, mandates a minimum site area of 325 square metres and height and other controls for multi-dwelling units, no minimum density applies to land within 400m of a public transport stop or a business or commercial zone. This will open large urban areas to inadequately regulated multi-unit development.

The main rural zones allow many urban uses, including bulky goods stores, retailing, manufacturing and processing, business and professional services and tourist and visitor accommodation complexes.

This deregulation will attract commercial uses to the rural edges of cities and the most scenic landscape areas. Such uses should be located in cities or in rural towns to benefit local jobs instead of being placed as isolated enclaves on some of the state's most beautiful landscapes.

Use and development standards will prove to be useless in protecting the agricultural, environmental and landscape values of rural zones from overdevelopment.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Codes are a particular concern. The heritage code is intended to reduce the impact of urban development on heritage values.

However, performance criteria for demolition are vague and development standards criteria do not provide adequate protection.

The nomination of heritage precincts and places is variable, leaving many inadequately protected.

The National Trust and other expert groups have raised similar concerns.

The potential of the Natural Assets and the Scenic Protection codes to lessen the impacts of some urban uses on rural and natural areas also will be compromised by vague language, limitations and omissions.

Interminable legal arguments will erupt over the meaning and application of these codes, with the inevitable result that development proposals will win out.

The State Government can learn from the disastrous consequences of other deregulated planning systems. It should strengthen regulation and listen to the public to ensure a state system does not destroy much that will be vital for a prosperous and liveable future for citizens.

The Government argues the new system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.

While planning for the future is complex, the hidden agendas of planning reform are evident from the massive impacts from unregulated development in other states.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Tasmania's cities, towns, scenic landscapes and biodiversity are a state and national treasure. Lose them and the nation is diminished.

Michael Buxton is Professor Environment and Planning, RMIT University, Melbourne.

Appendix 2 – The Mr Brick Wall Story

This tragic story, which I have edited down, was submitted to the Tasmanian Planning Commission as part of the public exhibition of the draft statewide scheme.

We call it the tragic story of Mr Brick Wall

Mr Brick Wall states:

"*We are already victims of the new planning scheme. We challenged and won on our objection to a large over-height proposed dwelling 3 metres from our back boundary on an internal block under the previous planning scheme. We won on the grounds that the amenity to our home and yard would be adversely affected by this proposed dwelling under the previous planning scheme.*

However, this all changed under the new interim planning scheme and the dwelling was allowed to be constructed. As a result we now have an outlook from our outdoor entertaining area, living room, dining room, kitchen, playroom and main bedroom of a brick wall the full length of our back yard on the maximum new height allowed.

We can see a bit of sky but no skyline as such. The dwelling has obscure windows for our so called privacy, which are absolutely useless as they have been allowed to erect commercial surveillance cameras all around their house, 2 of which are on our back boundary. No problem you think! These cameras can be operated remotely, have 360 degree views at the click of a mouse and we understand they have facial recognition of 4 kilometres distance. So where is our privacy and amenity?

The Council was approached by us and our concerns prior to the new changes proceeding and we were told that there was nothing we or the Council could do to stop these changes as all changes to the planning scheme have to be accepted by Councils and they have no say in the matter. As a result we no longer feel comfortable or relaxed when in our own backyard and our young teenage daughters will not use the yard at all. We also have to keep our blinds drawn on the back of our house to ensure some privacy is maintained.

We also had our house listed for sale for almost 6 months, 8 potential buyers no one bought it because everyone of them sighted that the house next door was too close to our boundary. This is our north facing boundary and as such has all our large windows on this side to take advantage of the sun. '

Mr Brick Wall ends by saying that .the Government needs to realise what's on paper doesn't always work out in the real world and that real people are being adversely affected by their decision making.

32-34 Georges Bay Esplanade
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Break O'Day COUNCIL

Our ref: 22/2821
Enquiries: Deb Szekely

5 August, 2022

Michael Ferguson MP
Minister for Planning,
Department of Premier and Cabinet,
State Planning Office,
GPO Box 123,
HOBART TAS 7001

[redacted]

Dear Michael,

RE: State Planning Provisions Review Scoping Paper

Thank you for the opportunity to provide input into the scoping of the issues to be considered in the review of the State Planning Provisions. The Break O'Day Council is yet to apply the state planning instrument within the Break O'Day local government area, with the hearing for our Draft Local Provisions Schedule set for later in this month. However, please accept the comments of the Break O'Day Council relating to the scope of issues to be reviewed within the state wide scheme.

Please find below issues the Break O'Day Council would like to see considered as part of the SPPs review. The first two items are issues the State Planning Office are aware are of major concern to local government and are likely to be included within a submission by the Local Government Association of Tasmania. The Break O'Day Council supports LGAT in requesting further consideration be given to the inclusion of Stormwater Management and Infrastructure Contributions to be more adequately considered within the State Planning Provisions.

1. Stormwater

Local government has regulatory authority under both the *Land Use Planning and Approvals Act 1993 and Urban Drainage Act 2013* with respect to stormwater management. In many local government areas, stormwater management presents as a credible management issue within land use planning. A generalised Code within the SPPs that supports Council policy may be a way of addressing variance within local government areas and also allow local government to adequately address stormwater management, including:

- Ability to refuse applications that have not demonstrated the adequate management of stormwater within the development proposal;
- Provide direction on stormwater management in non-urban areas;
- Improve local government defence in any appeal as part of the development process;
- Provide the reference point to the Urban Drainage Act Stormwater Service Provider policy on stormwater regulation (linkage);

A code that goes further than the current conditioning provisions should be further considered.

2. Infrastructure Contributions

Infrastructure delivery is fundamental to activating development, ensuring equitable cost distribution and better infrastructure outcomes and to this end a review of the infrastructure contributions systems and framework within Tasmania should be considered as part of the review process. The review process could explore the ability of the SPPs to assist in delivering a coherent infrastructure contributions framework that supports development and growth.

3. Administrative

Clause 3 Interpretation

The Break O'Day local government area has a strong reliance on tourism as an economic driver. Commercial growth opportunities with linkages to our agricultural base and tourism base need to be considered within our planning instruments. Customer enquiries relating to the establishment of micro-breweries is common within our commercial precincts. The placement of **Brewery** within the Resource Processing Use Class is problematic within commercial and industrial zones. Consideration should be given to differentiation of breweries and micro-breweries and the facilitation of miro-breweries and/or nano-breweries within commercial and industrial zones should be considered. Independent craft brewing is a growth sector with potential to expand within local government areas. The state-wide planning scheme has a role to play in supporting the growth of the industry by incorporating the unique requirements of craft brewers into the planning scheme. The current SPPs do not differentiate between large-scale breweries and craft breweries with lower production volumes and generally lower impacts in terms of noise, odour emissions and differing traffic generation. A review of the Queensland Craft Brewing Strategy may assist.

Additionally, consideration should be given to how the scheme addresses and supports distilleries within appropriate land use zones and determination as to whether a distinction between breweries and distilleries is required to further support the industry.

Clause 6 Assessment of an Application for Use or Development

Clause 6.1.2 provides for mandatory application materials. If a proposed use or development relies on Crown land (e.g. access) then clause 6.1.2 (b) requires crown consent to lodge by way of written consent and a copy of the delegation.

This often results in considerable delay for applications to be deemed valid and can halt the development assessment process by way of months in some instances.

Consideration should be given to a modification of requirements to satisfy this requirement under s52 of LUPAA and clause 6 of the SPPs. Amendment could consider a system of notification rather than consent to lodge. Notification could be by way of electronic entry on a register and consequently Property Services (State Government) becoming a statutory referral agency and adhering to the time frames of the planning system in LUPAA. As a statutory referral agency they would be able to request conditions be included in any permit, including that a crown licence is obtained or Department State Growth conditions for access or stormwater disposal in the case of a state road.

6.12 (d) requires a copy of the current certificate of title for all land to which the permit sought is to relate. A considerable number of applications are deemed invalid and a request for further information is issued, based on absent, incomplete or outdated certificates of title accompanying any application. This too causes considerable delay in processing development applications and is a resource local government has access to. In the spirit of planning reform it would be expedient for both the planning authority and the customer, to enable Council to access these documents on behalf of the applicant when missing, incomplete or outdated and have the ability to charge the applicant for the same to recoup costs. The applicant could nominate on a Development Application form that they request Council to source the documents on their behalf. Any charges should be on a cost recovery basis only (Council and Land Titles Office). Whilst no change is required to the SPPs clause 6.1.2 (d), it does require coordination across the state with local government and the Lands Titles Office.

4. Zones

Agriculture / Rural Zones - Agritourism

As part of any review process, the Break O'Day Council would like to ensure that Agritourism as an important value add-on to agriculture, **continues** to be adequately recognised within the Agriculture and Rural Zones Use Tables.

Landscape Conservation Zone

Residential Uses

The removal of the Environmental Living Zone has caused residential use class to become discretionary in the LCZ through transition. The Break O'Day Council has strategically placed land zoned Environmental Living, similar to Rural Living, as land suitable for providing different housing choice such as rural living or lifestyle housing. Environmental Living allotments provide greater lifestyle choice and previously, the zone provided for permitted residential use and development whilst considering site constraints.

Allotments within the BODC Environmental Living Zone in some areas, are largely around the 8 – 12 hectares in size. There are instances of lots, particularly in Scamander that are 2 – 2.5 hectares. This has created transition complications for the BODC with land transitioning to the LCZ when for example, areas within Beaumaris or Stieglitz, may have potential for long term higher density "Environmental Living Zone" that are within the existing settlement boundary and can provide for lifestyle housing opportunities.

Within the Break O'Day local government area, allotments within the Environmental Living Zone are inconsistent in size ranging from 550 m2 and up to and greater than 20 hectares.

The SPP now has a considerable gap in the residential suite of zones and in particular that which caters for lifestyle lots and recognition of natural values. The Break O'Day Council would like to see a review of this and consideration to the use class Residential as permitted use.

Tourism Related Uses

The Break O'Day Environmental Living Zone, supports a lot of interest in development within the Visitor Accommodation Use Class. There is often interest in expanding the use within the development site to include providing for consumer demand for hosting events such as weddings and cooking master classes that may not necessarily require persons to stay on the premises (visitor accommodation).

Function centres are contained within the Use Class "Meeting & Entertainment". The opportunity for Visitor Accommodation style developments to offer services such as a function centre for weddings, hosting cooking master classes etc. regardless of staying at the venue, can often be difficult to justify in terms of associated and subservient to the main use. Greater clarification in this area should be afforded during the review process.

Rural Living Zone / Rural Zone

The Break O'Day area supports Rural Living lots and to a larger extent, the Rural Zone and has an ageing population. We quite often receive planning enquiries regarding ability to build an additional dwelling on the property for family members (often children and their family) that would enable landowners to age in place and provide a solution for housing affordability for grown children and their families. This is primarily for lots in close proximity to established service areas. Presently they are limited to the requirements of a 'secondary residence'. Consideration regarding ageing in place and affordable housing whilst maintaining the purpose of the zone should be afforded during the review process.

5. Subdivision Provisions

Environmental Living Zone: LCZ / Rural Resource Zone: Rural Zone / Agricultural Zone

The subdivision provisions within the *BOD Interim Planning Scheme 2013* Environmental Living Zone and the Rural Resource Zone contain a clause requiring:

"All new lots must be located a minimum of 1km from High Water Mark". There is no corresponding performance criteria and essentially poses a prescriptive requirement. The RRZ provides a qualification – "except for those lots that are required for the crown, public authority or a municipality".

The restrictions on subdivision based on 1km from the High Water Mark (HWM) originate in response to the State Coastal Policy that identifies the **Coastal Zone** to include all land to a distance of one kilometre inland from the high-water mark. The policy requires urban and residential development in the coastal zone to be based on existing towns and townships. Ribbon development and unrelated cluster development is to be discouraged along the coast.
Essentially the insertion of the clause to preclude subdivision within 1km of the HWM, sought to satisfy the Coastal Policy and was applied to coastal zone land within the Environmental Living and Rural Resource Zones, i.e. land not associated with existing towns and townships.

Scope of any review should ensure the State Coastal Policy is effectively satisfied within the Landscape Conservation Zone and Rural / Agricultural Zones in the SPP. A comparison of the effectiveness of the subdivision provisions within the SPP for the LCZ and RZ/AZ in achieving the requirements of the State Coastal Policy and the effectiveness of applying a 1km prescriptive mechanism via the acceptable solution should be completed. The Break O'Day municipality would be a logical test case in preventing ribbon development in the coastal zone, given the inordinate land within the coastal zone that will transition to the LCZ, in comparison to other local authorities.

<u>Rural / Agriculture Zone</u>
The Break O'Day Council would like to see a qualification within the subdivision provisions that addresses the ability to subdivide lots containing Heritage structures (e.g. churches) from Rural / Agriculture lots. This would enable opportunities for restoration to occur that effectively separates the use from existing agricultural uses. Often finding financial investment through sale of the lot containing the historical structure(s) is required.

Conclusion
Once again thank you for the opportunity to provide input into the scope of the review of the State Planning Provisions. Council staff would be willing to participate in any proposed reference groups or consultative groups and provide further submissions on behalf of Council.

Yours faithfully,

John Brown
General Manager.

MOUNT STUART RESIDENTS INC

14 Byard Street MOUNT STUART TAS 7000

President: Scott Faulkner
Secretary: Stewart Gardner
Treasurer & Public Officer: Eric Pinkard
12th August 2022

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

To whom it may concern

State Planning Provisions (SPPs) Review

Mount Stuart Residents Inc thanks you for the opportunity to comment on the review of the SPPs, including the opportunity to amend existing provisions and/or recommend new provisions.

Mount Stuart Residents Inc is a member of Planning Matters Alliance Tasmania Inc (PMAT) and has a representative on the committee of Tasmanian Planning Information Network (TasPIN), who are both making submissions recommending changes to the SPPs, which we totally support. However, we wish to highlight some other issues which affect local planning which we consider should be addressed.

<u>De facto zone markers</u>

In the SPPS, at para 8.4.1 P1 (P) (i) of the General Residential Code, the performance criteria include the following:

(b) provides for a significant social or community benefit and is:

> *(i) wholly or partly within 400m walking distance of a public transport stop; or*
>
> *(ii) wholly or partly within 400m walking distance of an Inner Residential Zone, Village Zone, Urban Mixed Use Zone, Local Business Zone, General Business Zone, Central Business Zone or Commercial Zone.*

Public transport stop is not defined, which leaves criterion (i) open to interpretation. For instance, a bus stop which has one service a day (or a week!) means that all the land within 400 m walking distance of the bus stop could be used for multiple dwelling developments. We are sure this is not the intention of the legislation, but poor drafting means it could be used and abused.

In Tasmania, most public transport stops are not permanent – they could be here one week and gone the next.

In Mount Stuart, there are bus stops throughout the suburb, which means that all of Mount Stuart could be used for multiple dwelling developments. However, many of the streets in Mount Stuart are narrow with limited parking. If a multiple dwelling development was approved for one of these streets, the street would be effectively blocked during construction for much of the day with construction and tradies' vehicles. It may also be

difficult to provide permanent off-street parking due to the hilly terrain, meaning that vehicles would be parked on the street, with consequent traffic issues.

Mount Stuart Residents Inc does not agree with the use of public transport stops as a basis for ad hoc extension of planning zones.

Mount Stuart Residents Inc also disagrees with the ad hoc extension of planning zones arising from clause (ii). We consider it is much better to provide certainty rather than have elastic boundaries causing confusion. The use of “walking distance” means that planning zone boundaries could be extended in an anomalous manner.

Mount Stuart Residents Inc strongly recommends that paras 8.4.1 P1 (b)(i) and (b)(ii) be deleted from the SPPs.

Sunlight and Solar Access

It is disappointing that neighbouring properties may lose sunlight and/or solar access without any notification because of a development application being approved. Sunlight in living areas is a very important aspect of Tasmanian buildings.

Mount Stuart Residents recommends that shadow diagrams be a requirement for all development applications and that all neighbours within 50 m of a development be notified (see below).

Notifications of Development Applications

It is disappointing that all neighbours may not be notified by planning authorities that a development application has been received for one of the neighbouring properties.

Current interpretation of legislation means that only owners of adjoining properties are notified and then only if the development application is not automatically approved. This excludes other neighbouring properties e.g., owners of properties on the other side of the pathway between the two properties and owners of properties across the street(s).

Mount Stuart Residents recommends that owners of all properties within 50 m of the property for which a development application has been received be automatically notified of the development application, regardless of whether it is automatically approved or not.

Stormwater

It is surprising that stormwater is not part of the SPP process. This means that there are often delays and unnecessary revisions of the approval process as the developer is made aware of additional requirements required by the local government authority. Flood peaks following heavy rain may be exacerbated due to developments being permitted to have 100% impervious surfaces. Notification to neighbours should include details of stormwater drainage for the property being developed.

Mount Stuart Residents recommends that stormwater be part of the SPP process. Continued failure to include this means that there will be 29 councils, all with different stormwater requirements, defeating the aim of having one state-wide planning scheme.

Penalties for Destruction of Heritage Properties

The removal of the option to impose a development penalty or holiday on developers who illegally demolish buildings in 2013 was a retrograde step, as evidenced by the subsequent illegal demolition of the former heritage residence and irrecoverable damage to 2 heritage listed trees at 55 Mount Stuart Road Mount Stuart.

Mount Stuart Residents Inc strongly recommends that the option to impose a development penalty of up to 10 years be reinstated to discourage such illegal actions.

11 August 2022

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

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

Dear Minister Ferguson,

State Planning Provisions Review
Southern Midlands Council Submission

Thank you for the opportunity to provide comments regarding the review of the State Planning Provisions (SPPs). I note that this submission is made at an officer level.

Southern Midlands Council has now been operating under the Tasmanian Planning Scheme (TPS) incorporating the SPPs for several months.

Overall, I believe the TPS is an improvement from the Interim Planning Scheme (IPS), particularly due to the simplification and improvements to the administrative sections and consistency of the zone and code formatting and drafting.

The matters below continue to be of concern to SMC and I believe many other Councils.

Stormwater
It is acknowledged that Council's have powers for stormwater management under the Urban Drains Act 2013 and specific power for conditioning is given in clause 6.11.2 of the SPPs.

However, this is considered inadequate and does not provide sufficient transparency to developers/applicants regarding the need and expectations for stormwater volumes and quality to be managed for developments.

Specific standards are required for stormwater such as those found in the IPS.

Landscaping

It would be beneficial in many contexts for Council's to be able to require landscaping of developments. This includes industrial, commercial and residential contexts such as multiple dwelling developments.

Landscaping improves the appearance of urban spaces and contributes to climate change outcomes by providing shade and breaking up hard stand areas that become heat banks.

Standards for all development that requires a permit

It would be beneficial for all zones to have a development standard for development/works that requires a permit but is not a building.

In some cases a project such as excavation or demolition requires a development application but then there are no applicable standards in the zone and possibly none in any code either.

If there is no assessment to take place, why require a development application at all?

Local Government Building and Miscellanoues Provisions Act 1993

The inconsistencies and confusion regarding application of this Act to subdivisions continues. While it may be beyond the scope of this review, legislative review (ideally repeal) of the LGBMP Act is beyond due.

Local Historic Heritage Code

A separate submission authored by Brad Williams (Manager Heritage Projects, Southern Midlands Council) has been prepared specifically with regard to the Local Historic Heritage Code. The concerns raised in that submission are fully supported.

The provisions of the SPPs in this Code are significantly different to the IPS and are proving to be inadequate to protect local historic heritage, a major value and driver of economic development in the Southern Midlands. Application of the TPS will severely erode local historic heritage in the Southern Midlands if this Code is not changed.

The major issues are summarised below (detailed more fully in the appended submission):

- The Local Historic Heritage Code does not apply to places listed on the Tasmanian Heritage Register (THR). This means any value that is not specifically part of the THR listing cannot be addressed, values at a precinct level cannot be applied and local assessment cannot occur. There is an equity issue in how precincts apply – places that are not listed on the THR must comply with precinct requirements while those that are listed do not.

SOUTHERN MIDLANDS COUNCIL

- Local Heritage 'Place' provisions override 'Precinct' provisions. Precincts protect different values than Place listings.
- Loss of the subdivision standards in Rural or Agriculture zones for Heritage Places. This standard in the SMIPS was used several times to excise heritage properties from surrounding farm land to great benefit (notable example, Kenmore Arms at St Peters Pass).

If you need to contact me in regard to this matter please do so via the Kempton office on 6254 5050 or by email mail@southernmidlands.tas.gov.au.

Yours faithfully

[redacted]

Jacqui Tyson
Senior Planning Officer
Development & Environmental Services

Attachment: Submission prepared by Brad Williams

Department of Premier and Cabinet

State Planning Office

GPO Box 123 HOBART TAS 7001

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

12th August 2022

Dear Minister Ferguson

This submission is made as a collective by several Tasmanian Council heritage officers with assistance from some private sector heritage professionals and aims to provide the review with some broad commentary as to several fundamental issues we see in regard to the operation of the Local Historic heritage Code in the Tasmanian Planning Scheme.

This submission has been facilitated by Brad Williams, Manager Heritage Projects at Southern Midlands Council, whom can be contacted by your office should further explanation be required, or if further discussion is desired with the group on any matter. Note that several of the contributors have been involved with their respective Council's overall submissions, so are not signatories to this submission – but have contributed to the discussion. Similarly, Southern Midlands Council has made submission on other matters regarding the SPP's and this document may be read as in addition to that submission (noting that this is submitted from Council officer level).

Overall, we (i.e. the 'working group') see the system of statutory heritage management facilitated via the SPP's of the TPS as taking a step backwards several decades to a system where 'gaps' will result in adverse heritage outcomes – in situations that the IPS (and indeed some earlier planning schemes) allowed greater rigour in assessment and more appreciate heritage outcomes.

Frankly, we see the heritage provisions of the TPS as an archaic step backwards – and note that the recently released *Australia, State of the Environment 2021* (Heritage) report (p145)[1] made the following observations in regard to statutory planning at a local government level:

- *Heritage protections are being reduced, often as part of planning reform, through more restrictive definitions, greater exemptions and more lenient performance criteria.*
- *An example of this erosion is seen in Tasmania, where the new Tasmanian Planning Scheme will significantly reduce protections.*

The tenor of this submission concurs with that finding.

[1] McConnell A, Janke T, Cumpston Z & Cresswell I (2021). Australia state of the environment 2021: heritage, independent report to the Australian Government Minister for the Environment, Commonwealth of Australia, Canberra.

I provide the following tables as individual issues (although some are connected) which detail the key differences between the IPS and the TPS for that equivalent provision or outcome (note that some of these issues could also be discussed further in the evolution from pre-IPS schemes). These are presented here in no particular order.

C6.2.3 – Application of the Local Historic Heritage Code – Code does not apply to THR listed places.	
IPS	Under the IPS, the inclusion of a Local Heritage Place on the Tasmanian Heritage Register had no affect on the application of the code. Whilst this did result in dual assessments of heritage place provisions, it did not inhibit assessment of a place within a heritage precinct or cultural landscape precinct, nor did it prevent planning authorities from merely agreeing to default to accepting the THC assessment if appropriate.
TPS	The TPS (Clause C6.2.3) states that the Local Historic Code does not apply to a place entered on the Tasmanian Heritage Register. This means that if a place is THR listed that <u>all</u> Local Heritage provisions are no longer applicable (including Local Heritage Precinct, Local Heritage Landscapes, Place of Archaeological Potential and Subdivision).

Discussion

'Dual assessments' were undertaken on places that were listed both on the local heritage schedule of the IPS and the THR. Whilst this is somewhat anti-the 'tiered heritage management system' as espoused by most Australian jurisdictions, it allowed for collaboration between local/state heritage assessments and for local values to be identified which may not be apparent at a state level.

Whilst the ability for the Planning Authority to assess developments to a local heritage place (that is also THR listed) has now been removed in favour of a single assessment by the THC, that is not the primary concern here. It is generally supported that the THC assessment is adequate on a place-by-place basis – particularly given that Section 39 of the HCHA allows the THC to *consult with the relevant planning authority.* The planning authority therefore has the ability to provide input on the assessment, particularly if there are local values that may need consideration.

The key concern is that the THR listing removes **all** applicability of the local historic heritage code, including precincts, cultural landscapes, subdivision and archaeology (the latter is less of a concern).

Example of a consequent issue

For example, the THC can only assess impact upon that particular registered place. Often it is the case that a proposed development may have acceptable/no impact upon a place itself, but unacceptable impact upon an adjacent place, precinct, pattern of development etc.

- The construction of an outbuilding at the rear of a heritage place may not have impact upon that place (for example, if the lot is large), however depending on the pattern of development, that outbuilding may have impact upon an *adjacent* place. A lack of ability to consider precinct provisions may prevent adequate scrutiny of such a building.
- Subdivision of a heritage place may not result in impact upon that place – but may impact wider intact patterns of development.
- Generally no concerns about archaeology in this instance – HCHA considered equipped to deal with such.

Suggestion

That C6.2.3 be re-worded as such:

Clause C6.6 does not apply to a Local Heritage Place that is also entered on the Tasmanian Heritage Register, unless for the lopping, pruning, removal or destruction of a significant tree as defined in this code.

This would mean that all other provisions would be withstanding (i.e. Local Heritage Precinct, Local Historic Landscape Precinct, Places of Archaeological Potential, Subdivision. If a place is solely listed as a Local Heritage Place and registered on the THR – then only one assessment against place-based provisions will be required.

C6.2.2 – Application of the Local Historic Heritage Code – Heritage 'Place' overriding 'Precinct' provisions.	
IPS	Under the IPS, the inclusion of a Local Heritage Place also within a Heritage Precinct resulted in assessment against the provisions of both the Place and Precinct (i.e. E.13.7 and E.13.8). This allowed consideration of impact both upon the place, and upon the values of the wider precinct (as articulated in the precinct statements of significance and (where included) design criteria/conservation policy.
TPS	The TPS (Clause C6.2.2) states that: *If a site is listed as a local heritage place and also within a local heritage precinct or local historic landscape precinct, it is only necessary to demonstrate compliance with the standards for the local heritage place unless demolition, buildings and works are proposed for an area of the site outside the identified specific extent of the local heritage place.*
Discussion	
There is a difference between considering impact upon a 'place' and a 'precinct'. Proposals may have no impact upon a place as such but may have impact upon the values of a precinct. It is prudent to be able to consider impacts upon both place and precinct – particularly given that precinct values have in many instances have been very clearly and diligently articulated.	
Example of a consequent issue	
For example, a Local Heritage Place may be large, and that place may also be in a Local Heritage Precinct. Development on that place distant to the main heritage feature may not necessarily have impact upon that feature and its setting, curtilage etc. therefore may be deemed acceptable from a Local Heritage Place perspective. It may however have an impact from a precinct perspective, it if is near another heritage place where proximity may have an impact but the limitation to consideration of the Local Heritage Place upon which the development is proposed would not allow that wider consideration (beyond 'surrounding area' which is mentioned in C6.6.3P1, C6.6.4P1, and 'setting' mentioned in C6.6.5, C6.6.6, C6.6.7 – note concerns about this terminology below). Further, a site feature (such as an outbuilding) which may be comparatively less significant than the main building on that listed place, therefore demolition ay be acceptable – however if that type of outbuilding was a distinctive and significance feature of the wider precinct, then that precinct-wide importance may not be considered.	
Suggestion	

That Application qualifier C6.2.2 be removed so that assessment can occur against Heritage Place and Heritage Precinct provisions where applicable.

6.1 and/or C6.0 - Application Requirements, lack of explicit heritage requirements		
IPS	Clause E.13.5 of the IPS had certain explicit application requirements for works on places affected by the Local Historic Heritage Code.	**E13.5 Application Requirements** E13.5.1 In addition to any other application requirements, the planning authority may require the applicant to provide any of the following information if considered necessary to determine compliance with performance criteria: (a) a conservation plan; (b) photographs, drawings or photomontages necessary to demonstrate the impact of the proposed development on the heritage values of the place; (c) a statement of significance; (d) a heritage impact statement; (e) a statement of compliance; (f) a statement of archaeological potential; (g) an archaeological impact assessment; (h) an archaeological method statement; (i) a report outlining environmental, social, economic or safety reasons claimed to be of greater value to the community than the historic cultural heritage values of a place proposed to be demolished or partly demolished, and demonstrating that there is no prudent and feasible alternative; (j) for an application for subdivision, plans showing : (i) the location of existing buildings; and (ii) building envelopes on the relevant lots, including the balance lot.
TPS	The TPS (Clause 6.1 or C6) has no explicit application requirements for places affected by the Local Historic Heritage Code.	

Discussion

Although several of the Clauses in C6.6 (etc) call for 'a report prepared by a suitably qualified person' – this is within the Performance Criteria, not the Application Requirements, so is arguably too late in the process.

The 'report by a suitably qualified person' is not opposed, given that it many/most cases individual place listings and heritage precincts may not have comprehensive (or even adequate) assessments/descriptions supporting that listing – this allows a more rigorous understanding of values where appropriate.

However, explicit application requirements imply that the documentation is required as part of the application – not only as a means by which the assessor will be informed during the assessment process and may therefore prompt the inclusion of that documentation with the application – potentially avoiding the need for RFI's etc.

The explicit nature of the application requirements in the IPS has been lost for a vaguer Clause as per above.

Example of a consequent issue

Suggestion

That the equivalent of Clause E.13.5 of the IPS re inserted into the front-end of C6.0 and/or into 6.1.3.

Discretion for subdivision of THC/Local listed places in Rural/Agricultural Zone		
IPS	The IPS had the ability for the Planning Authority to consider ordinarily prohibited subdivision of a heritage listed place off a larger title in the rural resource zone (26.5.3) where it could be demonstrated that the subdivision had the potential for positive heritage outcomes through adaptive reuse or ongoing use of an otherwise underutilised heritage place. This required any urgent works on the fabric of the place to be undertaken within 12 months of issue of title and that heritage values will be restored and maintained into the future.	**P1** The subdivision of a lot for the purposes of excising a Local Heritage Place listed in the Heritage Code to this planning scheme or a place listed on the Tasmanian Heritage Register must satisfy all of the following: (a) the place no longer contributes to, or supports, the agricultural use and commercial operation of the property; (b) the subdivision will ensure that the heritage values of the place will be restored and maintained into the future through appropriate mechanisms on the title; (c) any urgent works on the heritage fabric of the place are undertaken within 12 months of the issue of title; (d) the heritage curtilage of the place is contained within the lot; (e) the loss of the land to the remainder of the property will not significantly reduce its agricultural use and commercial operation; (f) setback from a dwelling on the lot to new boundaries satisfy clause 26.4.2; (g) serviceable frontage is provided; (h) safe vehicular access arrangements are provided.

TPS	Clause 20.5.1 (Lot Design, Subdivision in the Rural Zone – also 21.5.1 Lot Design, Subdivision in the Agriculture Zone) do not explicitly mention heritage places as a consideration in lot design, but subject to a suite of considerations appears not to prohibit the excision of a heritage place off a larger rural title. Whilst this end result probably is not detrimental, the explicit ability for rural subdivision for a heritage place was an obvious 'incentive' for heritage listing, which now falls somewhat more silent. *However*, the TPS does not include provision for urgent works to be undertaken to maintain heritage values, nor does it explicitly allow for mechanisms on the title to ensure that such works are undertaken.	**Performance Criteria** **P1** Each lot, or a lot proposed in a plan of subdivision must: (a) have sufficient useable area and dimensions suitable for the intended purpose, excluding Residential or Visitor Accommodation, that: (i) requires the rural location for operational reasons; (ii) minimises the conversion of agricultural land for a non-agricultural use; (iii) minimises adverse impacts on non-sensitive uses on adjoining properties; and (iv) is appropriate for a rural location; or (b) be for the excision of an existing dwelling or Visitor Accommodation that satisfies all of the following: (i) the balance lot provides for the sustainable operation of a Resource Development use, having regard to: a. not materially diminishing the agricultural productivity of the land; b. the capacity of the balance lot for productive agricultural use; and c. any topographical constraints to agricultural use; (ii) an agreement under section 71 of the Act is entered into and registered on the title preventing future Residential use if there is no dwelling on the balance lot; (iii) the existing dwelling or Visitor Accommodation must meet the setbacks required by subclause 20.4.2 in relation to setbacks to new boundaries; (iv) it is demonstrated that the new lot will not unreasonably confine or restrain the operation of any adjoining site used for agricultural use; and (c) be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to: (i) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access; (ii) the topography of the site; (iii) the functionality and useability of the frontage; (iv) the anticipated nature of vehicles likely to access the site; (v) the ability to manoeuvre vehicles on the site; (vi) the ability for emergency services to access the site; and (vii) the pattern of development existing on established properties in the area.

Discussion

Clause 26.5.3 of the IPS (and its predecessor in the SMPS97) have had many successful heritage outcomes, where redundant rural buildings were excised from a rural title which stimulated adaptive reuse and/or use by new owners whose interests were more focussed on the maintenance of heritage values. Ceres, Kenmore Arms, Woodbury House and Rose Cottage Jericho are examples where this clause has been used to excellent heritage outcomes. In each case a Part 5 Agreement was attached to the title, requiring implementation of certain recommendations of conservation management plans (or at least engineering recommendations).

Example of a consequent issue

Heritage is now no longer an explicit consideration in rural subdivisions and a foothold to require urgent works is no longer possible.

Whilst it appears to still be possible to excise a heritage place from a larger rural/agricultural title (whereas it was previously prohibited without the use of Clause 26.5.3) heritage is not an explicit consideration under the TPS.

The planning authority therefore has no firm ability to require that conservation works be undertaken to the heritage place involved in the subdivision.

Suggestion

That an equivalent of 26.5.3 P1 be reinstated to the TPS (in Rural and Agriculture Zones) so that there is an explicit incentive for the subdivision of heritage places in the rural and agricultural zones and also so that the planning authority can ensure adequate measures are taken to conserve those places.

C6.6 – Concern as to creation of 'quasi-heritage precincts' within the Local Heritage Place provisions.	
IPS	The IPS gave a clear distinction between the provisions applicable to a Heritage Place and a Heritage Precinct. A place was subject only to the place provisions (i.e. E.13.7) unless it was in a precinct, in which case E.13.8 also applied. E.13.7 clearly and succinctly limited the consideration/application of the provisions only to the place, without regard to the wider area unless the place was within a heritage precinct. The application of E.13.8 (heritage precinct provisions) was backed up by statements of significance and in some cases conservation policy and design guidelines, to a clearly defined area (i.e. the precinct).
TPS	Clause C.6.6 (Development Standards for Local Heritage Places) uses terminology such as 'surrounding area' and 'setting' to be considered. 'Surrounding area' is not defined in the scheme. 'Setting' is defined as: *the surroundings or environment of a local heritage place.*
Discussion	
The use of 'surrounding area' and 'setting' with no tight definitions or spatial qualities is considered haphazard, in that it seeks to impose a quasi-precinct listing and/or proximity/adjacency provisions on every Local Heritage Place. This provides a level of uncertainty which is not equitable to proponents as there is no definition nor any definition of values of such 'settings/surrounding areas'. How far does the 'setting' extend? How big is the 'surrounding area'? What are the values of the setting/surrounding area? It would be interesting to see how an interpretation of this stacks up in the Tribunal as it is so loose.	
Suggestion	
Subjective words such as 'setting' and 'surrounding area' should be removed from C6.2 so that the provisions clearly only relate to the place itself. If there are setting and surrounding area values, these should therefore be within a Local Heritage Precinct. This would need to occur in unison with the above suggestion that Application qualifier C6.2.2 be removed so that assessment can occur against Heritage Place and Heritage Precinct provisions where applicable.	

C6.6 – Lack of ability to consider internal works on Local Heritage Places	
IPS	Whilst some IPS's differed in their wording on whether internal works were exempt, it is noted that (for example) the Hobart IPS Scheme and the Southern Midlands IPS exempted internal works where those works did not impact upon 'original/significant fabric' or 'original plan layout'. Whilst there is some debate as to whether 'Development' (as defined by LUPAA) includes internal modification – the inclusion in the Exemptions (E.13.4) for some internal works implies that others are not exempt.
TPS	The TPS does not include any such exemption which mentions 'original/significant fabric' nor 'original plan form' – thereby not implying that any internal works may require approval. Note however that it does not explicitly exclude internal works.

Discussion

It is firmly the view of the group that internal works which may impact upon the integrity of a heritage building must require a DA so as to assess the impact of such.

Whilst it was considered whether such significant interiors out be specifically mentioned in the LPS schedule – it was agreed that the task of assessing interiors for such inclusion would be overly onerous (not to mention unpalatable by property owners). The ability to consider interiors therefore ought be allowed on a case-by-case basis at the time of proposed development.

It is acknowledged that there is a raft of internal works which should not require a DA, which is why there is support for the IPS wording of 'significant' (or even 'original') fabric and 'alterations to original plan form' are sound and broad qualifiers.

It was also discussed as to whether significant interiors need merely be left to the THC – where the HCHA95 has the power to consider interior works. This was not concluded as desirable – as some places are only of local significance, but that significance does not necessarily stop at the exterior.

Note that this may be a systemic issue with LUPAA not being clear on internal works – noting that Part 1 (3) (1) includes the word 'exterior alteration' as development. Sub-clause (b) of the definition of 'Development' under that clause includes 'the demolition or removal of a building or works' – which may be construed that any demolition requires approval, unless explicitly exempt (i.e. by E.13.4 of the IPS).

Suggestion

This requires further consideration as to whether LUPAA may require amendment, or whether internal works may be assessed where required by including a similar exemption as exists in E.13.4 of the LPS into the TPS.

C6.6.1(P1)(h), C6.7.1(P1)(h) – 'Economic Considerations' for demolition.	
IPS	The only mention of 'economic reasons' in the demolition Performance Criteria of the IPS is in E.13.7.1 and E.13.7.2 where Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied; a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place; b) there are no prudent and feasible alternatives; c) important structural or façade elements that can feasibly be retained and reused in a new structure, are to be retained; d) significant fabric is documented before demolition. This does allow economic considerations to be assessed, but with **all** of the other qualifiers in that Performance Criterion.
TPS	**'Economic Considerations'** as named as a sub-clause of this Performance Criterion introduces a standalone sub-criterion which in this instance may be utilised as the sole means of supporting demolition due to the words 'all of the following' being omitted.
Discussion	
Noting that 'economic considerations' are present in the IPS, however the qualifier of such being considered amongst a raft of other matters does safeguard this somewhat. There is nothing explicitly within this Performance Criterion of the TPS which requires all of the qualifiers to be demonstrated. Furthermore (see below) the Performance Criterion only calls for the assessor to '*have regard to*' – not necessarily calling for 'demonstration of'. **This is a fundamental flaw in the TPS which could result in substantial loss of heritage values.**	
Suggestion	
The standalone qualifier of '*economic considerations*' must be removed from these Performance Criteria. As per below, the term '*have regard to*' throughout the Local Heritage Code is opposed, in favour of a more robust 'must demonstrate'. The 'economic considerations' qualifier may be less firmly opposed if the term 'have regard to' and the explicit statement that all qualifiers must be demonstrated is included in the Performance Criteria.	

C6.6.2. Site Coverage	
IPS	Site coverage was not an explicit or measurable Performance Criterion in the IPS for wither Heritage Places or Heritage Precincts (although it is noted that the Battery Point Heritage Precinct under the HIPS15 has explicit site coverage provisions).
TPS	The TPS at Clause C6.6.2 includes an explicit Performance Criterion for site coverage.

Discussion

The inclusion of an explicit provision for site coverage is not opposed.

However, the group concluded that the opportunity for this proposition to provide a measurable Acceptable Solution that any extension to a Local Heritage Place, or an outbuilding on a Local Heritage Place must not exceed the floor area of the heritage building(s) on that place (including total floor area of all outbuildings). Noting that acceptable siting, form etc. would still need to be demonstrated through other Performance Criteria.

Note that this should not apply in the Rural or Agricultural Zones.

This is considered to address the issue of overtly large extensions to Local Heritage Places and be much more measurable approach than the IPS wording of 'subservient' etc.

Suggestion

That C6.6.2 include an Acceptable Solution that any addition (including previous additions) to a main building included as a Local Heritage Place does not exceed the floor area of the main heritage building. Also that any new outbuilding not (collectively with existing outbuildings) exceed the floor area of the main heritage building.

The Performance Criteria should allow discretion for larger outbuildings and extensions in the Rural and Agriculture Zones as per the current Performance Criterion wording. .

The Term 'in the surrounding area' e.g. C6.6.3.(P1)(c) Height and Bulk, C6.6.4(P1)(d) Setbacks and C6.7.3 (P1.1) b-d) Building and Works (Heritage and Cultural Landscape Precincts)	
IPS	Local Heritage Place provisions do not require consideration of 'the surrounding area'. There are no quasi-precinct provisions for heritage places (see comments above). If 'the surrounding area' is a measure, then these are included in Heritage Precincts, however there is appropriate discretion within the consideration of the form of precincts to not use previous inappropriate development as a precedent or measure of appropriateness.
TPS	The TPS at Clause C6.6.3(P1)(c) requires 'regard to' the height and bulk of other buildings in the surrounding area. The TPS at Clause C6.6.4(P1)(d) requires 'regard to' the setback of other buildings in the surrounding area. The TPS at Clause C6/7/3(P1.1)(b-d) requires 'regard to' the character, appearance, height & bulk of buildings and setback of buildings in the surrounding area.

Discussion
These clauses do not take into consideration whether the height/bulk, setbacks or appearance of buildings in the surrounding area are actually *compatible* to the values of the place or precinct.

Example of a consequent issue
It is not uncommon that a Local Heritage Place has adjacent incompatible development (e.g. blocks of flats as mid-late c20th infill in Battery Point). With the wording of the TPS Performance Criterion, such incompatible development may be used as a measure for accepting more of that type of development.

Suggestion
C6.6.3(P1)(c) should be re-worded to read: *the height and bulk of other heritage (or contributory) buildings in the surrounding areas.*

Removal of E24 (Significant Trees Code) from the IPS and replacement with Performance Criteria within the C6 SPPs of the TPS.	
IPS	The IPS had a standalone code for Significant Trees (E24).
TPS	In the IPS the Significant Trees Code (E.24.0) was a standalone code. In the TPS it has been included in the Local Heritage Code as a single Performance Criterion (C6.6.10) that assumes a significant tree is associated with a Local Heritage Place.
Discussion	
It is an obvious fact that some trees may be significant for reasons other than historic heritage. To merge the Significant Trees Code with the Local Heritage Code implies a restriction upon the merits of listing significant trees.	
Suggestion	
Reinstate the Significant Trees Code (an equivalent of IPS E24.0) as a standalone code in the TPS.	

Other issues that the group see with the TPS Local Heritage Code:

Clause(s)	Issue	Suggestion
Throughout the Local Heritage Code	The term **'having regard to'.** This is vague, challengeable and immeasurable. You can 'have regard' to something, then totally dismiss it. This term is not used in the IPS.	Substitute 'having regard to' with 'must demonstrate'. In the case of demolition <u>all</u> of the sub-clauses of P1 need to be demonstrated satisfactorily (as per above).
General Definitions	Overall, the definitions in relation to historic heritage used in the SPP's are somewhat ad-hoc and not considered comprehensive. We note the submissions from Hobart City Council and Planning Matters Alliance Tasmania has gone into some detail on definitions – we support those positions.	Adopt the definitions relating to historic heritage as defined in the ICOMOS Australia *Burra Charter.* This provides a rigorous and nationally accepted suite of definitions.
Definition of 'Demolition'.	The need for a 'sliding scale' for demolition – noting that some demolition may occur without impact upon historic heritage (e.g. modern accretions) but the SPP's do not provide for an exemption for demolition where that scenario is clearly obvious. This requires a clear definition of what would constitute demolition of 'non-contributory' fabric.	Provide a well-articulated definition for 'Demolition' which allows for a more cursory treatment of demolition where it is clearly obvious that the fabric proposed for demolition makes no contribution to the place and that its removal would not threaten any values.
Substantial issues with population of LPS Heritage Schedules, Precincts etc.	A number of substantial issues were identified by members of the working group as they relate to how Local heritage Place, Precinct (etc.) tables are populated, the associated information, non-mandatory population of tables, disparity of affected area (in light of THR listed places exempt, which may have a different spatial definition) etc.	That the Minister pursues a round of consultation regarding the effectiveness of the LPS process, further to the current enquiry into the SPP's as soon as practicable.

	It is noted however that the current enquiry relates to the SPP's, and not the LPS, so these are not elaborated here. – but merely flagged as another serious issue associated with planning reforms.	

We thank you for your time in considering this submission.

Please contact the undersigned if you wish to discuss further.

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12th August 2022

Dear Minister Ferguson

This submission is made as a collective by several Tasmanian Council heritage officers with assistance from some private sector heritage professionals and aims to provide the review with some broad commentary as to several fundamental issues we see in regard to the operation of the Local Historic heritage Code in the Tasmanian Planning Scheme.

This submission has been facilitated by Brad Williams, Manager Heritage Projects at Southern Midlands Council, whom can be contacted by your office should further explanation be required, or if further discussion is desired with the group on any matter. Note that several of the contributors have been involved with their respective Council's overall submissions, so are not signatories to this submission – but have contributed to the discussion. Similarly, Southern Midlands Council has made submission on other matters regarding the SPP's and this document may be read as in addition to that submission (noting that this is submitted from Council officer level).

Overall, we (i.e. the 'working group') see the system of statutory heritage management facilitated via the SPP's of the TPS as taking a step backwards several decades to a system where 'gaps' will result in adverse heritage outcomes – in situations that the IPS (and indeed some earlier planning schemes) allowed greater rigour in assessment and more appreciate heritage outcomes.

Frankly, we see the heritage provisions of the TPS as an archaic step backwards – and note that the recently released *Australia, State of the Environment 2021* (Heritage) report (p145)[1] made the following observations in regard to statutory planning at a local government level:

- *Heritage protections are being reduced, often as part of planning reform, through more restrictive definitions, greater exemptions and more lenient performance criteria.*
- *An example of this erosion is seen in Tasmania, where the new Tasmanian Planning Scheme will significantly reduce protections.*

The tenor of this submission concurs with that finding.

[1] McConnell A, Janke T, Cumpston Z & Cresswell I (2021). Australia state of the environment 2021: heritage, independent report to the Australian Government Minister for the Environment, Commonwealth of Australia, Canberra.

I provide the following tables as individual issues (although some are connected) which detail the key differences between the IPS and the TPS for that equivalent provision or outcome (note that some of these issues could also be discussed further in the evolution from pre-IPS schemes). These are presented here in no particular order:

C6.2.3 – Application of the Local Historic Heritage Code – Code does not apply to THR listed places.	
IPS	Under the IPS, the inclusion of a Local Heritage Place on the Tasmanian Heritage Register had no affect on the application of the code. Whilst this did result in dual assessments of heritage place provisions, it did not inhibit assessment of a place within a heritage precinct or cultural landscape precinct, nor did it prevent planning authorities from merely agreeing to default to accepting the THC assessment if appropriate.
TPS	The TPS (Clause C6.2.3) states that the Local Historic Code does not apply to a place entered on the Tasmanian Heritage Register. This means that if a place is THR listed that <u>all</u> Local Heritage provisions are no longer applicable (including Local Heritage Precinct, Local Heritage Landscapes, Place of Archaeological Potential and Subdivision).

Discussion

'Dual assessments' were undertaken on places that were listed both on the local heritage schedule of the IPS and the THR. Whilst this is somewhat anti-the 'tiered heritage management system' as espoused by most Australian jurisdictions, it allowed for collaboration between local/state heritage assessments and for local values to be identified which may not be apparent at a state level.

Whilst the ability for the Planning Authority to assess developments to a local heritage place (that is also THR listed) has now been removed in favour of a single assessment by the THC, that is not the primary concern here. It is generally supported that the THC assessment is adequate on a place-by-place basis – particularly given that Section 39 of the HCHA allows the THC to *consult with the relevant planning authority.* The planning authority therefore has the ability to provide input on the assessment, particularly if there are local values that may need consideration.

The key concern is that the THR listing removes **all** applicability of the local historic heritage code, including precincts, cultural landscapes, subdivision and archaeology (the latter is less of a concern).

Example of a consequent issue

For example, the THC can only assess impact upon that particular registered place. Often it is the case that a proposed development may have acceptable/no impact upon a place itself, but unacceptable impact upon an adjacent place, precinct, pattern of development etc.

- The construction of an outbuilding at the rear of a heritage place may not have impact upon that place (for example, if the lot is large), however depending on the pattern of development, that outbuilding may have impact upon an *adjacent* place. A lack of ability to consider precinct provisions may prevent adequate scrutiny of such a building.
- Subdivision of a heritage place may not result in impact upon that place – but may impact wider intact patterns of development.
- Generally no concerns about archaeology in this instance – HCHA considered equipped to deal with such.

Suggestion

That C6.2.3 be re-worded as such:

Clause C6.6 does not apply to a Local Heritage Place that is also entered on the Tasmanian Heritage Register, unless for the lopping, pruning, removal or destruction of a significant tree as defined in this code.

This would mean that all other provisions would be withstanding (i.e. Local Heritage Precinct, Local Historic Landscape Precinct, Places of Archaeological Potential, Subdivision. If a place is solely listed as a Local Heritage Place and registered on the THR – then only one assessment against place-based provisions will be required.

C6.2.2 – Application of the Local Historic Heritage Code – Heritage 'Place' overriding 'Precinct' provisions.	
IPS	Under the IPS, the inclusion of a Local Heritage Place also within a Heritage Precinct resulted in assessment against the provisions of both the Place and Precinct (i.e. E.13.7 and E.13.8). This allowed consideration of impact both upon the place, and upon the values of the wider precinct (as articulated in the precinct statements of significance and (where included) design criteria/conservation policy.
TPS	The TPS (Clause C6.2.2) states that: *If a site is listed as a local heritage place and also within a local heritage precinct or local historic landscape precinct, it is only necessary to demonstrate compliance with the standards for the local heritage place unless demolition, buildings and works are proposed for an area of the site outside the identified specific extent of the local heritage place.*
Discussion	
There is a difference between considering impact upon a 'place' and a 'precinct'. Proposals may have no impact upon a place as such but may have impact upon the values of a precinct. It is prudent to be able to consider impacts upon both place and precinct – particularly given that precinct values have in many instances have been very clearly and diligently articulated.	
Example of a consequent issue	
For example, a Local Heritage Place may be large, and that place may also be in a Local Heritage Precinct. Development on that place distant to the main heritage feature may not necessarily have impact upon that feature and its setting, curtilage etc. therefore may be deemed acceptable from a Local Heritage Place perspective. It may however have an impact from a precinct perspective, it if is near another heritage place where proximity may have an impact but the limitation to consideration of the Local Heritage Place upon which the development is proposed would not allow that wider consideration (beyond 'surrounding area' which is mentioned in C6.6.3P1, C6.6.4P1, and 'setting' mentioned in C6.6.5, C6.6.6, C6.6.7 – note concerns about this terminology below). Further, a site feature (such as an outbuilding) which may be comparatively less significant than the main building on that listed place, therefore demolition ay be acceptable – however if that type of outbuilding was a distinctive and significance feature of the wider precinct, then that precinct-wide importance may not be considered.	
Suggestion	

That Application qualifier C6.2.2 be removed so that assessment can occur against Heritage Place and Heritage Precinct provisions where applicable.

6.1 and/or C6.0 - Application Requirements, lack of explicit heritage requirements		
IPS	Clause E.13.5 of the IPS had certain explicit application requirements for works on places affected by the Local Historic Heritage Code.	**E13.5 Application Requirements** E13.5.1 In addition to any other application requirements, the planning authority may require the applicant to provide any of the following information if considered necessary to determine compliance with performance criteria: (a) a conservation plan; (b) photographs, drawings or photomontages necessary to demonstrate the impact of the proposed development on the heritage values of the place; (c) a statement of significance; (d) a heritage impact statement; (e) a statement of compliance; (f) a statement of archaeological potential; (g) an archaeological impact assessment; (h) an archaeological method statement; (i) a report outlining environmental, social, economic or safety reasons claimed to be of greater value to the community than the historic cultural heritage values of a place proposed to be demolished or partly demolished, and demonstrating that there is no prudent and feasible alternative; (j) for an application for subdivision, plans showing : (i) the location of existing buildings; and (ii) building envelopes on the relevant lots, including the balance lot.
TPS	The TPS (Clause 6.1 or C6) has no explicit application requirements for places affected by the Local Historic Heritage Code.	

Discussion

Although several of the Clauses in C6.6 (etc) call for 'a report prepared by a suitably qualified person' – this is within the Performance Criteria, not the Application Requirements, so is arguably too late in the process.

The 'report by a suitably qualified person' is not opposed, given that it many/most cases individual place listings and heritage precincts may not have comprehensive (or even adequate) assessments/descriptions supporting that listing – this allows a more rigorous understanding of values where appropriate.

However, explicit application requirements imply that the documentation is required as part of the application – not only as a means by which the assessor will be informed during the assessment process and may therefore prompt the inclusion of that documentation with the application – potentially avoiding the need for RFI's etc.

The explicit nature of the application requirements in the IPS has been lost for a vaguer Clause as per above.

Suggestion

That the equivalent of Clause E.13.5 of the IPS re inserted into the front-end of C6.0 and/or into 6.1.3.

Discretion for subdivision of THC/Local listed places in Rural/Agricultural Zone		
IPS	The IPS had the ability for the Planning Authority to consider ordinarily prohibited subdivision of a heritage listed place off a larger title in the rural resource zone (26.5.3) where it could be demonstrated that the subdivision had the potential for positive heritage outcomes through adaptive reuse or ongoing use of an otherwise underutilised heritage place. This required any urgent works on the fabric of the place to be undertaken within 12 months of issue of title and that heritage values will be restored and maintained into the future.	**P1** The subdivision of a lot for the purposes of excising a Local Heritage Place listed in the Heritage Code to this planning scheme or a place listed on the Tasmanian Heritage Register must satisfy all of the following: (a) the place no longer contributes to, or supports, the agricultural use and commercial operation of the property; (b) the subdivision will ensure that the heritage values of the place will be restored and maintained into the future through appropriate mechanisms on the title; (c) any urgent works on the heritage fabric of the place are undertaken within 12 months of the issue of title; (d) the heritage curtilage of the place is contained within the lot; (e) the loss of the land to the remainder of the property will not significantly reduce its agricultural use and commercial operation; (f) setback from a dwelling on the lot to new boundaries satisfy clause 26.4.2; (g) serviceable frontage is provided; (h) safe vehicular access arrangements are provided.
TPS	Clause 20.5.1 (Lot Design, Subdivision in the Rural Zone – also 21.5.1 Lot Design, Subdivision in the Agriculture Zone) do not explicitly mention heritage places as a consideration in lot design, but subject to a suite of considerations appears not to prohibit the excision of a heritage place off a larger rural title. Whilst this end result probably is not detrimental, the explicit ability for rural subdivision for a heritage place was an obvious 'incentive' for heritage listing, which now falls somewhat more silent. *However*, the TPS does not include provision for urgent works to be undertaken to maintain heritage values, nor does it explicitly allow for mechanisms on the title to ensure that such works are undertaken.	**Performance Criteria** **P1** Each lot, or a lot proposed in a plan of subdivision, must: (a) have sufficient useable area and dimensions suitable for the intended purpose, excluding Residential or Visitor Accommodation, that: (i) requires the rural location for operational reasons; (ii) minimises the conversion of agricultural land for a non-agricultural use; (iii) minimises adverse impacts on non-sensitive uses on adjoining properties; and (iv) is appropriate for a rural location; or (b) be for the excision of an existing dwelling or Visitor Accommodation that satisfies all of the following: (i) the balance lot provides for the sustainable operation of a Resource Development use, having regard to: a. not materially diminishing the agricultural productivity of the land; b. the capacity of the balance lot for productive agricultural use; and c. any topographical constraints to agricultural use; (ii) an agreement under section 71 of the Act is entered into and registered on the title preventing future Residential use if there is no dwelling on the balance lot; (iii) the existing dwelling or Visitor Accommodation must meet the setbacks required by subclause 20.4.2 in relation to setbacks to new boundaries; (iv) it is demonstrated that the new lot will not unreasonably confine or restrain the operation of any adjoining site used for agricultural use; and (c) be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to: (i) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access; (ii) the topography of the site; (iii) the functionality and useability of the frontage; (iv) the anticipated nature of vehicles likely to access the site; (v) the ability to manoeuvre vehicles on the site; (vi) the ability for emergency services to access the site; and (vii) the pattern of development existing on established properties in the area.

Discussion
Clause 26.5.3 of the IPS (and its predecessor in the SMPS97) have had many successful heritage outcomes, where redundant rural buildings were excised from a rural title which stimulated adaptive reuse and/or use by new owners whose interests were more focussed on the maintenance of heritage values. Ceres, Kenmore Arms, Woodbury House and Rose Cottage Jericho are examples where this clause has been used to excellent heritage outcomes. In each case a Part 5 Agreement was attached to the title, requiring implementation of certain recommendations of conservation management plans (or at least engineering recommendations).
Example of a consequent issue
Heritage is now no longer an explicit consideration in rural subdivisions and a foothold to require urgent works is no longer possible. Whilst it appears to still be possible to excise a heritage place from a larger rural/agricultural title (whereas it was previously prohibited without the use of Clause 26.5.3) heritage is not an explicit consideration under the TPS. The planning authority therefore has no firm ability to require that conservation works be undertaken to the heritage place involved in the subdivision.
Suggestion
That an equivalent of 26.5.3 P1 be reinstated to the TPS (in Rural and Agriculture Zones) so that there is an explicit incentive for the subdivision of heritage places in the rural and agricultural zones and also so that the planning authority can ensure adequate measures are taken to conserve those places.

C6.6 – Concern as to creation of 'quasi-heritage precincts' within the Local Heritage Place provisions.	
IPS	The IPS gave a clear distinction between the provisions applicable to a Heritage Place and a Heritage Precinct. A place was subject only to the place provisions (i.e. E.13.7) unless it was in a precinct, in which case E.13.8 also applied. E.13.7 clearly and succinctly limited the consideration/application of the provisions only to the place, without regard to the wider area unless the place was within a heritage precinct. The application of E.13.8 (heritage precinct provisions) was backed up by statements of significance and in some cases conservation policy and design guidelines, to a clearly defined area (i.e. the precinct).
TPS	Clause C.6.6 (Development Standards for Local Heritage Places) uses terminology such as 'surrounding area' and 'setting' to be considered. 'Surrounding area' is not defined in the scheme. 'Setting' is defined as: *the surroundings or environment of a local heritage place.*
Discussion	
The use of 'surrounding area' and 'setting' with no tight definitions or spatial qualities is considered haphazard, in that it seeks to impose a quasi-precinct listing and/or proximity/adjacency provisions on every Local Heritage Place. This provides a level of uncertainty which is not equitable to proponents as there is no definition nor any definition of values of such 'settings/surrounding areas'. How far does the 'setting' extend? How big is the 'surrounding area'? What are the values of the setting/surrounding area? It would be interesting to see how an interpretation of this stacks up in the Tribunal as it is so loose.	
Suggestion	
Subjective words such as 'setting' and 'surrounding area' should be removed from C6.2 so that the provisions clearly only relate to the place itself. If there are setting and surrounding area values, these should therefore be within a Local Heritage Precinct. This would need to occur in unison with the above suggestion that Application qualifier C6.2.2 be removed so that assessment can occur against Heritage Place and Heritage Precinct provisions where applicable.	

C6.6 – Lack of ability to consider internal works on Local Heritage Places	
IPS	Whilst some IPS's differed in their wording on whether internal works were exempt, it is noted that (for example) the Hobart IPS Scheme and the Southern Midlands IPS exempted internal works where those works did not impact upon 'original/significant fabric' or 'original plan layout'. Whilst there is some debate as to whether 'Development' (as defined by LUPAA) includes internal modification – the inclusion in the Exemptions (E.13.4) for some internal works implies that others are not exempt.
TPS	The TPS does not include any such exemption which mentions 'original/significant fabric' nor 'original plan form' – thereby not implying that any internal works may require approval. Note however that it does not explicitly exclude internal works.

Discussion

It is firmly the view of the group that internal works which may impact upon the integrity of a heritage building must require a DA so as to assess the impact of such.

Whilst it was considered whether such significant interiors out be specifically mentioned in the LPS schedule – it was agreed that the task of assessing interiors for such inclusion would be overly onerous (not to mention unpalatable by property owners). The ability to consider interiors therefore ought be allowed on a case-by-case basis at the time of proposed development.

It is acknowledged that there is a raft of internal works which should not require a DA, which is why there is support for the IPS wording of 'significant' (or even 'original') fabric and 'alterations to original plan form' are sound and broad qualifiers.

It was also discussed as to whether significant interiors need merely be left to the THC – where the HCHA95 has the power to consider interior works. This was not concluded as desirable – as some places are only of local significance, but that significance does not necessarily stop at the exterior.

Note that this may be a systemic issue with LUPAA not being clear on internal works – noting that Part 1 (3) (1) includes the word 'exterior alteration' as development. Sub-clause (b) of the definition of 'Development' under that clause includes 'the demolition or removal of a building or works' – which may be construed that any demolition requires approval, unless explicitly exempt (i.e. by E.13.4 of the IPS).

Suggestion

This requires further consideration as to whether LUPAA may require amendment, or whether internal works may be assessed where required by including a similar exemption as exists in E.13.4 of the LPS into the TPS.

C6.6.1(P1)(h), C6.7.1(P1)(h) – 'Economic Considerations' for demolition.	
IPS	The only mention of 'economic reasons' in the demolition Performance Criteria of the IPS is in E.13.7.1 and E.13.7.2 where Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied; a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place; b) there are no prudent and feasible alternatives; c) important structural or façade elements that can feasibly be retained and reused in a new structure, are to be retained; d) significant fabric is documented before demolition. This does allow economic considerations to be assessed, but with **all** of the other qualifiers in that Performance Criterion.
TPS	**'Economic Considerations'** as named as a sub-clause of this Performance Criterion introduces a standalone sub-criterion which in this instance may be utilised as the sole means of supporting demolition due to the words 'all of the following' being omitted.
Discussion	
Noting that 'economic considerations' are present in the IPS, however the qualifier of such being considered amongst a raft of other matters does safeguard this somewhat. There is nothing explicitly within this Performance Criterion of the TPS which requires all of the qualifiers to be demonstrated. Furthermore (see below) the Performance Criterion only calls for the assessor to '*have regard to*' – not necessarily calling for 'demonstration of'. **This is a fundamental flaw in the TPS which could result in substantial loss of heritage values.**	
Suggestion	
The standalone qualifier of '*economic considerations*' must be removed from these Performance Criteria. As per below, the term '*have regard to*' throughout the Local Heritage Code is opposed, in favour of a more robust 'must demonstrate'. The 'economic considerations' qualifier may be less firmly opposed if the term 'have regard to' and the explicit statement that all qualifiers must be demonstrated is included in the Performance Criteria.	

C6.6.2. Site Coverage	
IPS	Site coverage was not an explicit or measurable Performance Criterion in the IPS for wither Heritage Places or Heritage Precincts (although it is noted that the Battery Point Heritage Precinct under the HIPS15 has explicit site coverage provisions).
TPS	The TPS at Clause C6.6.2 includes an explicit Performance Criterion for site coverage.

Discussion

The inclusion of an explicit provision for site coverage is not opposed.

However, the group concluded that the opportunity for this proposition to provide a measurable Acceptable Solution that any extension to a Local Heritage Place, or an outbuilding on a Local Heritage Place must not exceed the floor area of the heritage building(s) on that place (including total floor area of all outbuildings). Noting that acceptable siting, form etc. would still need to be demonstrated through other Performance Criteria.

Note that this should not apply in the Rural or Agricultural Zones.

This is considered to address the issue of overtly large extensions to Local Heritage Places and be much more measurable approach than the IPS wording of 'subservient' etc.

Suggestion

That C6.6.2 include an Acceptable Solution that any addition (including previous additions) to a main building included as a Local Heritage Place does not exceed the floor area of the main heritage building. Also that any new outbuilding not (collectively with existing outbuildings) exceed the floor area of the main heritage building.

The Performance Criteria should allow discretion for larger outbuildings and extensions in the Rural and Agriculture Zones as per the current Performance Criterion wording. .

The Term 'in the surrounding area' e.g. C6.6.3.(P1)(c) Height and Bulk, C6.6.4(P1)(d) Setbacks and C6.7.3 (P1.1) b-d) Building and Works (Heritage and Cultural Landscape Precincts)	
IPS	Local Heritage Place provisions do not require consideration of 'the surrounding area'. There are no quasi-precinct provisions for heritage places (see comments above). If 'the surrounding area' is a measure, then these are included in Heritage Precincts, however there is appropriate discretion within the consideration of the form of precincts to not use previous inappropriate development as a precedent or measure of appropriateness.
TPS	The TPS at Clause C6.6.3(P1)(c) requires 'regard to' the height and bulk of other buildings in the surrounding area. The TPS at Clause C6.6.4(P1)(d) requires 'regard to' the setback of other buildings in the surrounding area. The TPS at Clause C6/7/3(P1.1)(b-d) requires 'regard to' the character, appearance, height & bulk of buildings and setback of buildings in the surrounding area.
Discussion	
These clauses do not take into consideration whether the height/bulk, setbacks or appearance of buildings in the surrounding area are actually *compatible* to the values of the place or precinct.	
Example of a consequent issue	
It is not uncommon that a Local Heritage Place has adjacent incompatible development (e.g. blocks of flats as mid-late c20th infill in Battery Point). With the wording of the TPS Performance Criterion, such incompatible development may be used as a measure for accepting more of that type of development.	
Suggestion	
C6.6.3(P1)(c) should be re-worded to read: *the height and bulk of other heritage (or contributory) buildings in the surrounding areas.*	

Removal of E24 (Significant Trees Code) from the IPS and replacement with Performance Criteria within the C6 SPPs of the TPS.	
IPS	The IPS had a standalone code for Significant Trees (E24).
TPS	In the IPS the Significant Trees Code (E.24.0) was a standalone code. In the TPS it has been included in the Local Heritage Code as a single Performance Criterion (C6.6.10) that assumes a significant tree is associated with a Local Heritage Place.
Discussion	
It is an obvious fact that some trees may be significant for reasons other than historic heritage. To merge the Significant Trees Code with the Local Heritage Code implies a restriction upon the merits of listing significant trees.	
Suggestion	
Reinstate the Significant Trees Code (an equivalent of IPS E24.0) as a standalone code in the TPS.	

Other issues that the group see with the TPS Local Heritage Code:

Clause(s)	Issue	Suggestion
Throughout the Local Heritage Code	The term **'having regard to'.** This is vague, challengeable and immeasurable. You can 'have regard' to something, then totally dismiss it. This term is not used in the IPS.	Substitute 'having regard to' with 'must demonstrate'. In the case of demolition <u>all</u> of the sub-clauses of P1 need to be demonstrated satisfactorily (as per above).
General Definitions	Overall, the definitions in relation to historic heritage used in the SPP's are somewhat ad-hoc and not considered comprehensive. We note the submissions from Hobart City Council and Planning Matters Alliance Tasmania has gone into some detail on definitions – we support those positions.	Adopt the definitions relating to historic heritage as defined in the ICOMOS Australia *Burra Charter*. This provides a rigorous and nationally accepted suite of definitions.
Definition of 'Demolition'.	The need for a 'sliding scale' for demolition – noting that some demolition may occur without impact upon historic heritage (e.g. modern accretions) but the SPP's do not provide for an exemption for demolition where that scenario is clearly obvious. This requires a clear definition of what would constitute demolition of 'non-contributory' fabric.	Provide a well-articulated definition for 'Demolition' which allows for a more cursory treatment of demolition where it is clearly obvious that the fabric proposed for demolition makes no contribution to the place and that its removal would not threaten any values.
Substantial issues with population of LPS Heritage Schedules, Precincts etc.	A number of substantial issues were identified by members of the working group as they relate to how Local heritage Place, Precinct (etc.) tables are populated, the associated information, non-mandatory population of tables, disparity of affected area (in light of THR listed places exempt, which may have a different spatial definition) etc.	That the Minister pursues a round of consultation regarding the effectiveness of the LPS process, further to the current enquiry into the SPP's as soon as practicable.

	It is noted however that the current enquiry relates to the SPP's, and not the LPS, so these are not elaborated here. – but merely flagged as another serious issue associated with planning reforms.	

We thank you for your time in considering this submission.

Please contact the undersigned if you wish to discuss further.

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To the State Planning Office

Subject: State Planning Provisions Review

Thank you for the opportunity to provide feedback on phase one of the State Planning Provisions Review. On behalf of members of the Tasmanian Active Living Coalition please find a consultation submission attached in response to the State Planning Provisions Review Scoping Paper.

The Tasmanian Active Living Coalition works together to influence and inform policies, decisions and strategies that encourage the creation of active living environments, food security and social inclusion that benefit health and wellbeing.

Yours sincerely

Associate Professor Verity Cleland
TALC Chair
[redacted]

Date: 11 August 2022

Tasmanian Active Living Coalition

Submission to State Planning Provisions Review

Phase 1 – Scoping Paper

Tasmanian Active Living Coalition

Contents

Introduction

The Tasmanian Active Living Coalition (TALC) welcomes the opportunity to submit feedback to the State Planning Provisions (SPPs) Review Scoping Paper under phase one of the review process.

The objective of TALC's submission is to embed health and wellbeing in the SPPs and the future Tasmanian Planning Policies. TALC proposes this can be achieved by putting a 'health in all policies' lens on the SPPs and including improved or additional provisions that support and promote active living, access to open space, food security and social inclusion.

In late 2021, TALC was commissioned to provide a discussion paper to the Premier's Health and Wellbeing Advisory Committee - *Tasmania's Planning System – Opportunities for Health and Wellbeing*. A number of key issues with Tasmania's State Planning Provisions were raised in this discussion paper and have been included in this submission.

The rationale and supporting evidence for the recommended amendments is detailed throughout the submission with a reference list attached. Individual TALC members have contributed to this submission and may have also made separate submissions on behalf of their organisations.

This submission has been approved by TALC's Chair and endorsed by TALC's membership.

About the Tasmanian Active Living Coalition

TALC is an independent, not-for-profit coalition made up of representatives from a broad range of non-Government and Government organisations with an interest in active living.

TALC members work together to influence and inform policies, decisions and strategies that encourage the creation of active living environments.

TALC's aim is to lead, support and promote the creation of environments supporting active living, and to add value by providing a mechanism for an integrated approach and potentially drive behaviour change in relation to active living.

TALC's purpose is to:

- translate evidence into policy and practice;
- build on existing partnerships and develop new partnerships as required;
- raise the profile of active living;
- support, advise and advocate for improvements in the built and natural urban environments including improved access to our parks and open spaces; and
- highlight the importance the built and natural urban environments play in active living.

The principal interest of TALC is for the SPPs to enhance (and not hinder) active living (including physical activity and active transport) and access to healthy food for community health and wellbeing.

Therefore TALC advocates to have *health and wellbeing* as priority outcomes from land use planning as regulated through the Tasmanian Planning System.

Definitions

The following terms included in this submission are defined as

Active living - a way of life that integrates physical activity into daily routines (1).

Active travel - travel modes that involve physical activity such as walking and cycling and includes the use of public transport that is accessed via walking or cycling and may allow for integration of multi-modal transport in the course of a day (1).

Built environment - the structures and places in which we live, work, shop, learn, travel and play, including land uses, transportation systems and design features (2).

Food security - the ability of individuals, households and communities to physically and economically access food that is healthy, sustainable, affordable and culturally appropriate. The domains of food security include supply, demand, utilisation and access (financial and physical) (1).

Health - a state of complete physical, mental and social wellbeing and not merely the absence of disease (3).

Liveability - a livable community is one that is safe, socially cohesive, inclusive and environmentally sustainable. Highly liveable areas provide affordable housing that is well serviced by public transport, walking and cycling infrastructure (4). They have good access to employment, education, shops and services, POSs, and social, cultural and recreational facilities (4).

Physical activity - any bodily movement produced by skeletal muscles that requires energy expenditure encompassing all movement during leisure time, for transport to get to and from places, or as part of a person's work (5).

Social inclusion – is a term used to describe how government, community, business, services and individuals can work together to make sure that all people have the best opportunities to enjoy life and do well in society. It is about making sure that no one is left out or forgotten in our community (6).

Wellbeing – mental health is a state in which an individual can realise their own potential cope with normal stresses, work productively and contribute to their community (3)[1].

[1] TALC acknowledges that Tasmania will likely develop its own definition of wellbeing as part of the development of Tasmanian Health and Wellbeing Framework.

Active Living Overview

The SPPs are a key mechanism for applying healthy planning principles to the built environment in Tasmania to create liveable locations which promote physical activity, healthy eating and social connection. TALC provides the following overview of key aspects of active living which are directly related to implementation of the SPPs.

The Built Environment

The way the environment is planned, designed and built can directly affect the health and wellbeing of people who use and inhabit the space. A series in The Lancet, one the top-ranking medical journals in the world, *Urban Design and Transport to Promote Healthy Lives* recognises the importance of the built environment for active living (7). The series recommends creating compact cities that locate shops, schools, other services, parks and recreational facilities, as well as jobs near homes, and providing highly connective street networks making it easy for people to walk and cycle to places (7). The Heart Foundation of Australia's *Healthy Active by Design* framework (2) notes 'planning for active living calls for a commitment to applying healthy planning principles to all levels of the planning system, at every stage of the planning process and in every planning project and policy initiative' (2).

There are many co-benefits of improving planning for active living including reductions in greenhouse gas emissions, improved air quality, reduced traffic congestion, more sustainable infrastructure, increased economic productivity, improved social capital and more liveable towns and cities (7).

Physical Activity

Physical activity is fundamental for good physical and mental health and wellbeing. Physical activity can help prevent heart disease, type two diabetes, numerous cancers, dementia, weight gain, gestational diabetes, and anxiety and depression (8). Being physically active improves sleep and improves brain function at all ages (8).

Despite this, almost half of all Tasmanians aged 18 and over do not do enough physical activity for good health (9). Tasmania is below the national average and is ranked sixth out of the eight states and territories (9).

The International Society for Physical Activity and Health outline eight investments that work to address physical inactivity (10). The eight investment areas are the evidence-based domains where Governments and organisations can get the best return on investment to improve health and wellbeing though increasing physical activity. Of the eight identified domains, those that can be directly influenced by the SPPs include: active transport, active urban design and workplaces (10).

The Heart Foundation's *Blueprint for an Active Australia* states 'reshaping the built environments in which most Australians live, work, learn and recreate can significantly increase daily physical activity levels. Community and neighbourhood design impacts on local walking, cycling and public transport use, as well as on recreational walking and physical activity' (11).

Liveability

The Heart Foundation's 2020-21 What Australia Wants survey measured community sentiment around qualities of active neighbourhoods and support for initiatives to increase infrastructure for physical activity in and around neighbourhoods (12). Tasmanians expressed a desire to live close to shops and amenities, and in a safe area that is quiet/away from main roads. Tasmanians prioritise access to healthy food, housing diversity and a sense of place (that is, safety, community, natural elements as the most important design features) (12). The report noted that 'a lower proportion of Tasmanians believe their neighbourhood helps them to be active (75 per cent compared to a national average of 80 per cent)' (12). Compared with other jurisdictions, a sense of community was rated lower – with only 58 per cent scoring it as good/excellent – below items such as quality of sports facilities and footpaths (12). These results highlight that liveability, access to healthy food and local physical activity opportunities are important to Tasmanians. However, the results also indicate that these attributes are not always accessible to Tasmanians and should be embedded within the planning system.

In 2021, Place Score ran the Australian Liveability Census, the largest social research project in Australia which included 3 200 records gathered from community members in Tasmania (13). The census explored what was most important in terms of neighbourhood liveability and current performance (13). Ideas for improving local neighbourhoods were collected and included improving walkability to local amenities and open spaces (13). Nationally, walking/jogging/bike paths that connect housing to community amenity was selected as being most important to their ideal neighbourhood by 55 per cent of respondents and ranked third most important overall.

The COVID-19 pandemic has required people to stay close to home, further highlighting the importance of how the built environment can support health and wellbeing. The living with COVID-19 landscape provides a unique opportunity to prioritise the development of liveable built environments supportive of health and wellbeing by embedding these principles withing key policy levers such as the SPPs.

Integrated Policies in Active Living

Improving health and wellbeing by supporting Tasmanians to live active lives requires a coordinated approach across government agencies and sectors as called for in the World Health Organization's (WHO) 'Health in All Policies' approach to preventative health (14). In Tasmania, key existing policies which reference active living and are relevant to the SPP review are detailed as follows to provide context and background to the existing policy landscape.

The *Tasmania Statement* supports the connection between health and wellbeing enhanced by natural open spaces. It further notes the opportunities available as Tasmania grows to plan communities to create healthy, liveable and connected spaces (15). The *Tasmania Statement* creates an authorising environment for the Premier's Health and Wellbeing Advisory Council to support health and wellbeing considerations within the planning scheme.

The *Healthy Tasmania Five Year Strategic Plan 2022-26* advocates for a health in all policies approach, including an analysis of the systems outside the health sector which influence the health status of populations (16). The plan focuses on systems and supporting active living initiatives (16). This builds on earlier work under *Tasmania's Plan for Physical Activity 2011-2021* which aimed to 'create built and natural environments that enable and encourage physical activity' (17).

In 2016, a Parliamentary Select Committee Inquiry into Preventative Health Report outlined key findings and recommendations. The Heart Foundation previously highlighted the report's key findings and recommendations in relation to active living in its 2016 *Representation to the Final Draft State Planning Provisions* as follows (1):

> **Executive summary (page 2)**
>
> *'The Committee recognises the link between health and the built environment. Liveability principles must be embedded in all Government policy decisions relating to the built environment including but not limited to transport, infrastructure and land use planning.'*
>
> **Recommendation 3 (k) in relation to a preventative health strategy (page 4):**
>
> *(k) The importance of active lifestyles, healthy eating and physical activity to improve the health and wellbeing of Tasmanians.*
>
> **Recommendation 4 (page 4)**
>
> *4. The Government's health and wellbeing policies are reflected in the Tasmanian Planning System and transport infrastructure policy.*

a) *Government adopts a state-wide planning policy that ensures liveability principles are embodied in all planning decisions;*
b) *Government ensures transport infrastructure planning and policy decisions embody liveability principles; and*
c) *Provisions in the new state-wide planning scheme give consideration to active transport links (e.g. walking and cycling), especially within and between urban communities.*

Findings (page 8):

22. The built environment is a significant contributor to improving longer term health and wellbeing outcomes.

23. There is a need to recognise the link between health and the built environment, and this needs to be embodied into State policy and the Tasmanian Planning System.

Health and wellbeing are embedded in the SPPs under *Schedule 1 Objectives of the Resource Management and Planning System* (RMPS) and specifically the *Land Use Planning and Approvals Act 1993* (LUPAA) Part 2 Objective (1)(f):

> *'To promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation…'*

Whilst the SPP Review Scoping Paper is limited specifically to the five-year review of the SPP implementation, it will be important to subsequently review the SPPs for compatibility with Tasmanian Planning Policies currently under review. Examples of how a further detailed review of SPPs might be improved to meet Schedule1, Part 2 Objective are comprehensively set out in the *Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016* (1).

Summary of Active Living Policies

Tasmanian

Tasmania Statement – Working Together for the Health and Wellbeing of Tasmanians (15)

Healthy Tasmania Five-Year Strategic Plan 2022-26 (16)

Joint Select Committee Inquiry Into Preventative Health Report (18)

Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016 (1)

Tasmania's Walking and Cycling for Active Transport Strategy *2011-2021* (17)

Hobart City Deal (19)

The Southern Tasmanian Regional Land Use Strategy (STRLUS) 2010-2035 – Regional Policies 10, 11, 13, 18 and 19 (20)

National[2]

National Preventative Health Strategy 2021-30 (21)

National Obesity Strategy 2022-32 (22)

Getting Australia Active III – a Systems Approach to Physical Activity for Policy Makers (8)

National Heart Foundation - Blueprint for an Active Australia (11)

National Heart Foundation – Healthy Active by Design (2)

International

Global Action Plan on Physical Activity 2018-30 (23)

International Society for Physical Activity and Health- Eight Investments that Work for Physical Activity (10)

United Nations Sustainable Development Goals (24)

[2] There is no ***National Physical Activity Plan*** to provide an overarching framework for addressing physical inactivity and guide future action. In 2020, the Australian Prevention Partnership Centre published Getting Australia Active III : A systems approach to physical activity for policy makers which identifies eight key areas for action to address physical inactivity. This serves as a guide for policy makers in Australia in the absence of a national plan.

TALC Response to Scoping Paper Questions

1. Which parts of the SPPs do you think work well?

No comment.

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

Health in All Policies

The Parliament of Tasmania *Select Committee Inquiry Into Preventative Health Report* recommended Government 'adopt a 'Health in All Policies' approach to improving the health and wellbeing of Tasmanians' (18). The SPPs review provides an opportunity to better align the SPPs with a 'Health in All Policies' approach.

In a broader policy context, it is important to consider how the Tasmanian Planning Policies will be developed and integrated with current Government initiatives including development of a Sustainability Strategy, Wellbeing Framework and Review of Local Government.

SPP Purpose Statements clause 2.1

Currently, the Planning Scheme Purpose simply refers to the Resource Management Planning System (RMPS) objectives. The SPPs lack statements about desired outcomes, which leave the contents of the SPPs in a policy vacuum. Specifically, they do not currently reference their relationship to population health or wellbeing.

TALC recommends under the SPPs Planning Scheme Purpose clause 2.1 to include a statement of outcomes within the framework of the RMPS objectives with specific reference to health and wellbeing.

Furthermore, TALC recommends inclusion in the purpose and the objectives for each zone, use standards, development standards and codes, the desired health and wellbeing outcomes from the implementation of the specific provision.

The mechanisms by which the SPPs will further the Schedule 1 Objectives related to health and wellbeing should be explicit. For example, provisions should improve food security, social inclusion the quality of the public realm to optimise walkability, reduce travel distances between locations, improve air quality, safety, comfort, and increase active travel opportunities.

Active Living

The SPPs should focus on active living through the built environment. A key aspect of active living is the provision of public open space (POS). TALC notes the following issues relating to the provision and retention of POS:

- POS being viewed as a tradable commodity since legislation removed the requirement that POS be held in perpetuity;
- A preference away from small neighbourhood parks towards centralised playgrounds (mainly accessed by car);
- Loss of legislation requiring the provision of riparian and littoral reserves, as was the case for pre 1993 legislation;
- Planning lacking for lifecycle changes in neighbourhoods (i.e., differing requirements as residents age and young families replace); and
- Limited strategic planning for POS.

TALC proposes the following actions related to the SPPs which can have a positive impact on active living:

- Leverage off the opportunity of the COVID-19 pandemic with a renewed interest in local parks and recreation locally;
- Review the Local Government of Tasmania (*LGAT) Tasmanian Subdivision Guidelines October 2013* and *Tasmanian Standard Drawings 2020.* These documents should enhance (and not hinder) planning and design for streets which promote active travel, rather than simply focusing on engineering detail; and
- Identify elements of each Regional Land Use Strategy that relate to active living principles and align the SPPs with these. For example, taking the STRLUS, TALC recommends alignment with regional Policies 10, 11, 13, 18 and 19 (11).

TALC recommends the following provisions within the SPPs to improve active living:

- Insert use and development standards focusing on community-led housing models for increasing residential density; and
- Include standards for the provision of POS and littoral and riparian reserves.

Active Travel

TALC recommends the SPPs make specific provisions for streets that are inclusive for all users to improve active travel through:

- Permeability and connectivity of streets and paths, and limiting dead end cul-de-sacs; and

- Reviewing standards that prevent or are averse to varying street widths, alignment etc to suit the street function with reference to public transport, walking and cycling provision, zero building setbacks, shop top housing, and main street shopping.

Climate Change

Key State, National and International policies reference the link between health and wellbeing and climate change. The *Tasmania Statement* refers to climate change and health, stating 'we need to continue to take practical action on climate change and poverty because they impact on the health and wellbeing of current and future generations of Tasmanians' (15). Australia is a signatory to the United Nations 2030 Agenda for Sustainable Development which includes 17 Sustainable Development Goals which include addressing climate change (24). The robust research evidence and direct reference in the *Tasmania Statement* create a call to action to consider climate change across all policies and is critically relevant in reviewing the SPPs.

The Medical Journal of Australia's 2021 report on the health impacts of climate change found that 'Australians are increasingly exposed to and vulnerable to excess heat and that this is already limiting our way of life, increasing the risk of heat stress during outdoor sports, and decreasing work productivity across a range of sectors' (25). In addition, the report notes that 'other weather extremes are also on the rise, resulting in escalating social, economic and health impacts' (25).

The Heart Foundation's *Blueprint for an Active Australia* asserts 'emphasising urban resilience, through inclusive, safe and sustainable design is critical to addressing climate change. Also, the national and international uptake of renewable energy can also help propel a required energy efficiency mode-shift toward more public transport and active transport modes' (11). *Getting Australia Active III: A systems approach to physical activity for policy makers* highlights the policy co-benefits for active transport and PA including climate change mitigation (8). This policy guide asserts interventions to promote active transport need to be implemented in conjunction with interventions that address the built form and land use to achieve co-benefits of health and climate change mitigation (8).

Throughout this submission, TALC recommends provisions which support active and public transport, urban greening and public open space all of which address the impact of climate change on health and wellbeing (see summary of TALC recommendations numbers 5, 8, 9, 12 and 16). TALC recommends prioritising these provisions which provide contemporary responses to climate change.

3. What improvements do you think should be prioritised?

TALC recommends prioritising improvements supporting:

1. Provision and prioritisation of active travel modes (eg walking, cycling, public transport) and the transport infrastructure that is inclusive for all users;
2. Provision of quality footpaths and cycleway networks;
3. Access to quality POS; parks; playgrounds with shade and shelter;
4. Liveability;
5. Food security;
6. Social inclusion;
7. Climate change; and
8. Workplace health and wellbeing.

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

No comment.

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

TALC asserts that compared to the Interim Planning Schemes (in place from 2015-2021), the SPPs do not have the tools to deliver good outcomes for health and wellbeing, liveability, food security, social inclusion, climate change and workplace health and wellbeing. The following additional requirements are proposed as mechanisms for the SPPs to address the priorities outlined under question three.

Site and Building Design

Design standards have been removed from the SPPs around access to sunlight, outdoor areas, and quality green space, which is critical for health and wellbeing in the home. This has become increasingly important during restrictions in response to the COVID-19 pandemic.

TALC recommends reviewing provisions around site and building designs including:

- Requirements for north facing windows;
- Requirements for private open space to be accessed directly from living areas; and
- Requirements for landscaping.

Subdivision Design

Many subdivision standards that provide health and wellbeing outcomes have been removed from the SPPs. Well-designed subdivisions are critical to active living and active travel. Compact neighbourhoods, provision of housing choice and diversity, wayfinding and POS are critical for promoting access to services and active living. Well-designed neighbourhoods that provide opportunities for healthy living have become increasingly more important during the COVID-19 pandemic.

TALC notes the following omissions around subdivision design:

- The STRLUS sets a target of 15 dwellings per hectare. This was an objective in the General Residential Zone standards in interim schemes, as was promotion of higher densities closer to services, facilities and public transport corridors and planning controls to achieve this; and
- The SPPs provide no density targets and no standards to require higher densities closer to services (minimum lot size of 450m^2 and no maximum lot size). For example, a developer could be advised by a real estate agent that 700m^2 lots are selling best and therefore deliver only lots at this size (approximately 10 dwelling per hectare).

TALC recommends the following key actions to address these issues:

- Re-instate design standards as per the Interim Planning Schemes into the Residential Zones in the SPPs; and
- Urgently review General Residential Zone Development and Subdivision standards from the SPPs with liveability and health and well-being at front of mind.

Public Open Spaces Code

Ways and POS requirements have been removed from the SPPs. Previous interim schemes included provisions for high-quality POS and wayfinding. This now falls to individual Council Policies under the *Local Government (Building and Miscellaneous) Act 1993,* which lacks consistency and transparency for stakeholders. The SPPs offer an opportunity to significantly enhance POS. This can be through improving the value and use of existing POS, such as parks and natural areas, through ensuring they are useable, accessible and have sufficient facilities to encourage maximum utilisation (such as public toilets, seating, play equipment, and shade). There is also opportunity the provision of new POS including parks and natural areas, greenways, landscaping and planting, community gardens, and areas that foster a sense of community whilst providing a greater connection with nature.

POS comprise spaces that are freely accessible to everyone such as streets, squares, parks, natural features, landmarks, building interfaces, green spaces, pedestrian and bike ways, and other outdoor

places (2). POS should not be seen in isolation but in the context of adjacent buildings, its uses and location in a wider network of public and private spaces.

The quality of the POS influences how much time people spend being active or in nature, both of which directly influence health and wellbeing. Public areas that are aesthetically pleasing, safe, clean and comfortable attract people to the area thus leading to increased walking, cycling, and opportunities for social interaction. The Heart Foundation's *Healthy Active by Design* framework reports that residents with a larger neighbourhood parks within 1600 m engage in 150 minutes more recreational walking per week than those with smaller parks (2). Research links physical activity in or near green space to important health outcomes including obesity reduction, lower blood pressure and extended life spans (26). Sufficient provision of POS including parks and reserves, sporting facilities, community gardens and greenways is important in supporting opportunities for being active.

TALC recommends the development of a specific Public Open Spaces Code which includes detailed provisions on POS within the Tasmanian planning system.

Urban Greening

A growing body of evidence demonstrates that urban green spaces, such as parks, playgrounds, and residential greenery, help keep cities cool, act as places of recreation, support physical activity and improve mental health (11, 26, 27).

TALC notes a lack of opportunities to encourage green infrastructure under the SPPs. TALC's Discussion Paper - *Tasmania's Planning System – Opportunities for Health and Wellbeing* demonstrated difficulties in providing green spaces under the SPPs through a case study of Brighton Council's *Greening Brighton Strategy* (the Strategy). The Strategy aims to increase trees across Brighton's urban areas through strategic tree planting, including in private developments and subdivisions. Implementation of the Strategy under the SPPs is extremely difficult, given the provisions do not promote urban greening at all. There are no landscaping requirements for units, commercial developments, streets, or vegetation retention (except if priority vegetation). To address the limitations of the SPPs, Council tried to introduce a Landscaping Specific Area Plan as part of its Local Provisions Schedule (LPS), but it was rejected by the Tasmanian Planning Commission. This case study demonstrates the roadblocks created by the SPPs for local government in providing green spaces.

Research indicates that urban greenery including trees, vegetation and green surfaces (eg roofs and facades) can act as mechanisms for cooling within cities, helping mitigate the urban heat island effect and climate change (26). Urban greenery can reduce temperatures by 1- 4 °C (26).

TALC recommends the SPPs include provisions for urban greening such as landscaping requirements for multiple dwellings and commercial or industrial use, street trees, vegetation and green surfaces, and green POS.

Multiple Dwelling Units

Multiple dwelling units are generally smaller and have less private open space thus increasing demand for quality POS provision. Multiple dwelling units are also often inward facing and have poor passive surveillance to street frontages. They have no public land and when developed on larger sites often block potential connectivity to surrounding land. Body Corporates can be problematic on larger sites and include ongoing costs for the owner that are effectively passed on by the developer in choosing strata over subdivision.

A local example of increasing multiple dwelling units can be seen in Brighton Council on large sites as opposed to subdivisions. It can be assumed that in part this is to do with avoiding POS contribution fees and other subdivision costs (eg utility connections). This impacts on the liveability of these residential areas as they lack access to POS, connectivity through active and public transport and reduced passive surveillance.

TALC recommends the SPPs include provisions which encourage subdivision instead of strata where possible and ensure there is equity in dwelling density settings, POS contributions, improved passive surveillance and connectivity.

Social inclusion

The *Joint Select Committee Inquiry Into Preventative Health Report* identified social inclusion as a key social determinant that impacts on health (18). The report highlighted the importance of a focus on implementation of measures increasing social inclusion across all government agencies (18).

The way density is designed should account for the varying needs of different population groups. Designing and locating safe, affordable, well-connected, higher density housing options is important for different age groups to be able to access the housing market appropriate for their lifestyle and situation (28). Providing a diversity of housing options increases the likelihood that people of lower socioeconomic backgrounds have convenient access to public transport, health services, schools and employment opportunities (28). Ensuring people can work close to where they live will provide more equitable access to employment and services.

The quality of the public realm influences whether people feel safe and comfortable in that area as well as opportunities for social interaction, particularly for women and children. Design of the public realm supports social inclusion through taking into account how that space operates during different times of the day, with different demographics using it, and across all seasons of the year (29).

Feeling unsafe in public spaces has a significant impact on whether residents, specifically women, the elderly and young children are prepared to use them. Designing spaces which support activities attract more people and promote the perception that they are orderly and peaceful, can be important for social groups in enhancing active living opportunities, and support overall community liveability (29).

It is important to consider the role of the built environment on mobility limitations and disability to ensure accessible movement networks are created and maintained. This will support older adults to age in place and improve quality of life through the encouragement of participation in physical activity, exposure to the natural environment, and social interaction with friends and neighbours (29).

Access to local opportunities for physical activity for exercise, recreation or active transport supports social inclusion and builds a sense of community connectedness beneficial to health and wellbeing (2, 11). The Heart Foundation's *Healthy Active by Design* resource asserts that 'an essential part of good governance is embedding a socially inclusive and respectful approach to older people into policies and processes' (2). This principle could equally be applied to how the SPPs impact all social determinants of health. The design of the places we live, work and play must be inclusive of all community members.

The SPPs can act as a mechanism to enhance social inclusion by providing safe, affordable, well-connected, higher density housing options, access to public open/green space, safe and enjoyable active travel networks to a variety of destinations with a focus on equity and inclusion (1, 11, 29).

6. Are there any issues that have previously been raised on the SPPs that you agree with or disagree with?

Liveable Streets Code

TALC is aware of and supports the Heart Foundation's previous recommendation of the development of a Liveable Streets Code in their 2016 *Representation to the final draft State Planning Provisions* (1). A Liveable Streets code, or similar, would provide measurable standards to the assessment of permit applications (1).

In addition, a Liveable Streets Code would support active travel through provisions that include standards for footpaths suitable for walking and requirements for safe cycling infrastructure. Specifically, TALC recommends such a code address the following issues:

- Resolve confusing provisions over streets and roads; and

- Remove the exemption status from planning scheme permit requirements for upgrading of streets/roads to allow active travel to be realised.

C2.0 Parking and Sustainable Transport Code

Under section C2.0 'general comments' in the *Summary of Issues Previously Raised on the SPPs* document, TALC agrees with the comment that car parking space requirements are excessive and do not encourage other forms of sustainable transport (e.g. public transport and active transport) and impacts on liveability.

TALC recommends revising the Parking and Sustainable Transport Code to comprehensively treat 'sustainable transport' as a component of active travel.

TALC is aware of and supports Bicycle Network Tasmania's recommendations for the provision of bike parking for both visitors and employees, provision of safe and secure bike parking, end of trip facilities as well as introduction of provisions for bike parking in apartment buildings.

Workplace health

The Heart Foundation's 'Blueprint for an Active Australia outlines evidence on the importance of being active in the workplace.

> *The workplace is increasingly being recognised (nationally and internationally) as a priority high reach setting for health behaviour interventions, extending from a labour-based approach to a public health 'healthy workers' approach (11).*
>
> *In general, a physically active workforce can improve physical and mental health, reduce absenteeism and increase productivity, thereby providing important benefits to individuals and workplaces (11). Workplaces should see the implementation of physical activity programs as a strategic business enhancement opportunity (11).*

TALC is aware of and supports the Heart Foundation's previous detailed recommendations related to workplace health in their 2016 *Representation to the final draft State Planning Provisions* (1). The representation asserts that workplaces can 'support increased levels of physical activity through the design of a building's circulation system, encouragement of stair use, the provision of end-of-trip facilities (such a secure bicycle storage and change facilities), and there is convenient and safe access to public transport' (1). In addition, 'safe access to workplaces by active travel is enhanced where buildings provide for natural surveillance of outside spaces and the street' (1).

The SPPs provide a mechanism for supporting healthy workplaces through provisions that address these barriers and enablers to physical activity in the workplace and during commutes. TALC recommends reviewing provisions related to workplaces to enhance physical activity in line with recommendations previously made by the Heart Foundation in 2016 (1).

Food Security

Whilst TALC's primary interest in the SPP review is in reference to active living, the importance of a food system that provides access to healthy and affordable food locally is acknowledged. A more-accessible urban environment in which active travel can be used to access healthy local food provides a range of health, wellbeing and environmental benefits (4).

The *Joint Select Committee Inquiry Into Preventative Health Report* specifically references access to food under finding 30 'it is important that people have access to healthy affordable food' (18).

TALC is aware of the Heart Foundation's extensive recommendations relating to food security outlined in their *Representation to the final draft State Planning Provisions 2016* (1). Whilst comments to this level of detail are out of scope for this submission, TALC is supportive of the Heart Foundation's food security recommendations.

7. Are there any of the issues summarised in the Review of Tasmania's Residential Development Standards – Issues Paper that you agree or disagree with?

3.2 Planning Directive No. 4.1 and the SPPs

In reference to the revision of prescriptions for north facing windows: TALC recommends this directive is revisited and considered in tandem with other energy efficient aspects of building design. While a north facing window is not a discrete measure of success, it is one element that contributes to energy performance of a dwelling alongside other measures.

4.3 Detailed comments on residential development standards

TALC recommends redrafting of Residential Development Standards to reference open space in relation to access, dimensions, permeable surfaces, green areas, privacy, and solar access. Providing direct access to open space from habitable rooms can encourage biophilic design and connection with nature, enhancing the indoor-outdoor relationship. Incorporating these principles within urban infill environments and higher density residential developments enhance liveability and active living (4).

4.3.6 Standards for garage and carport opening widths

TALC recommends in the case of multiple dwellings and group developments, consideration be given to laneways, rear access, and grouping of driveways to reduce the number of crossings and maximise pedestrian access.

4.3.8 Frontage fences

Fence height and transparency contributes towards crime prevention through environmental design by allowing sightlines between habitable rooms and the street ('eyes on the street') (30). This supports active living through enabling people to transverse public spaces at different times of the day with passive surveillance in turn reducing crime (30).

4.4 Other issues

Tandem or jockey car parking spaces are not supportive of active living unless in a policy environment supportive of electric vehicles. TALC recommends individual parking spaces should be reduced, and public transport and other active forms of travel prioritised.

Summary of TALC recommendations for SPP review

1. Consider how the Tasmanian Planning Policies will be developed and integrated with existing relevant policies and planned policies (eg Sustainability Strategy, Wellbeing Framework and Review of Local Government).
2. Reference health and wellbeing outcomes in the SPPs including:
    2.1. Clause 2.1 purpose to state how the RMPS objectives give effect to health and wellbeing.
    2.2. Inclusion in the purpose and the objectives for each zone, use standard, development standard, and codes the desired health and wellbeing outcomes from the implementation of the specific provision.
    2.3. Detail the mechanisms by which the SPPs will further the Schedule 1 Objectives related to health and wellbeing.
3. Insert use and development standards focusing on community led housing models for increasing residential density.
4. Include standards for the provision of POS and littoral and riparian reserves.
5. Improve provisions for active transport which provide:
    5.1. Permeability and connectivity of streets and paths;
    5.2. Limited dead end cul-de-sacs; and
    5.3. Varying street widths and alignment to suit the street function.
6. Review provisions around site and building designs including:
    6.1. Requirements for north facing windows;
    6.2. Requirements for private open space to be accessed directly from living areas; and
    6.3. Requirements for landscaping
7. Review of provisions for subdivision design including:
    7.1. Re-instate design standards as per the Interim Planning Schemes into the Residential Zones in the SPPs; and
    7.2. Urgently review General Residential Zone Development and Subdivision standards from the SPPs with liveability and health and well-being at front of mind.
8. Development of a specific Public Open Spaces Code which includes detailed provisions on POS within the Tasmanian planning system.
9. Revise provisions related to urban greenery including:
    9.1. Landscaping requirements for multiple dwellings and commercial or industrial use;
    9.2. Require street trees in new subdivisions; and
    9.3. Provisions for access to open green space.
10. Revise provisions related to multiple dwelling units to:
    10.1. Encourage subdivision instead of strata where possible;
    10.2. Ensure equity in dwelling density settings;

10.3. Ensure POS contributions; and

10.4. Improve passive surveillance and connectivity.

11. Social Inclusion - consider how the SPPs can promote social inclusion.
12. Development of a Liveable Streets Code in line with the Heart Foundation's 2016 *Representation to the final draft State Planning Provisions* (1).
13. Review of the Parking and Sustainable Transport Code to:
    13.1. Comprehensively treat 'sustainable transport' as a component of active travel; and
    13.2. Include provisions for safe and secure bike parking, end of trip facilities as well as introduction of provisions for bike parking in apartment buildings.
14. Workplace health and wellbeing - reviewing provisions related to workplaces to enhance physical activity in line with recommendations previously made by the Heart Foundation in 2016 (1).
15. Food security – review of the Heart Foundation's extensive recommendations relating to food security outlined in their *Representation to the final draft State Planning Provisions 2016* (1).
16. Further review of the Residential Development Standards including:
    16.1. provision of POS;
    16.2. Provisions for laneways, rear access, and grouping of driveways to maximise pedestrian access in multiple dwellings and group developments;
    16.3. Requirements for parking spaces and provisions for secure bicycle parking;
    16.4. Provision of north facing windows;
    16.5. Consideration of crime prevention through environmental design principles; and
    16.6. Prioritising active transport modes and limiting individual car parking spaces.

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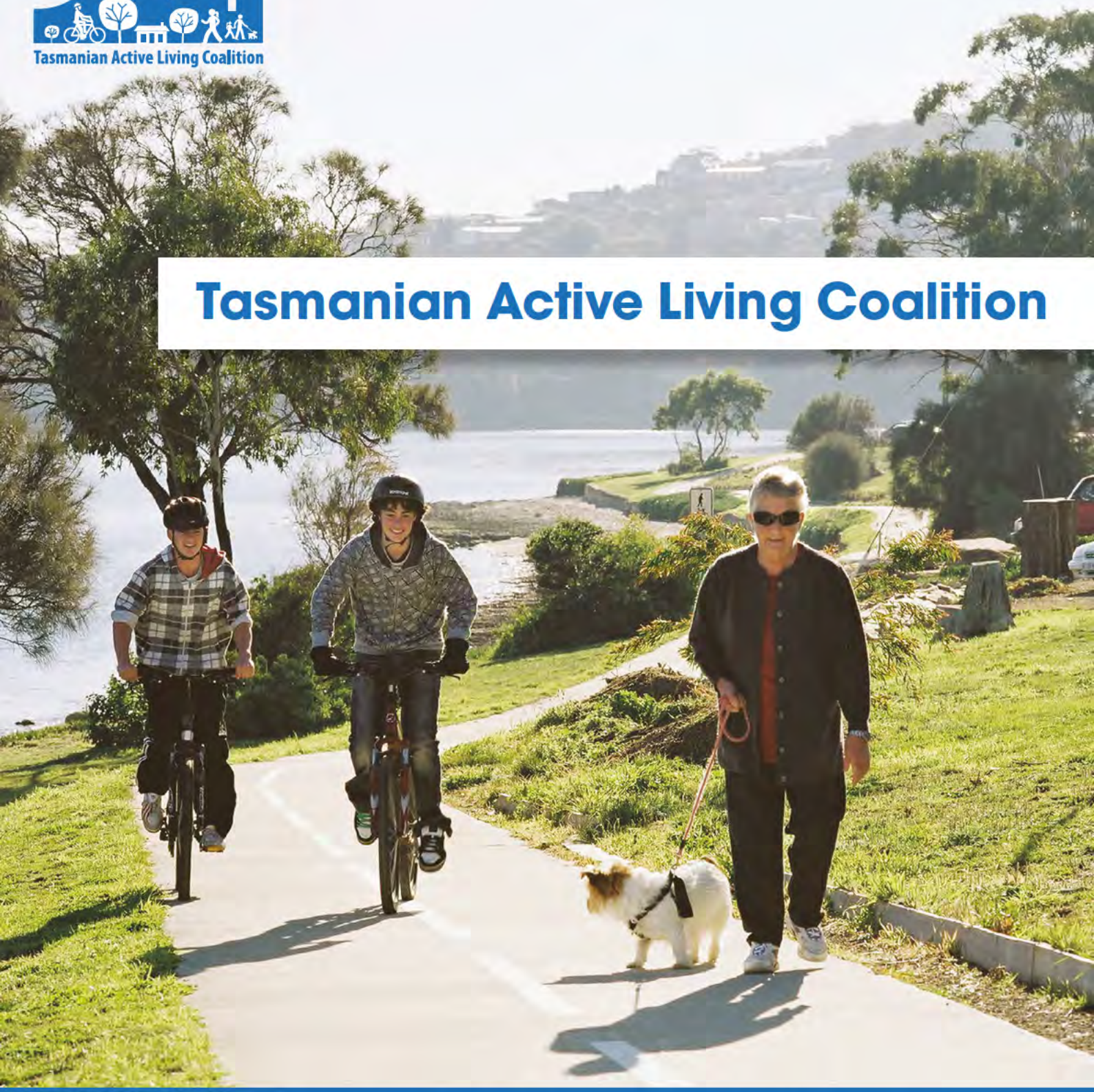
Tasmanian Active Living Coalition

Tasmanian Active Living Coalition



Working in partnership to create inclusive environments to support all Tasmanians to lead healthy, active lifestyles at every stage of life.

Heart Foundation
Tasmanian Government
Bicycle Network Tasmania
Brighton Council
City of Hobart
Clarence... a brighter place
COTA For older Australians
CyclingSouth
LGAT Local Government Association Tasmania
Metro
RACT
PIA Planning Institute Australia
University of Tasmania
Menzies Institute for Medical Research
West Coast Council

Mission

To promote active living through partnerships and bridging research, practice and decision-making to create environments that support and promote active living.

Why was the Coalition Formed?

A series of active living events held in Tasmania in 2018 highlighted significant interest from a range of organisations to establish this Coalition.

Active living is a way of life where physical activity is part of our daily routine. This can be achieved when communities are planned so that people can easily walk or cycle to schools, workplaces, shops and services, parks, and public transport. This means healthier lifestyles for residents, a more social and safer neighbourhood. It also means economic and environmental benefits, through increased local shopping and decreased private motor vehicle use.

A cross-sector and collaborative approach is needed to develop public policies and plan environments supporting active living. Tasmania has a solid history of working collaboratively to further this agenda.

What does the Coalition do?

The Coalition partners work together to influence and inform policies, decisions and strategies that encourage the creation of active living environments.

How does the Coalition do it?

- Translating evidence into policy and practice;
- Building on existing partnerships and develop new partnerships as required;
- Raising the profile of active living; and
- Supporting, advising and advocating for improvements in the built and natural urban environments including improved access to our parks and open spaces.

Partners

The following organisations are members of the Coalition:

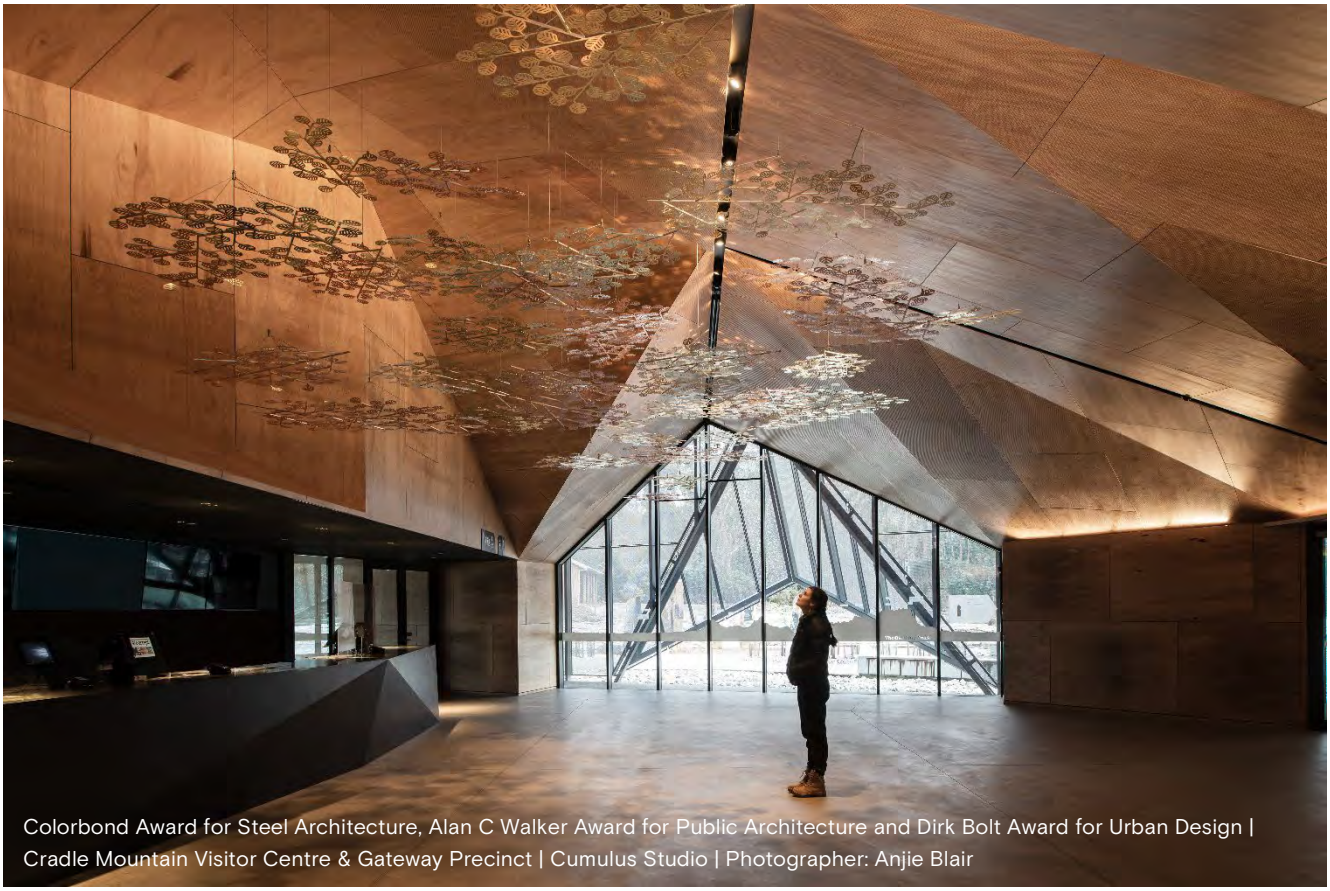
- Bicycle Network Tasmania
- Council on the Ageing (Tasmania)
- Cycling South
- Department of Communities Tasmania
- Department of Health (Tasmania)
- Department of Justice (Tasmania)
- Department of State Growth (Tasmania)
- Department of Premier and Cabinet (Tasmania)
- Heart Foundation
- Local Government Association of Tasmania/ local councils
- Metro Tasmania
- Planning Institute of Australia (PIA) (Tasmanian Division)
- Private consultants
- Royal Automobile Club of Tasmania (RACT)
- University of Tasmania (UTAS)

Further Information

Please contact the Tasmanian Active Living Coalition at **activeliving.coalition@health.tas.gov.au**.

Australian Institute of Architects

STATE PLANNING PROVISIONS REVIEW



Colorbond Award for Steel Architecture, Alan C Walker Award for Public Architecture and Dirk Bolt Award for Urban Design | Cradle Mountain Visitor Centre & Gateway Precinct | Cumulus Studio | Photographer: Anjie Blair

TASMANIAN CHAPTER

Submission date: Thursday 11 August 2022

OVERVIEW

On behalf of the Tasmanian Chapter of the Australian Institute of Architects (the Institute), we thank you for the opportunity to participate in the review of the State Planning Provisions (SPPs). We also appreciate Sean McPhail and other members of the State Planning Office meeting with us to discuss the review. The Institute sees the review as a critical tool to ensure that future development takes place in a way that offers the best outcomes for everyone.

Tasmanians need to be able to live, work and play in a sustainable manner, while supporting a growing economy and population, and allowing for sustainable tourism demands.

Tasmania is growing at a comparatively fast rate, and the planning scheme needs to seek to encourage better quality, more sustainable development. Tasmanians need to be able to live, work and play in a sustainable manner, while supporting a growing economy and population, and allowing for sustainable tourism demands. As a state, we must be more strategic about where we want development to occur and encourage densification both in residential development in new areas, as well as densification of infill development. This requires strategic settlement planning, not only for our cities, but for our regional areas, so that there is clear direction for future development.

Strategic planning is crucial for high quality outcomes that are well thought out and provide long term solutions for Tasmania and Tasmanians. Good planning policy is critical to delivering a built environment that can sustain our communities into the future. We need a plan to give communities viable options, with development opportunities, affordable and social housing, service and transport efficiencies, co ordinated land zone application and an urban settlement plan, informed by townscape principles.

When planning for the future, we must recognise the real challenges presented by climate change and biodiversity loss, the issues presented by the pandemic, and future environmental impacts. Human health and wellbeing have never been more central to the role of planning in the state. Development must be sustainable, and built to last, and we also must plan for a state that aspires to being well designed so as to be able to adapt quickly to changing environmental demands.

Generally, the structure of the State Planning Provisions has limited framework to appreciate the context of living in Tasmania, acknowledging the unique settlement hierarchy, unparalleled landscape diversity, and distinctive localities that collectively inform appreciation of place. The Institute understands that aspects of this may in time be contained in Local Provision Schedules, however, is concerned that these abiding characteristics are not identified in the state provisions. In flagging our concern that the emphasis is too tightly focussed and that cultural settings are overlooked, the Institute questions for example the lack of a definition for ‘townscape’ within the scheme.

In recognising that good design responds to and contributes to its context, and that in Tasmania the local and regional are intertwined, the Institute suggests that an appreciation of context is not just applicable to local provisions but should be integral to the state provisions and the state planning scheme. Accordingly desired future character statements should also be considered.

The Institute notes that the NSW State Environment Planning Policy (SEPP 65) for apartments identify design quality principles as below, which could feed into the Tasmanian context more broadly rather than just in relation to apartments (notes from SEPP 65 are shown in italics, and comments regarding how this relates to the Tasmanian context are shown below this in each instance):

1. Context and neighbourhood character

Good design responds and contributes to its context.

Context is the key natural and built features of an area, their relationship and the character they create when combined.

In Tasmania the regional and the local are intertwined. 'Context' therefore is not just applicable to local provisions but should be inherent to the state planning scheme / provisions.

2. Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Desired future character statements are necessary to apply state provisions. The character of settings together with neighbourhoods and streets need consideration.

3. Density

Good design achieves a high level of amenity for residents, resulting in a density appropriate to the site and its context.

State settlement policy will assist in confirming the diverse settlement hierarchy while differentiating density through regional character.

4. Sustainability

Good design combines positive environmental, social and economic outcomes.

Sustainability needs to be appreciated across scales in Tasmania, from the individual dwelling with cross ventilation and sunlight for the amenity and liveability of residents, to the neighbourhood scale where spaces 'in the sun and out of the wind' are also relevant at the scale of the city region.

5. Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system.

Environmental performance is also a regional consideration in Tasmania where cities and settlements are experienced as sheltering places within larger landscapes.

6. Amenity

Achieving good amenity contributes to positive living environments and residents' wellbeing.

Access to sunlight and outlook are characteristic to neighbourhoods and precincts in Tasmania, (especially on south facing slopes) as they are to individual dwellings.

The Institute understands that the SPPs are only a part of the overall Tasmanian planning framework, and that they work in conjunction with the Tasmanian Planning Policies, Regional Land Use Strategies and Local Provision Schedules. Again, the Institute advocates for resourcing for strategic planning to occur.

Thank you for providing the opportunity provide feedback on this important matter for the future of our state. We look forward to seeing the amendments to the SPPs that result from this review. Please feel free to contact us if you need further clarification or explanation on any of issues the Institute has raised.

Jennifer Nichols

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PURPOSE

This submission is made by the Tasmanian Chapter of the Australian Institute of Architects (the Institute) to respond to the review of the State Planning Provisions by the State Planning Office, Department of Premier and Cabinet.

INFORMATION

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 13,000 members across Australia and overseas.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

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STATE PLANNING PROVISIONS (SPPS) REVIEW – SUMMARY OF ISSUES PREVIOUSLY RAISED ON THE SPPS

General → **Various – Subdivision and requirements for public open space**	The Institute agrees that the subdivision requirements should outline requirements for public open space and has further comments about subdivision within *General SPPs Comments: 8.6 General Residential Zone & 10.6 Low Density Residential Zone: Development Standards for Subdivision.*
General → **Various – Landscaping requirements**	The Institute agrees that landscaping is critical for a high-quality built environment and liveable communities. Provisions for landscaping should be included within subdivision standards, and within SPPs zones where appropriate.
General → **Aboriginal heritage**	The Institute agrees that an Aboriginal Heritage Code should be included within the SPPs. See additional comments under *Suggested additions to the State Planning Provisions*.
General → **Application requirements**	The Institute has received feedback from a number of members regarding conflicting requirements for development applications from different councils. In some instances, consultants are charging additional fees based on the municipal location of the development to account for the differing requirements. Clarity and consistency across councils regarding application requirement is critical.
3.1 Planning Terms and Definitions: → **Secondary residence**	The Institute does not support limiting secondary residences to single-storey buildings.
11.0 Rural Living Zone: → **New standard – building design**	It is important to note that not all existing 'character' is necessarily desirable, and existing poor design outcomes should not be maintained as a standard.
11.0 Rural Living Zone: → **New standard – natural and landscape values**	The Institute would support the introduction of provisions for protection of existing natural and landscape values in the Rural Living Zone, along with the protection of Indigenous flora.
Industrial Zones (Light Industrial Zone and General Industrial Zone): → **New development standard – fencing**	The Institute would support the introduction of a fencing standard.

Industrial Zones (Light Industrial Zone and General Industrial Zone): **New development standard – building design**	The Institute supports a requirement for quality design of industrial buildings.

REVIEW OF TASMANIA'S RESIDENTIAL DEVELOPMENTS STANDARDS – ISSUES PAPER

4. Summary of initial consultation

It is important for the SPPs to encourage infill development and densification in appropriate areas.

4.2 General drafting issues

As noted in the comments under '...Summary of Issues previously raised on the SPPs', *General: Application Requirements*, different councils have different application requirements, and assess development applications with different interpretations of the planning scheme. It is important to have consistency and clarity across municipal boundaries. The Institute also notes that there are instances where there are mismatches between the standards and decisions of the former Resource Management and Planning Appeal Tribunal, now TASCAT.

4.3.1 General drafting issues

- As previously mentioned, it is important for the SPPs to not only focus on single and multiple dwellings, but to provide for a variety of residential development forms, and to encourage infill development and densification in appropriate areas. There appears to be no allowance for conjoined dwellings, and there should be some focus on encouraging medium density development of two- to three-stories, where appropriate. These types of developments are often referred to as the 'missing middle' and might take the form of two dwellings, terraces, dual occupancy, multi-dwelling terraces, multi-dwelling houses, or manor houses. Other states, including NSW (see here and here) and Queensland (see here), have sought to encourage these types of developments through design competitions. The Institute would also like to suggest that courtyards can be a useful design strategy across scales, however, these building typologies are often precluded by the building envelope that assumes setback and angles offer good amenity. There can be an efficiency in a courtyard design which results in building hard to the boundary in some low-rise scenarios, which are currently not easily pursued under the planning scheme. An example of a courtyard development is the recently completed Parliament Square, which contains a courtyard framed by old and new buildings. It is noted that this development was assessed under that Sullivans Cove Planning Scheme.
- The Institute agrees that it is critical to encourage efficient use of land while also allowing for outdoor amenity and encouraging community inclusion.
- The Institute agrees that the there is the risk of the standards leading to poor outcomes for the community, and resulting in large buildings on small blocks, with minimal green space and reduced neighbourhood amenity.

An example of poor-quality strata-titled development

The SPPs need to encourage landscaping and the inclusion of green space within developments, including in strata-titled unit development, for the benefit of the occupants. Poor quality outcomes have been observed in multiple strata-titled development, such as the example in the image above. Examples such as this are common in current unit developments and are characterised by large areas of impervious surfaces and minimal landscaping.

4.3.2 Residential Density for multiple dwellings

The Institute strongly agrees that density should be encouraged, as it "…makes efficient use of the land for housing and optimises the use of infrastructure and community services". The Institute also agrees that in "…addition to economic costs, under-utilisation of urban land and existing transport and utilities infrastructure is a major contributor to global greenhouse gas emissions and can lead to social isolation and negative health outcomes." There may be benefits to encouraging the reduction of parking requirements in order to achieve greater yield, where appropriate (for example, in areas close to the CBD, and close to services including public transport, bicycle infrastructure, shopping centres etc.).

- The point regarding the "…lack of clarity for determining when it is appropriate to exceed density requirements based on social/community benefit" is pertinent. Greater density should be encouraged where there is social/community benefit.
- The Institute agrees that "the minimum site area per dwelling [doesn't allow] for creative solutions for development". This does not encourage densification.
- There should also be a focus on quality design.

4.3.3 Setback and building envelope for all dwelling

- On sites with significant slope, the building envelope may have the potential to result in overshadowing, loss of privacy and solar access. Loss of sunlight to neighbouring habitable rooms should not result in less than three hours of sunlight at June 21.
- The frontage setback being based on historic practice doesn't encourage densification and dependant on location, future character statements and local area objectives, this should be reconsidered.
- The Institute agrees that to enhance the sociability of neighbourhoods "…garage and carport setbacks should require the development to maintain or improve the streetscape…".
- The Institute disagrees that the building envelope requirement should be the only development standard needed for dwellings.
- The Institute agrees that clarification should be provided for 'unreasonable' overshadowing of a vacant lot.

4.3.4 Site coverage and private open space for all dwellings

- The Institute agrees that private open space should "…have good solar access and be directly accessible from a habitable room…".
- The Institute agrees that a limitation on impervious surfaces should be re-included in the standards. Along with the effect on stormwater, common open space (for multiple

dwellings) and green space/landscaping to provide amenity and reduce the heat island effect of impervious surfaces should be considered.

4.3.5 Sunlight to private open space of multiple dwellings

- The Institute agrees that the development standard is difficult to interpret and should quantify the hours of sunlight on the shortest day of the year.

4.4 Other issues

- The Institute agrees that landscaping requirements should be included, and minimum requirements should be outlined.
- The Institute strongly agrees that more focus is needed to resource strategic planning to enable the best outcomes for our state.

MEDIUM DENSITY RESIDENTIAL DEVELOPMENT STANDARDS AND APARTMENT CODE

The Institute supports the continued development of the Medium Density Residential Development Standards and Apartment Code. If well considered, these guidelines have an enormous ability to assist in enabling good design outcomes, and ultimately, better outcomes for the community. The Institute also supports the testing of the draft Apartment Code, as is occurring as part of the Hobart Central Precincts Plan project, and we encourage the use of those with architectural skills in the testing of this.

The Institute looks forward to ongoing consultation and viewing the finalised Medium Density Residential Development Standards and Apartment Code.

If well considered, these guidelines have an enormous ability to assist in enabling good design outcomes, and ultimately, better outcomes for the community.

Examples of low density multi residential typologies.

Above: Mermaid Multihouse | Partners Hill with Hogg & Lamb | Queensland | Photographer: Alex Chromicz

Right: Davison Collective | Archier with Hip V Hype | Photographer: Tess Kelly

GENERAL STATE PLANNING PROVISIONS COMMENTS

In addition to the Institute's comments in the overview regarding the question, and importance, of context in relation to the planning scheme, the Institute would like to question how the current Sullivans Cove Planning Scheme 1997 is to be integrated within the Tasmanian Planning Scheme. The Institute notes that this scheme is largely urban design and heritage focused and appears to have generated quality urban design and heritage outcomes, that has included a large amount of award-winning architecture over the last two decades. An observation has been made that planning schemes based around land use planning and zoning have a tendency to produce 'generic' outcomes, while place specific provisions (such as those included in the Sullivans Cove Planning Scheme) support specific places.

Application Requirements

As mentioned previously, the application requirements require standardisation as currently each council has different requirements. This creates confusion for those preparing application, and results in multiple requests for additional information, occurring over many months in some instances, which results in substantial delays with projects.

Application Requirements for Codes & Interpretation of Codes

There is a lack of clarity around application requirement for certain codes within the planning scheme which is leading to prolonged delays in the assessment of approvals. Institute members are finding that this is most evident with new codes, such as the Flood-Prone Hazard Areas Code, due to lack of experience with the code, and the inability of council staff to both determine or advise applicants of the requirements to satisfy the code.

Changes to Provisions

Institute members have reported that there has been poor or incorrect information provided by council staff when interim planning schemes have changed over to the Tasmanian Planning Scheme. For example, in one instance, a member had made a pre-application enquiry, and attended in-person meetings with council, whereby a proposal was deemed to be discretionary on one point that the council considered approvable. Following the submission of a planning application, the proponent was advised that the proposal was in fact prohibited.

Landscaping

Landscaping provisions in all zones should be implemented, including light and general industrial zones and subdivision standards. This is essential to mitigate effects of climate change, provide WSUD, reduce heat from large, paved areas, provide shade, habitat & visual amenity etc. This should also encourage Indigenous planting.

View Ownership

The Institute suggests that the SPPs consider adopting "view-sharing" requirements, preventing any development from substantially blocking views from an existing dwelling. The Institute is aware of a number of residential developments that have removed the view from an existing property.

3.0 Interpretation (Planning Terms and Definitions)

Table 3.1 Planning Terms and Definitions

We note the while there is a definition of 'gross floor area' included in the Planning Terms and Definitions table, a distinction between floor area and gross floor area in the SPPs would be beneficial. The definition of floor area seems to have been removed from the SPPs and is typically taken from the internal walls. This is particularly important when dealing with the area of an ancillary dwelling of 60m2 if the walls are included and the material used is particularly thick (i.e., masonry construction), then this will have an impact on the useable floor area.

6.0 Assessment of an Application for Use or Development

6.1.3 (b) (ii) topography including contours showing AHD levels and major site features

The Institute believes this requirement is inadequate and results in inaccuracies affecting proposed building envelopes, driveway gradients, quantity of cut and fill and over-shadowing. It appears some applications are using data from the List which does not match actual survey data (this has been noted in Hobart & Kingborough). The Institute suggests that a survey by a registered surveyor must be required as a basis for all site information provided by the proponent.

8.6 General Residential Zone & 10.6 Low Density Residential Zone: Development Standards for Subdivision

The Institute notes that as architects, our members don't often deal with the subdivision part of the planning scheme, however, architects do deal with the outcomes and consequences of subdivisions. As such, we would like to offer the following regarding subdivision of land.

Institute members have observed, that due to demand for housing close to the city, very steep and often unsuitable land is being subdivided. Significant cut, fill and modification of land permanently alters the environment, landscape character and amenity of places, and notably is contrary to 'Brand Tasmania'. Few people are able to be housed on such sites as they are generally sites for single dwellings. The Institute believes that the damage caused to the natural landscape by these developments is disproportionate to the benefit and that landscape character and desired future character controls must be implemented to prevent subdivision of inappropriate sites.

Direct examples of this that have been observed by members in the course of their work have occurred within the City of Hobart municipality in the vicinity of Montrivale Rise, Dynnyrne (Gen. Res), Stevens Farm Drive, West Hobart (Low Density Res), Hillcrest Road, Tolmans Hill (Low Density Res.), and also in Clarence City Council at Tunah Street, Howrah (Low Density Res). The Institute has also observed a similar example at Oberon Court, Dynnyrne.

8.6.1 & 10.6.1 Lot Design

Acceptable Solution A1 →	The Institute notes that at clause (a) (i), a gradient not steeper than 1 in 5 is specified. Institute members are regularly observing lot gradients of 1 in 3 or steeper, which is a significant departure that negatively impacts both development on the site, along with negatively impacting the amenity of neighbours.
Performance Criteria P2 →	In relation to clauses (c), (d) and (e), the Institute notes that embankment easements (resulting from large quantities of fill, often at grades of 1 in 2, created in compliant road formation – located on the downhill/fill side of the road), is not suitable for vehicular access to the site (max. 1 in 4), resulting in elevated concrete platforms and substantial retaining walls. Apart from the exorbitant costs to construct such access, the embankment easement also forces houses to be located further away from the street, such that pedestrian and vehicular access becomes extremely difficult. The entry level of the house (which is usually the main living space) can be many levels above ground.
Performance Criteria P4 →	• The Institute notes that steep gradients, combined with poor solar orientation often leads to proposals substantially overshadowing adjacent lots and houses, even when houses that are subsequently planned comply with height and setback controls. • The Institute questions why this clause is not included within the Low Density Residential Zone. On steep, non-north facing land, it is difficult to achieve adequate winter sunlight access to dwellings.

In some instances, steep sites result in houses having to be many levels above the parking area. In these instances, natural ground is practically unusable as private open space due to the naturally steep gradients being exacerbated by excessive cut and fill.

Members have also experience issues with subdivisions and BAL rating. Subdivisions may have a stipulated BAL rating as a covenant on the Title, with no mechanism to reduce the setbacks without significant legal cost and process. For example, in one instance, the BAL setback reduced the building area to a narrow sliver of land, combined with a 1 in 3 natural gradient and 1 in 2 access from the street, rendering the large property virtually unbuildable. One of our Institute members has had two clients abandon plans to build on their sites and have since sold these blocks of land.

The Institute strongly advocates for the approach to subdivision design to be reconsidered. Strategic planning and testing must occur to identify suitable areas for growth and settlement.

C6.0 Local Historic Heritage Code

The Institute observes that the way the heritage code is written makes it difficult for new works to be championed. Architects are adept in dealing with historic structures and respecting the existing, while designing new work in an appropriate manner that is clearly identifiable as new, without detracting from existing heritage, as is consistent with the Australia ICOMOS Burra Charter (the Burra Charter).

Of all the clauses and codes within the planning scheme, the Local Historic Heritage Code is the section where the Institute receives the greatest amount of feedback from our members regarding the difficulty of its use. The Institute would support this code being reconsidered, and would be happy to assist with this, as several of our members have extensive experience with heritage architecture and conservation, both within Tasmania, Australia and internationally. The Institute advocates for the code to be consistent with its definitions and terminology, and for there to be a clear set of assessment criteria and framework (see comments below in relation to *C6.3 Definition of Terms*) for both places and precincts, so that there is clarity for applicants, assessing officers and the community more broadly.

The Institute notes that words such as subservient, complementary, detriment and detract are value laden, and that there are so many assumptions in the language in the heritage code. As a culture, we no longer expect subservience from anyone toward anyone. There is a bias in the Heritage Code that assumes that new architecture is a threat as opposed to potentially being the heritage of the 21st century. This bias might be overcome by using alternative words, for example, words like balance and respect seem more fitting for the 21st century.

Some questions for consideration when assessing proposals against the Local Historic Heritage Code are as follows:

- Was the building documented by an architectural photographer prior to the commencement of works? Were measured drawings prepared of early and original structures?
- Does the extent of demolition respect and clarify the original plan form?
- Does the proposed development respect and clarify the original plan form?
- Are the historical alignments of entries aligned/integrated with new openings?
- Are early and original features such as loadbearing walls, chimneys, doors and windows being retained?
- Is unpainted masonry or timber work being painted or finished in a new way?
- Is the conservation of early and original fabric being undertaken?
- Are traditional construction techniques proposed to be used where early and original fabric is being modified?
- Will multiple layers of history remain apparent?
- Is the new work legible as such?
- Do details celebrate critical junctions?
- Are new service penetrations kept to a minimum?
- Is the work reversible/demountable?

- Is new technology being installed to reduce actual and physical impacts and is it fully reversible?
- Does the proposed development find a respectful balance between old and new?

In regard to the existing provisions within the Local Historic Heritage Code, the Institute has the following comments.

C6.2.2:

We question this provision.

C6.3 Definition of Terms

We often receive feedback from members that sections of the Local Historic Heritage Code do not align with the Burra Charter, which is a nationally accepted standard for heritage conservation practice in Australia. As such, we suggest that a range of Burra Charter definitions could be added to this clause and used throughout the Code.

local historic heritage significance →	It is noted that the criteria for local historic heritage significance by councils does not align with that of Heritage Tasmania, which creates confusion and presents a heritage management framework which is inconsistent from state to local values and thresholds. We suggest a significance framework consistent with the nationally applied HERCON framework and Assessing Historic Heritage Significance for Application with the Historic Cultural Heritage Act 1995, October 2021, Department of Natural Resources and Environment Tasmania. This would support a clear framework for consideration of inclusion and exclusion thresholds for the assessment of individual places. The Institute suggests that local historic heritage significance values be defined by councils and not by 'a suitably qualified person', unless on behalf of the council. The onus should be on the council and not the owner to determine the significance of any place.
local heritage precinct →	Local heritage precincts are problematic in the current application of the SPPs (and the interim planning schemes). There is no assessment criteria per heritage places but a statement of significance which is at risk of being subjective and too wide. This has created instances where determining if an unlisted place is contributory is done against a generic precinct statement and not the nationally applied HERCON framework.
setting →	We suggest that the definition of 'setting' be defined by the Australia ICOMOS Burra Charter, as follows: *Setting means the immediate and extended environment of a place that is part of or contributes to its cultural significance and distinctive character. Setting may include: structures, spaces, land, water and sky; the visual setting including views to and from*

	the place, and along a cultural route; and other sensory aspects of the setting such as smells and sounds. Setting may also include historical and contemporary relationships, such as use and activities, social and spiritual practices, and relationships with other places, both tangible and intangible.

Table C6.4.1 Exempt Development

The Institute suggests that there are elements of this clause that should be reconsidered.

Development within a local heritage place →	The Institute questions clause (b) as the consideration by a suitably qualified person is not defined in the C6.3. If the works are exempt there may be no engagement with the consent authority, and therefore this requires definition for clarity.
Development within a local heritage place, local heritage precincts or local historic landscape precinct →	• We note in relation to clause (d), utility companies are often not known for their care in the reticulation and mounting of services, and this could result in damage to historic heritage. • In relation to clause (e), if definitions of maintenance and repairs were consistent with the terminology of the Burra Charter, redrafting could support the omission of some Development Standards, such as C6.6.6 A1.
signs →	This has the potential to result in considerable visual impact to a local heritage place or local heritage precinct. Some councils have signage policies and technical guides, which is worth considering. We do not consider that all signage should be Exempt Development. Replacement of existing signs in the same dimensions and specifications, to previous approval, could be Exempt Development.

C6.6.1 Demolition

This clause is problematic. There is considerable focus on the retention of 'fabric' rather than the retention, protection and enhancement of values and/or significance. The notion of 'nil change' is not sound conservation practice. Buildings should have the ability to be adapted to suit modern uses in order to preserve and appreciate the built fabric of our state.

Throughout the code, the Institute notes that the word 'compatible' is problematic. This could be replaced by 'respects', 'does not distort or obscure', or 'does not detract from interpretation and appreciation'.

Also throughout the code, the Institute suggests the removal of 'or if there are no historic heritage values identified in the relevant Local Provisions Schedule, the

historic heritage values as identified in a report prepared by a suitably qualified person.' Refer to note regarding the local historic heritage significance values being defined by councils under *6.3 Definition of Terms*.

C6.6.3 Height and bulk of buildings

The Institute notes that the *Burra Charter Article 22. New work* states:

> *22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation.*
> *New work should be consistent with Articles 3, 5, 8, 15, 21 and 22.1.*

C6.6.4 Siting of buildings and structures

The Institute suggests that there should be consideration of solar orientation.

C6.6.6 Roof form and materials

The Institute questions whether this clause could be better captured by an improvement to *C6.4.1 Development within a local heritage place, local heritage precinct or local historic landscape precinct (e)*? With some changes to definitions, this clause could provide more certainty.

C6.6.7 Building alterations, excluding roof form and materials

The Institute questions how building alterations can be assessed with the exclusion of the consideration of roof form and materials and suggests this clause and the previous clause C6.6.6 be combined.

C6.6.8 Outbuildings and structures

Acceptable Solution A1 →	The Institute doesn't believe these Acceptable Solutions are appropriate within the Local Historic Heritage Code, and standards for outbuildings and structures should be addressed elsewhere within the SPPs.

C6.6.9 Driveways and parking for non-residential purposes

The Institute questions how realistic the inclusion of driveways is in this clause and suggest that 'driveways' should be removed.

Performance Criteria P1 →	• Under clause (b), we suggest the addition of 'significant' between 'any' and 'building'. • Under clause (c), we suggest the addition of 'historically significant' between 'of' and 'gardens'. • We suggest deleting clause (d) and (f).

C6.7.1 Demolition within a local heritage precinct

We question how realistic the inclusion of driveways is in this clause. We suggest that 'driveways' should be removed – refer to notes at *C6.6.9*.

C6.7.2 Demolition within a local historic landscape precinct

We note that this clause appears to be a duplication of *C6.7.1* and question whether these clauses could be combined.

C6.7.3 Buildings and works, excluding demolition

Refer to previous notes on *C6.6.7*.

Acceptable Solution A1 →	The Institute suggests this clause should be removed, and we question whether the content of clause (c) is accounted for at C6.7.1.
Performance Criteria P1.1 →	The Institute notes that the following is very confusing and unnecessarily complex, '...except if a local heritage place of an architectural style different from that characterising the precinct...'. As 6.2.2 stands, it makes this statement redundant. • Clauses (b), (c) and (d) could potentially be deleted if there is a reasonable identification of streetscape and townscape values. Except for garden suburbs, our urban context was never intended to be 'matchy-matchy'.
Performance Criteria P1.2 →	• As above with the potential deletion of clauses (b), (c) and (d).
Performance Criteria P2 →	• As above with the potential deletion of clauses (b), (c) and (d).

10.0 Coastal Erosion Hazard Code

The allocation of high, medium & low hazard bands appears to have been conducted by desktop study and not site-specific study. It is noted that an existing house in a High Hazard Band is unable to be extended more than 20m^2 and cannot be demolished and replaced, and only particular uses are permitted. In principle, given climate change and rising sea levels, this seems reasonable. However, Institute members have experienced instances where the classification of the hazard bands seems to be illogical. For example, in one instance, a residential project had a hazard band extending 30m into the site, to an elevation of 14m above sea level, on a site where the founding bedrock is dolerite. Despite geotechnical written advice negating risk on this site, there is no mechanism for approval to build on this site within the hazard area.

Due to these apparent discrepancies, the Institute suggests there needs to be mechanism for assessment by a suitably qualified person, such as is permitted in low and medium hazard areas. This might be similar to the performance criteria at clause *C10.5.1 Use within a high coastal erosion band, P1.2*.

SUGGESTED ADDITIONS TO THE STATE PLANNING PROVISIONS

The Institute suggests that a provision is made to address culturally responsive design and development within the SPPs. The Institute notes that the Aboriginal Heritage Act 1975 is currently under review, however, we question whether there is also scope for this to be addressed within the SPPs, as noted in the summary of issues previously raised on the SPPs. This should be developed in consultation with the aboriginal community. It should address care and design for country, consultation with traditional owners, the incorporation of indigenous values of intimate understanding of place, and protection and respect of the natural environment. Design and development in our state should respect and consider our First Nations People and Country.

The Institute is committed to advancing understanding with First Nations peoples in recognition of this enduring and ongoing connection to these lands and waters. We recognise a professional commitment to engage and act meaningfully through reciprocal partnership and relationships with Aboriginal and Torres Strait Islander peoples. This is with acknowledgement and respect for Aboriginal and Torres Strait Islander Countries, cultures and communities, and their ways of being, knowing and doing.

The Institute is committed to advancing understanding with First Nations peoples in recognition of this enduring and ongoing connection to these lands and waters.

The Institute suggests that affordable housing zoning is incorporated into the planning scheme, as currently exists other Australian states. Tasmania is experiencing a housing crisis, and there is a critical shortage of both social and affordable housing within the state. The benefits of providing housing for all in our community are clear, with the Give Me Shelter report finding that "failure to act on shelter needs will cost the community $25 billion per year by 2051"[1]. The Institute has an Affordable Housing Policy, that can be found here.

1. Housing All Australians and SGS Economics, *Give Me Shelter: The long-term cost of underproviding public, social and affordable housing* https://housingallaustralians.org.au/wp-content/uploads/2022/06/Give-Me-Shelter-HAA-Synopsis.pdf

From:	Kelly Sims
To:	State Planning Office Your Say
Cc:	Kelly Sims
Subject:	Endorsing PMAT's Submission
Date:	Friday, 12 August 2022 7:31:48 AM

To Whom it may concern

I Kelly Marie Sims of 22/18 Clydesdale Avenue Glenorchy Tasmania 7010 endorse PMAT's Submission to DPAC in Aug 2022 focused on three key areas, the Natural Assets Code, the Local Historic Heritage Code & the residential standards.

PMAT Submission Endorsement;
Due August 2022 to DPAC re: TAS State Planning Provisions (SPPs) Review.

Kindest Regards

Kelly Sims
Glenorchy Tas.

[redacted]

Sent from my iPhone

Aboriginal Land Council of Tasmania
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By email: yoursay.planning@dpac.tas.gov.au

12 August 2022

Submission: State Planning Provisions Review

1. This submission

This submission is made in the knowledge that as recently as 1803, all land and sea in lutruwita was Aboriginal Land. This ownership is beyond dispute.

No land was ever ceded. This fact underpins both claims of sovereignty, and land and sea rights, and ownership of all Aboriginal heritage in Tasmania, irrespective of where it is located.

It also gives important context to the history of every single land title in Tasmania, to which the State Planning Provisions (SPPs) pertain.

2. About the Aboriginal Land Council of Tasmania

The Aboriginal Land Council of Tasmania (ALCT) is the statutory body, established under Tasmania's *Aboriginal Lands Act (1995*), to own and manage returned land on behalf of Tasmania's Aboriginal community.

Lost alongside the theft of land and cultural heritage, were historical tribal structures of leadership and representation.

By any measure, particularly a contemporary, post-colonial one underpinned by principles of self-determination and democracy, ALCT is the only Aboriginal entity in lutruwita/Tasmania that is truly representative of the Aboriginal community.

Every three years, the Tasmanian Electoral Commission conducts an election of persons on its Aboriginal Electoral Roll, to elect a Council of eight Aboriginal people, representing the various regions of Tasmania. Two each are elected from the south, north and northwest, with one each from Flinders and Cape Barren Islands.

Through ALCT, the Aboriginal community aspires to achieve more land returns across lutruwita and has active claims over some areas and latent claims over others. This aspiration includes freehold land.

3. Statewide Planning Scheme and the SPPs

ALCT has many criticisms of the development approval system in Tasmania. The Aboriginal Community, our rights as a sovereign people, and the protection of our heritage is consistently let down by poor prescriptions, a lack of application of what prescriptions to exist, woefully inadequate Aboriginal heritage protection legislation and a lack of integration and cross reference between the *Aboriginal Heritage Act* (1975) (the Act) and the planning system (RMPS).

By way of contemporary example, take the kunanyi cable car proposals and its assessment by the Planning Authority under the Hobart Interim Planning Scheme (HIPS) and Wellington Park Management Plan.

Despite the widely reported Aboriginal Cultural Landscape and spiritual values of kunanyi, and the protection of all Aboriginal heritage values being a requirement of the Management Plan, and thus the HIPS, the issue was dismissed as irrelevant at the Development Application (DA) assessment stage, and not worthy of any form of scrutiny under the Act. Aside offering advice that was largely ignored, the Government's own Aboriginal heritage agency, Aboriginal Heritage Tasmania and its statutory advisory body, the Aboriginal Heritage Council, had no role in assessment or approval of the DA or project proposal.

This was achieved by the proponent's presentation of a so-called Aboriginal Heritage Assessment Report that did not meet the minimum requirements of the Tasmanian Government's own Standards and Guidelines (2018) for the development of such a report.

As the non-compliant heritage assessment with multiple acknowledged limitations did not discover (under the proposed footings of the development), a stone, bone or other piece of archaeological evidence of Aboriginal occupation, the Act was not triggered, further investigations could not be compelled, and the issues was dismissed without explicit mention in any one of the 29 grounds of refusal of the DA.

Such is the discrimination faced by the Aboriginal community when it comes to the protection of our heritage.

It is against this backdrop and lived experience that ALCT calls for greater protections for Aboriginal heritage, a genuine role for Aboriginal people in development assessment and

decision making, and greater accountability when it comes to the application of any and all prescriptions that pertain to the protection of Aboriginal heritage.

4. Other Planning issues

ALCT holds concerns about many aspects of the RMPS, Statewide Planning Scheme and SPPs, including the protection of biodiversity, landscape values and visual amenity, coastal development, and the management and approval of development on Sea Country.

In this submission however, we restrict input into the area we have expertise and focus on the need for the planning system to offer better recognition and protection of Aboriginal cultural heritage an enshrine a role for Aboriginal people to make decisions about the future of their heritage.

We are aware of other submissions that address the broader suite of issues and specifically reference the submissions of the Environmental Defenders Officer and Planning Matters Alliance Tasmania.

5. A new Aboriginal Cultural Heritage Protection Act

There is no argument that the *Aboriginal Heritage Act (1975)* is ineffective and outdated. It is universally acknowledged as being inadequate and its current form and its application is unable to actually demonstrate the protection of Aboriginal cultural heritage values.

We note the recent statements of the statutory advisory body, the Aboriginal Heritage Council (AHC), lamenting the approval of developments against its explicit advice.

The most recent AHC "*Year in Review*", details the fact that the AHC considered 28 permit applications. Of the 28 applications, "*only two permit applications (were) opposed in 2020-21. Regardless, both permits were subsequently granted*." (pg. 18).

The report continues "*given this significance, and the size of the property, Council members were unable to comprehend how an opportunity to avoid interference with the significant Aboriginal cultural heritage identified could not be achieved."*

To us, this highlights that when it really matters, non-Aboriginal decision makers, including the Minister responsible for the protection of Aboriginal heritage, will invariably fall on the side of approval - damaging heritage, disempowering Aboriginal people alienating us from the planning system.

The Act is currently under review.

Its failings are acknowledged in the Tabling Report authored by the current Aboriginal Affairs Minister of the Tasmanian Government, the Hon Roger Jaensch, who states, amongst other things:

> *"The need for a new Act: The review has confirmed the Government's long-standing position that the Act is considerably out of date and that new legislation is required that expands the scope of the Act, beyond being mainly focussed on mitigating the impact of physical activities on Aboriginal heritage of archaeological significance.*
>
> *It is clear that the Act itself does not provide effective mechanisms for protection, nor does it adequately consider the significance of Aboriginal heritage in the context of Aboriginal culture."*[i] (pg. 2)

The Minister went on to state:

> ***"Alignment with the State's planning and development approvals system:***
>
> *The review highlighted a broad desire from local government and developers for more certainty of process (as well as better protection of Aboriginal heritage) by better aligning Aboriginal heritage law with the State's Resource Management and Planning System (RMPS). There is no formal linkage with the RMPS, including the critical Land Use Planning and Approvals Act 1993. The most common theme, accepted by the Government, is the need for early consideration of Aboriginal heritage in planning and development approval processes, supported by improved public awareness. Some of the immediate actions we propose to take will begin to address this issue."* (pg 2.)

Specifically, the Minister proposed actions that would occur independent of the development of a new Act including:

> ***"Planning and development approvals:***
>
> - *Introduce 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 Land Use Planning and Approvals Act 1993 (LUPAA) – to ensure major planning decisions take full account of Aboriginal heritage issues;*
> - *Provision of more and clearer information to proponents to ensure that they are, from the start of planning and development application processes, aware of the need to factor Aboriginal heritage into their thinking; and*
> - *Review and amendment of the assessment procedures under two important non-statutory processes for public land – the Reserve Activity Assessment, and the Expressions of Interest for Tourism Opportunities in National Parks, Reserves and Crown Land – to improve transparency and ensure that consideration of Aboriginal heritage, including cultural landscapes, and appropriate consultation with Tasmania's Aboriginal community, are prominent requirements in the very early stages of development and assessment of proposals." (pg. 3)*

Despite the tabling of this report on 10 March 2022, ALCT is unaware of any steps that have been taken to give effect to the Minister's proposals. This SPP review is an opportunity.

Experience with the kunanyi cable car and recently submitted DA for the Robbins Island wind farm has demonstrated that the provision of information, no matter how early, counts for little as developers push ahead irrespective. Despite the acknowledged failures of the Act and the review yet to be completed, developments that pose a significant threat to Aboriginal cultural heritage values have not been paused pending completion of the review and gazettal of a new Act.

ALCT takes little confidence from the use of language such as "*the intention is to have formal, but light-touch integration"* (emphasis added) with regards to the new Act's relationship with the planning system.

This, to us, appears a recipe for the ongoing deprioritisation of the protection of Aboriginal heritage and for the links and accountability between the new Act and RMPS to be flimsy and perhaps, as with the Standards and Guidelines, optional to a developer.

'Light touch' is the language of 'streamlining', 'cutting red tape' and 'avoiding duplication', all shown to serve only to diminish focus on, and protection of, important values.

We note the claim in the Consultation Paper that "*full integration*" of the new Act and planning system "*…is not considered feasible at this point due to a number of complexities that differ to the consideration and management of European Heritage*."(pg.20)

ALCT does not accept this claim and notes that it is not substantiated.

It is impossible for the Aboriginal Community to properly engage in the Act review and SPP review while each is occurring concurrently. It is unfair and we are being prejudiced. Each process currently points to the other for reassurance that Aboriginal heritage protection will be given better consideration and protection, however neither currently have proposed measures that give us confidence that anything will be significantly different to the last 200+ years.

6. SPPs – an Aboriginal Heritage Protection Code

In the absence of a finalised Aboriginal Cultural Heritage Protection Act, and considering the Act review's proposal to '*encourage, and where appropriate require, early consideration of Aboriginal cultural heritage in planning and development processes, with the intention of identifying, avoiding and proactively managing potential impacts*" (pg 19), ALCT proposes the development of an Aboriginal Heritage Protection Code as part of the SPPs.

This would require mandatory assessment for Aboriginal heritage values, including Cultural landscape values.

This code, serving as a tangible link to the new Aboriginal Heritage Protection Act and trigger for robust, credible assessment under the Act, should be considered a bare minimum.

ALCT stands ready to assist with the co-design of the Code and its application.

7. Decision making

Our preference however, is that parallel with the Planning Authority, decision making on a Development Application's impacts on Aboriginal cultural heritage should sit within the planning system and rest with ALCT.

This is consistent with principles of self-determination and Aboriginal people truly being the custodians of their heritage. Unless decision making powers about Aboriginal heritage are conferred on Aboriginal people, claims that we are the 'custodians' of our own heritage will be hollow and unable to be substantiated. A group of people cannot be considered custodians of anything, if they are powerless to take genuine steps that guarantee protection of it.

This position is consistent with our input into the review of the *Aboriginal Heritage Act* (1975).

8. Conclusion

It is prejudicial to ALCT and the protection of Aboriginal heritage values for the *Aboriginal Heritage Act* (1975) and SPPs to be reviewed concurrently. As it stands, each process fails to protect Aboriginal heritage and we are unconvinced that proposed changes will make a meaningful difference.

As stated in the Consultation Paper on High Level Policy Directions (2022) for the new Aboriginal Heritage Protection Act*, "At the moment, there is no connection or linkage between the Aboriginal Heritage Act and the RMPS, with the exception of integrated assessments for major projects. Processes under the Aboriginal Heritage Act predominantly operate independently and, because they are not referenced in normal planning processes, are often either ignored or activated late."*

Until one, or the other, process is finalised, input on these issues is constrained by uncertainty and is thus broad in nature. It is impossible to understand how connections or linkages would function and if they do, whether they will be effective. This is an unsatisfactory position to be

in and as it stands, ALCT holds little confidence either review process will be concluded to its satisfaction and have the effect of increasing heritage protection and Aboriginal decision-making.

ALCT's preference is for both systems to enshrine the protection of Aboriginal heritage as an objective, the empowerment of Aboriginal people as decision-makers and merit-based appeal rights to be available to the Aboriginal Community.

An Aboriginal Heritage Code within the SPPs that delivers on the above should be developed as part of this review, and ALCT should be enshrined as a decision maker on DAs within the RMPS, parallel with the Planning Authority.

Yours Sincerely,

Rebecca Digney
Manager
Aboriginal Land Council of Tasmania

[i] Tabling Report - Review of the Aboriginal Heritage Act 1975

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1300 137 008

12 August 2022

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

Submitted by email: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam

RE: State Planning Provisions review

TasNetworks welcomes the opportunity to respond to the State Planning Office's consultation on the scope of the State Planning Provisions (**SPPs**).

TasNetworks, is both the Transmission and Distribution Network Service Provider in Tasmania, as well as the proponent for Marinus Link, a new interconnector between Tasmania and Victoria. The focus in all of these roles is to deliver safe, secure and reliable electricity network services to Tasmanian and National Electricity Market (**NEM**) customers at the lowest sustainable prices. TasNetworks is therefore pleased to support the ongoing review of SPPs. The SPPs provide consistent planning rules which encourage investment and also provide protections for the electricity industry to support economic growth in Tasmania.

The Tasmanian Government's Renewable Energy Action Plan has set a target of producing twice our 2022 output of electricity from renewable energy sources by 2040. There is also a commitment to commence exporting renewable hydrogen by 2027 and to become a significant global producer and exporter of renewable hydrogen in the 2030s. To meet these targets, it is likely TasNetworks will be required to extend its distribution and transmission networks. To ensure this occurs in the most efficient way, it is critical the planning schemes facilitate TasNetworks ability to construct and maintain its network within appropriate constraints.

TasNetworks has identified a number of safety concerns with the SPPs which we have raised through the Local Provisions Schedule (**LPS**) process. Changes to the SPPs would ensure consistency across Tasmania. We have also identified issues with how changes in zoning can have a negative impact on electricity infrastructure and send mix messages to the community on the expectations of land usage. TasNetworks has views on the importance of the Electricity

Transmission Infrastructure Protection Code (**ETIPC**) and how it can be improved. Further, TasNetworks recognises that obligations placed on Council by legislative amendments to the *Electricity Supply Industry Act 1995* (**ESI**)) in November 2020 would be less onerous to administer if they were replaced (or augmented) by development controls relating to electricity service provision within Zone development standards. Details on these are provided in Attachment 1.

Again, TasNetworks is thankful for the opportunity to provide feedback on the development of the SPPs and look forward to ongoing engagement in the broader planning reform process.

For more information or to discuss this submission, please contact TasNetworks' Land Use Planner, [redacted]

Yours faithfully,

[redacted]

Chantal Hopwood

Regulation Leader

1. Attachment 1

TasNetworks has specific feedback on the following aspects of the SPPs.

1.1 Exemptions

TasNetworks would like to highlight a conflict between the SPP Exemptions and existing electricity transmission easement rights. This can result in the requirement in the ETIPC to notify TasNetworks of developments within the Electricity Transmission Corridor (**ETC**) and Inner Protection Area (**IPA**) not occurring. This failing can lead to certain exemptions that would:

- on almost every occasion, conflict with easement rights (which have the potential to impact human safety) and compromise the purpose of the ETIPC; and
- unless managed appropriately, have the potential to conflict with easement rights (and have the potential to impact human safety) and the purpose of the Code.

Where the ETIPC does not apply, easement rights still exist but can only be enforced once a breach has occurred or (at best) is imminent. This can result in a costly process of removal or relocation and in the interim, could potentially pose a safety risk. When the ETIPC applies, it provides developers, Councils and TasNetworks an opportunity to avoid and/or manage this issue early in the application process.

Please refer to Appendix 1 for the benefits that can be realised by considering electricity transmission assets in the planning process and conflict examples. Please note that this matter has consistently been raised through the Local Provision Schedule process.

Further, please refer to the Opinion of the Tasmanian Planning Commission (Appendix 2) which provides additional information regarding this request and suggests that the exemptions specified in Appendix 1 be qualified by the words '*unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Infrastructure Protection Code applies and requires a permit for the use and development*'.

TasNetworks supports the Commission's recommendation and requests that the SPPs be amended based on the attached Commission's Opinion.

The following sections address issues with specific sections of the SPPs.

1.2 Zones

<u>Consideration of electricity services in Development Standards for Subdivision:</u>

Each zone within the SPPs (with the exception of the Rural, Agriculture, Open Space and Future Urban zones) includes, to some extent, within the Development Standards for Subdivision, a clause relating to provision of services.

In the majority of zones within the SPPs the 'objective' of the services clause is – *that the subdivision of the land provides services for the future use and development of the land*. Provisions within this clause typically relate to water supply, sewerage or wastewater service and stormwater depending on the zone.

While TasNetworks is supportive of the provision of services being considered at the subdivision stage, it would like to highlight the omission of electricity services from the current list. It is requested that the SPPs Development Standards for Subdivision services clause be

amended to include a clause relating to electricity services. Including electricity services in the Development Standards for Subdivision services clause ensures that a means of power supply will be available to new land.

The problems caused by the absence of suitable development standards relating to the provision of electricity services were somewhat addressed by amendments made to the *Electricity Supply Industry Act 1995* (**ESI**) in November 2020. TasNetworks recognises that while those amendments were worthwhile in reducing risks potentially impacting on the broader community, some difficulties have been presented to Councils in the administration of planning applications that are affected by the ESI Act amendments. Including the consideration of electricity services in the Subdivision Development Standards within relevant Zones would alleviate these difficulties.

TasNetworks would welcome the opportunity to discuss a suitable amendment to the SPPs to ensure the provision of electricity services is considered at the subdivision stage.

Landscape Conservation Zone

The introduction and subsequent rezoning of land within the ETC to the Landscape Conservation Zone has created a number of unforeseen issues for TasNetworks. The Zone Purpose is to provide for the protection, conservation and management of landscape values which can potentially come into conflict with the Purpose of the ETIPC which is to maintain future opportunities for electricity transmission infrastructure.

Additionally, development approval for augmentation of an existing corridor under the Landscape Conservation Zone is more onerous than if under the Environmental Living or Rural Resource Zones in the interim scheme or the Rural Zone under the SPP. For example, the Acceptable Solution for building height requirement in the Landscape Conservation Zone is 6m as opposed to 12m under the Rural Zone.

Further, TasNetworks has concern regarding the rezoning of land within an ETC to the Landscape Conservation Zone and the inconsistent messaging it provides to the public. That being, that the land is for 'conservation', where in fact clearing of vegetation within the ETC is exempt and augmentation of corridors can occur.

TasNetworks acknowledges that the introduction of the Landscape Conservation Zone into LPSs is per SPP drafting guidelines, however TasNetworks welcomes further discussion regarding the rezoning of land in the close vicinity of electricity infrastructure.

1.3 Codes

Electricity Transmission Infrastructure Protection Code:

TasNetworks requests that ETIPC C4.2 Application of this Code be amended to include the following:

C4.2.2 In the case of development within the electricity transmission corridor, but outside the inner protection area, the applicant must demonstrate, to the satisfaction of the planning authority that, prior to submission of its application, it has notified, in writing, the electricity transmission entity of the substance and extent of its proposed use or development.

The suggested amendment is based off the drafting within the southern interim planning schemes. This inclusion has delivered positive land use planning outcomes in the south of the State, as the requirement is solely to 'notify the transmission entity' of a development within the ETC. It is not considered to hinder or stall development applications or burden planning authorities. Rather, the notification informs TasNetworks of development that is occurring within close proximity to its assets, which can result in further verification of easements and in some instances, lead to reducing the likelihood of encroachments.

Scenic Protection Code:

The Scenic Protection Code does not apply to sites in the Utilities zone. As a result, assuming a Utilities zoning, TasNetworks' substations and communication sites are not subject to the application of this Code. This supports the continued and consolidated use and development of these sites for electricity infrastructure. However not all electricity assets are zoned Utilities.

TasNetworks' recognises that where the Scenic Protection Code does apply, a Council may wish to regulate other activities in the ETC that could impact on scenic values. However, the application of the Scenic Protection Code to new electricity transmission use and development within an existing ETC, has a number of impacts in conflict with the continued use of these corridors including:

- not recognising the already established vegetation clearance and scenic quality;
- not recognising the existing and continued use of these corridors, including vegetation clearance, for significant linear infrastructure on a state wide basis;
- unreasonably diminishes the strategic benefit of the ETC;
- devalues the substantial investment already made in the establishment of these corridors;
- unreasonably fetters augmentation of existing corridors by imposing development standards relating to scenic protection to electricity transmission use and development in an existing electricity transmission corridor;
- conflicts with the purpose of the ETIPC; and
- supports a misconception in the community that where the Scenic Protection Code (tree preservation) is applied, vegetation clearance will be limited, when in fact vegetation clearance for transmission lines is required and authorised by separate regulatory regimes in these locations.

If the Scenic Protection Code in the SPPs were amended to ensure that, where this Code intersects with an ETC, it does not apply to electricity transmission use and development in that ETC, these impacts could be largely mitigated. This approach recognises the presence of this substantial electricity infrastructure and:

- its place in a broader state-wide network that is essential to the safe and reliable provision of electricity to Tasmania (as recognised in the Regional Land Use Strategy);
- implements the purpose of the ETIPC; and
- facilitates continued use or augmentation of existing corridors and ensures that future development (that is not otherwise exempt) can be efficiently provided.

1.4 Particular Purpose Zones and Specific Area Plans

With regards to Particular Purpose Zones (**PPZs**) and Specific Area Plans (**SAPs**), TasNetworks requests that all PPZs and SAPs include the use class for Utilities and Minor Utilities as either No Permit Required, Permitted or Discretionary. Utilities must not be a Prohibited use. The ability to consider Utilities as a use in all zones is a requirement for the effective planning and development of linear utility infrastructure, which is required to be located in a range of areas and will be subject to multiple zonings. Further, it is requested that use, development and subdivision standards within all PPZs and SAPs are drafted consistent with the SPPs, which enables the consideration of Utilities in all zones and no finite quantitative development or subdivision standards.

1.5 Other

TasNetworks would like to address the list of exemptions regarding *minor infrastructure* as outlined in Table 4.2, under section 4.2.7, where the provision of linear and minor utilities hasn't been clearly addressed. It is suggested that *minor utilities*, which is defined under Table 3.1 Planning Terms and Definitions (see below), is added to the list of exemptions relating to *minor infrastructure*. This addition would make clear that minor and essential works undertaken by utilities to enable community development do not require planning permits from Council.

Table 3.1 Planning Terms and Definitions

minor utilities	means use of land for utilities for local distribution or reticulation of services and associated infrastructure such as a footpath, cycle path, stormwater channel, water and sewer pipes, retention basin, telecommunication lines, gas pipelines or electricity substations and power lines up to but not exceeding 110kV.

Therefore, TasNetworks requests that Table 4.2, section 4.2.7 is amended to include the following:

Table 4.2 – Exempt infrastructure use or development

4.2.7	minor infrastructure	Provision, maintenance and modification of minor utilities, ~~footpaths, cycle paths,~~ playground equipment, seating, shelters, bus stops and bus shelters, street lighting, telephone booths, public toilets, post boxes, cycle racks, fire hydrants, drinking fountains, waste or recycling bins, public art, and the like by, or on behalf of, the Crown, a council or a State authority.

Appendix 1 – SPP Exemptions

This appendix outlines the benefits of considering electricity transmission assets in the planning process for new development.

The following benefits can be realised if impact on electricity transmission assets are considered in the planning process. (See Table 1 below for the list of relevant exemptions):

- Removes the incorrect perception that buildings and other works exempt under the SPPs can safely occur in a transmission line or underground cable easements without the need to consider asset easement rights or operational requirements.
- Empowers the Planning Authority to request further information, condition or refuse a development that conflict with the Code requirements and purposes.
- Saves developers, Councils, TasNetworks and the community time, cost and distress associated with easement right enforcement after a building, structure or other works have either commenced construction or have been built.
- Reflects the reality with respect to what can and cannot safely occur in an electricity easement.
- Saves developers project delay and cost required as a result of reworking proposals to ensure easement rights are not compromised later in the process.
- Increases the chances of considering the impact of new development on electricity assets early in the planning assessment process, before significant expenditure on project preparation has occurred.
- Prevents land use conflict between existing critical electricity transmission assets and new development.
- Protects human safety.
- Aligns the planning considerations and electricity easement rights.
- Avoids increased acquisition or construction cost for future assets as a result of encroachment (eg: dwelling encroachments within strategically beneficial easements may not cause operational issues for existing assets. However, dwelling acquisition and increased community and social impact of processes required to remove dwellings in the easement if it is required later can be avoided if encroachment is prevented in the first place.
- Supports compliance with AS 7000.
- The strategic benefit of existing electricity easements and the strategic purpose of the Code is preserved.

Conflict Examples

Table 1 presents examples of exempt development where TasNetworks believes conflict with easement rights can occur.

Colour coding indicates the following:

Conflicts with easement rights and may be capable of management to ensure appropriate alignment with easement rights.
Conflicts with easement rights. In almost all cases, this exemption will pose a safety and operational hazard for overhead and underground transmission lines and cables.

Table 1 Exemptions and land use conflict with electricity transmission assets

SPP exemption	Comment
4.3.6 unroofed decks	If not attached to a house and floor level is less than 1m above ground level. **TasNetworks Comment:** A deck of this nature can pose an impediment to safe access and due to other exemptions can be roofed without further assessment which is in conflict with easement rights and could compromise safety. A deck over the operational area required for an underground cable would always be unacceptable.
4.3.7 outbuildings	One shed: up to 18m2, roof span 3m, height 2.4m, fill of up to 0.5m. Up to two shed: 10m2, sides 3.2m, height 2.4m. **TasNetworks Comment:** This type of building almost always poses a safety and operational hazard for transmission lines, cables and human safety. This type of building over the operational area required for an underground cable always poses an unacceptable safety risk.
4.3.8 outbuildings in Rural Living Zone, Rural Zone or Agriculture Zone	4.3.8 Provides for an unlimited number of outbuilding per lot as follows: Floor area 108m2, height 6m, wall height 4m.
4.3.9 agricultural buildings and works	Already subject to the Local Historic Heritage Code. 4.3.9

SPP exemption	Comment
in the Rural Zone or Agriculture Zone	Provides for unlimited number of outbuilding per lot as follows: Must be for agricultural use, floor area 200m2, height 12m. Already subject to the Local Historic Heritage Code and the Scenic Protection Code. **TasNetworks Comment:** These exemptions create a new and potentially more dangerous conflict with electricity transmission lines and cables where a larger and higher building can be constructed in an electricity transmission easement without the need for planning approval. Buildings of this nature can severely impede TasNetworks' ability to safely access, operate and maintain electricity transmission lines. If built, these buildings could also present a threat to human safety. As a result, in almost all cases, if built, buildings covered by these exemptions would necessitate the enforcement of easement rights, either during or after construction and after the planning and building (exemption), process has occurred. This will likely mean relocating the proposal, a further planning assessment and added cost and time to a development. The nature of electricity transmission line assets (ie: running from isolated generation locations into populated areas) means the zones mentioned in this exemption are almost certain to contain (and appropriately so) electricity transmission assets. The cost of removing substantial agricultural buildings from easements required for new assets also adds to future asset construction costs.
4.3.11 garden structures	Unlimited number, 20m^2, 3m height max. Already subject to the Local Historic Heritage Code. **TasNetworks Comment:** If not managed appropriately, this type of structure has the potential to compromise clearances and the safe and reliable operation of transmission lines and underground cables. Depending on location within an easement, could also present a threat to human safety. Cost of removal is limited, however still requires post breach enforcement of easement rights.
4.5.1 ground mounted solar energy installations	Each installation can be 18m^2 area. Already subject to the Local Historic Heritage Code.

SPP exemption	Comment
	TasNetworks Comment: This type of activity has the potential to compromise clearances or adversely impact easement access (especially during emergency repair conditions).
4.5.2 roof mounted solar energy installations	Already subject to the Local Historic Heritage Code. This would likely only apply to existing buildings within easements. **TasNetworks Comment:** Encroachment is likely existing, however, this exemption has the potential to compromise clearances in what may be a compliant situation.
4.6.8 retaining walls 4.6.9 land filling	4.6.8 Allows for retaining 1m difference in ground level. This exemption is already subject to the Local Historic Heritage Code and the Landslip Hazard Code. 4.6.9 Allows for filling of up to 1m above ground level. This exemption is already subject to the Natural Assets Code, Coastal Erosion Hazard Code, Coastal Inundation Hazard Code, Flood-Prone Areas Hazard Code and Landslip Hazard Code. **TasNetworks Comment:** This type of activity has the potential to compromise ground clearances for existing transmission lines and safe operational separation for underground transmission cables. Subject to appropriate management, this type of activity can usually occur within transmission line easements, however, may pose a more challenging risk for underground cables.
4.6.13 rain-water tanks 4.6.14 rain-water tanks in Rural Living Zone, Rural Zone, Agriculture Zone or Landscape Conservation Zone 4.6.15 fuel tanks in the Light Industrial Zone, General Industrial Zone, Rural Zone, Agriculture Zone or	This was one exemption in the draft SPPs and was modified by the Commission into four exemptions. TasNetworks requested the original exemption be subject to the Code. 4.6.13: attached or located to the side or rear of a building and can be on a stand height 1.2m high. Subject to the Local Historic Heritage Code. 4.6.14 attached or located to the side or rear of a building with no height limit. Subject to the Local Historic Heritage Code. 4.6.15 no height limit, no requirement is be located near a building. Limited when storage of hazardous chemicals is of a manifest quantity and Coastal Erosion Hazard Code, Coastal Inundation Hazard Code, Flood-Prone Areas Hazard Code, Bushfire-Prone Areas Code or Landslip Hazard Code, applies and requires a permit for the use or development.

SPP exemption	Comment
Port and Marine Zone 4.6.16 fuel tanks in other zones	4.6.16 must be attached or located to the side or rear of a building, max 1kL capacity, on a stand up to 1.2m high and subject to the Local Historic Heritage Code. **TasNetworks Comment:** These exemptions allow for water tanks on stands and some have no height limit. These developments have the potential to compromise access to the easement, compromise ground clearances for existing transmission lines and safe operational separation for underground transmission cables. Depending on location in the easement, these developments could pose a threat to human safety. Subject to appropriate management, this type of activity may occur within transmission line easements, however, may pose a more challenging risk for underground cables.

It is therefore requested that the abovementioned exemptions be amended to be qualified with the following words: '*unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Infrastructure Protection Code applies and requires a permit for the use and development*'.

Opinion of the Tasmanian Planning Commission

Section 35G(2) of the Land Use Planning and Approvals Act 1993

Content of the SPPs – Clause 4 - Exemptions

Notice of advice from the Meander Valley Planning Authority

Background

1. Section 35G(1) of the *Land Use Planning and Approvals Act 1993* (the Act) enables a planning authority by notice, having considered representations made in relation to its draft LPSs, to advise the Tasmanian Planning Commission (the Commission) of the Authority's opinion that the content of the SPPs should be altered.
2. Section 35G(2) requires the Commission to consider the advice and if it considers that the advice has merit, provide that advice to the Minister together with the Commission's opinion in relation to the advice.
3. Following consideration of the representations in relation to its draft LPS, the Meander Valley Planning Authority (MVPA) provided notice of advice to the Commission on 10 April 2019 that provisions in clause 4 of the SPPs - Exemptions, and provisions in C7.0 the Natural Assets Code should be altered.
4. This opinion concerns the content of the notice in relation to the Exemptions - Clause 4.

The MVPA Notice and the Issues

5. Essentially the advice is that the existence of a number of development exemptions listed in Clause 4 of the SPPs has the potential to impact on the electricity transmission assets of TasNetworks, which may cause human safety issues in some situations and/or have the potential to compromise TasNetworks essential infrastructure.
6. This can occur because the exemptions mean that the developments which are exempt, can be located wherever the landowner wishes, without the need for any planning approval to be considered. That location may result in development that conflicts with the TasNetworks essential infrastructure, and may also result in the need to remove the development, at a financial and operational cost and inconvenience, to both a landowner and TasNetworks.
7. As a result TasNetworks seeks to have those exemptions qualified so that the exemptions do not have unlimited application.
8. The following clause 4 SPP exemptions are those identified as requiring the qualification:
    - unroofed decks (4.3.6)
    - outbuildings (4.3.7)
    - outbuildings in the Rural Living, Rural and Agriculture Zones (4.3.8)
    - agricultural buildings and works in the Rural and Agriculture Zones (4.3.9)
    - garden structures (4.3.11)
    - ground mounted solar energy installations (4.5.1)
    - roof mounted solar energy installations (4.5.2)
    - retaining walls (4.6.8)
    - land filling (4.6.9)
    - rain-water tanks (4.6.13)

- rain-water tanks in the Rural Living, Rural, Agriculture and Landscape Conservation Zones (4.6.14)
- fuel tanks in the Light Industrial, General Industrial, Rural, Agriculture and Port and Marine Zones (4.6.15)
- fuel tanks in other zones (4.6.16).

9. The recommendation for the change to the SPPs in the MVPA notice of advice is that the identified exemptions should be qualified by the words '*unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Protection Code applies and requires a permit for the use and development'.* It is the essential infrastructure in these areas, identified by the planning scheme code which TasNetworks seeks to have regulated by the planning provisions.

10. The section 35G(1) notice from the MVPA incorporates an Appendix from the TasNetworks representation. That Appendix details the exemptions that should be qualified, the safety and or asset protection issues involved, and lists the benefits that can be realised if the potential impacts on electricity transmission assets are considered in the planning process.

11. The section MVPA 35G notice recommends that all the exemptions listed should be qualified.

12. For convenience, the MVPA notice, which incorporates Appendix 7.1 from the TasNetworks representation has been consolidated in the attached notice document.

Commission Opinion

13. Section 35G(2) of the Act is silent on any process for the Commission to follow in the formation of its opinion on the merit or otherwise of a planning authority's notice. The Commission may thus form its opinion in any way it considers appropriate.

14. In relation to the MVPA notice, the Commission decided that it would be appropriate to undertake a consultation with the MVPA and TasNetworks on the issues raised and suggested benefits detailed in the MVPA notice. It undertook this consultation relying on its functions and powers in section 6(1A) of the *Tasmanian Planning Commission Act 1997*. The consultation with MVPA and TasNetworks took place on 5 June 2019.

15. At the consultation, a detailed presentation from TasNetworks representatives confirmed to the satisfaction of the Commission, the potential safety risks to the community and the risks to essential electricity infrastructure of the continuation of the listed exemptions, without the qualification proposed.

16. The Commission is of the opinion that the MVPA opinion that the exemptions to the SPPs in clause 4, as listed above in paragraph 8 has merit for the reasons outlined in the MVPA notice. Those exemptions should be qualified by the words '*unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Protection Code applies and requires a permit for the use and development'.*

John Ramsay
Delegate (Chair)

Roger Howlett
Delegate

29 June 2020

Attachment

Notice of advice under section 35G(1) – Meander Valley Planning Authority

Issue: Exempt Development in conflict with Electricity Infrastructure Corridors and Easements

Representor: TasNetworks

SPP Provision: 4.0 Exemptions

Planning Authority Submission:

The TasNetworks representation has highlighted potential conflicts arising from development that is exempt from consideration under the Electricity Transmission Infrastructure Protection Cope (ETIPC) due to Section 4 of the SPPs, which exempt assessment of some development under the planning scheme. TasNetworks describe how there are circumstances where development that is not subject to planning approval is wrongly interpreted to be free from obligation to seek the approval of the electricity authority when located within an actual or implied easement, resulting in numerous circumstances where development must be relocated after construction. This is a situation that is likely to be exacerbated by the SPPs now that electricity infrastructure is recognized in the planning scheme and the type and size of development that is exempt is expanded under the SPPs.

Removing buildings and service infrastructure etc. after construction is a very costly exercise for both the landowner and TasNetworks and is a situation that is ideally avoided in the first instance. Particularly if there is a safety risk in the interim period before discovery of the hazard.

The TasNetworks representation in Appendix 1 provides a table of examples where exempt development would conflict with transmission infrastructure. This could be alleviated by using the ETIPC as a mechanism to provide a qualification in the exemption that if the development is located within the Electricity Transmission Corridor or an Inner Protection Area that the development is not exempt and is subject to an assessment. The most likely outcome is that this qualification will act as an early incentive to locate the development outside of these overlay areas to avoid the need for a permit. Where this is not the case, the development would be subject to liaison with TasNetworks and the critical safety issues will be identified early before the landowner spends money on development that may need to be removed. A qualification on the exemptions will act as a pause to properly consider the electricity infrastructure and prevent wasted expense. This is a consistent approach to some exemptions that are qualified to apply other Codes such as the Safeguarding of Airports and Local Historic Heritage Codes.

Recommended amendment to SPPs:

Include a qualification in section 4.0 Exemptions for the development listed at Appendix 1 of the TasNetworks representation as follows:

'unless the Electricity Transmission Corridor or an Inner Protection Area of the Electricity Transmission Infrastructure Protection Code applies and requires and a permit for use and development'.

7. Appendix

7.1. Appendix 1 SPP Issues

Benefits of considering electricity transmission assets in the planning process for new development

The following benefits can be realised if impact on electricity transmission assets are considered in the planning process. (See Table 1 for the list of relevant exemptions):

- Removes the incorrect perception that buildings and other works exempt under the SPPs can safely occur in a transmission line or underground cable easements without the need to consider asset easement rights or operational requirements.
- Empowers the Planning Authority to request further information, condition or refuse a development that conflict with the Code requirements and Purposes.
- Saves developers, Councils, TasNetworks and the community time, cost and distress associated with easement right enforcement after a building, structure or other works have either commenced construction or have been built.
- Reflects the reality with respect to what can and cannot safely occur in an electricity easement.
- Saves developers project delay and cost required as a result of reworking proposals to ensure easement rights are not compromised later in the process.
- Increases the chances of considering the impact of new development on electricity assets early in the planning assessment process, before significant expenditure on project preparation has occurred.
- Prevents land use conflict between existing critical electricity transmission assets and new development.
- Protects human safety.
- Aligns the planning considerations and electricity easement rights.
- Avoids increased acquisition or construction cost for future assets as a result of encroachment (eg: dwelling encroachments within strategically beneficial easements may not cause operational issues for existing assets. However, dwelling acquisition and increased community and social impact of processes required to remove dwellings in the easement if it is required later can be avoided if encroachment is prevented in the first place.
- Supports compliance with AS 7000.
- The strategic benefit of existing electricity easements and the strategic purpose of the Code is preserved.

Conflict Examples

Table 1 presents examples of exempt development where TasNetworks believes conflict with easement rights can occur.

Colour coding indicates the following:

Conflicts with easement rights and may be capable of management to ensure appropriate alignment with easement rights.
Conflicts with easement rights. In almost all cases, this exemption will pose a safety and operational hazard for overhead and underground transmission lines and cables.

Table 1 Exemptions and land use conflict with electricity transmission assets

SPP exemption	Comment
4.3.6 unroofed decks	If not attached to a house and floor level is less than 1m above ground level. A deck of this nature can pose an impediment to safe access and due to other exemptions can be roofed without further assessment which is in conflict with easement rights and could compromise safety. A deck over the operational area required for an underground cable would always be unacceptable.
4.3.7 outbuildings	One shed: up to 18m2, roof span 3m, height 2.4m, fill of up to 0.5m. Up to two shed: 10m2, sides 3.2m, height 2.4m. Similar to PD1. This type of building almost always poses a safety and operational hazard for transmission lines, cables and human safety. This type of building over the operational area required for an underground cable always poses an unacceptable safety risk.
4.3.8 outbuildings in Rural Living Zone, Rural Zone or Agriculture Zone 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone	4.3.8 Provides for an unlimited number of outbuilding per lot as follows: Floor area 108m2, height 6m, wall height 4m. Already subject to the Local Historic Heritage Code. Slightly broader than PD1. 4.3.9 New and broader than PD1 exemptions.

SPP exemption	Comment
	Provides for unlimited number of outbuilding per lot as follows: Must be for agricultural use, floor area 200m2, height 12m. Already subject to the Local Historic Heritage Code and the Scenic Protection Code. **TN COMMENT:** These exemptions create a new and potentially more dangerous conflict with electricity transmission lines and cables where a larger and higher building can be constructed in an electricity transmission easement without the need for planning approval. Buildings of this nature can severely impede TasNetworks' ability to safely access, operate and maintain electricity transmission lines. If built, these buildings could also present a threat to human safety. As a result, in almost all cases, if built, buildings covered by these exemptions would necessitate the enforcement of easement rights, either during or after construction and after the planning and building (exemption), process has occurred. This will likely mean relocating the proposal, a further planning assessment and added cost and time to a development. The nature of electricity transmission line assets (ie: running from isolated generation locations into populated areas) means the zones mentioned in this exemption are almost certain to contain (and appropriately so) electricity transmission assets. The cost of removing substantial agricultural buidings from easements required for new assets also adds to future asset construction costs.
4.3.11 garden structures	Unlimited number, 20m^2, 3m height max. Already subject to the Local Historic Heritage Code. If not managed appropriately, this type of structure has the potential to compromise clearances and the safe and reliable operation of transmission lines and underground cables. Depending on location within an easement, could also present a threat to human safety. Cost of removal is limited, however still requires post breach enforcement of easement rights.
4.5.1 ground mounted solar energy installations	Each installation can be 18m^2 area. Already subject to the Local Historic Heritage Code. This type of activity has the potential to compromise clearances or adversely impact easement access (especially during emergency repair conditions).
4.5.2 roof mounted solar energy installations	Already subject to the Local Historic Heritage Code. This would likely only apply to existing buildings within easements. Encroachment is likely existing, however, this exemption has the potential to compromise clearances in what may be a compliant situation.

SPP exemption	Comment
4.6.8 retaining walls 4.6.9 land filling	4.6.8 Allows for retaining 1m difference in ground level. This exemption is already subject to the Local Historic Heritage Code and the Landslip Hazard Code. Reflects what was in PD1. 4.6.9 Allows for filling of up to 1m above ground level. This exemption is already subject to the Natural Assets Code, Coastal Erosion Hazard Code, Coastal Inundation Hazard Code, Flood-Prone Areas Hazard Code and Landslip Hazard Code. Reflects what was in PD1. **TN COMMENT:** This type of activity has the potential to compromise ground clearances for existing transmission lines and safe operational separation for underground transmission cables. Subject to appropriate management, this type of activity can usually occur within transmission line easements, however, may pose a more challenging risk for underground cables.
4.6.13 rain-water tanks 4.6.14 rain-water tanks in Rural Living Zone, Rural Zone, Agriculture Zone or Landscape Conservation Zone 4.6.15 fuel tanks in the Light Industrial Zone, General Industrial Zone, Rural Zone, Agriculture Zone or Port and Marine Zone 4.6.16 fuel tanks in other zones	Rainwater, hot water & air conditioner exemptions with the 1.2m stand were already included in PD1 and were carried through to the draft and finalised SPPs. This was one exemption in the draft SPPs and was modified by the Commission into four exemptions. TasNetworks requested the original exemption be subject to the Code. 4.6.13: attached or located to the side or rear of a building and can be on a stand height 1.2m high. Subject to the Local Historic Heritage Code. 4.6.14 attached or located to the side or rear of a building with no height limit. Subject to the Local Historic Heritage Code. 4.6.15 no height limit, no requirement is be located near a building. Limited when storage of hazardous chemicals is of a manifest quantity and Coastal Erosion Hazard Code, Coastal Inundation Hazard Code, Flood-Prone Areas Hazard Code, Bushfire-Prone Areas Code or Landslip Hazard Code, applies and requires a permit for the use or development. 4.6.16 must be attached or located to the side or rear of a building, max 1kL capacity, on a stand up to 1.2m high and subject to the Local Historic Heritage Code. **TN COMMENT:** These exemptions allow for water tanks on stands and some have no height limit. These developments have the potential to compromise access to the easement, compromise ground clearances for existing transmission lines and safe operational separation for underground transmission cables. Depending on location in the easement, these developments could pose a threat to human safety. Subject to appropriate management, this type of activity may occur within transmission line easements, however, may pose a more challenging risk for underground cables.

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

12 August 2022

To Whom It May Concern,

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

Phase 2 of the State Government's planning reform is underway and includes a review of the State Planning Provisions (SPPs), introduction of the Tasmanian Planning Policies, the creation of a regional land use planning framework, and a review of the three Regional Land Use Strategies.

The SPPs also require review for consistency with State Policies and the Tasmanian Planning Policies once they are finalised.

I thank you for the opportunity to comment on the review of the SPPs, noting that ALL SPPs are up for review. I also welcome the opportunity to recommend new provisions i.e. new codes and/ zones.

My submission covers:

- Who I am and why I care about planning;
- A summary of the SPP Review process;
- An overview of where the SPPs sit in the Tasmanian Planning Scheme;
- My concerns and recommendations regarding the SPPs; and
- Related general comments/concerns regarding the SPPs.

My concerns and recommendations regarding the SPPs cover 22 broad issues. I also endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions including which includes detailed submissions compiled by expert planners regarding three key areas: the *Natural Assets Code*, the *Local Historic Heritage Code* and the residential standards. Each of the three detailed submissions, have also been reviewed by a dedicated PMAT review subcommittee involving a total of 15 expert planners, environmental consultants and community advocates with relevant expertise.

I note that the *State Planning Provisions Review Scoping Paper* states that the State Planning Office will establish reference and consultative groups to assist with detailed projects and amendments associated with the SPPs. I request in the strongest possible terms that we should take part in these reference/consultative groups because It is vital to have a community voice in these processes.

Overall I am calling for the SPPs to be values-based, fair and equitable, informed by PMAT's Platform Principles, and for the SPPs to deliver the objectives of the *Land Use Planning and Approvals Act 1993*.

Planning affects every inch of Tasmania, on both private and public land, and our well-being: our homes, our neighbour's house, our local shops, work opportunities, schools, parks and transport

corridors. Planning shapes our cities, towns and rural landscapes. Well thought through strategic planning can build strong, thriving, healthy and sustainable communities.

Yours sincerely,

Wilfred John Hodgman

[redacted]

[redacted]

I acknowledge and pay respect to the Tasmanian Aboriginal people as the traditional and original owners of the land on which we live and work. We acknowledge the Tasmanian Aboriginal community as the continuing custodians of lutruwita (Tasmania) and honour Aboriginal Elders past and present. lutruwita milaythina Pakana - Tasmania is Aboriginal land.

I am an architect with training in environmental design and care about Planning.

It is always important to have a balance between development and the environment. The planning scheme needs to be consistent and support the natural and built environment, when it is threatened. Some large scale developments are initiated in what appears to be conflict with the planning scheme objectives.

The fact that legal representation is usually required during the planning appeal process, at great cost, means the individual has limited rights to normal planning justice. The individual often finds it hard to obtain fair representation, when the developer is supported by large sums of money.

Ambiguity in the process should be minimal and councils should have similar code and local provision schedule assessments. The scheme needs to have both consistent and relevant analysis of areas concerning the codes.

The wording in the council schemes should be more detailed and not open to various interpretations that cloud a productive argument.

In my view the overlay maps for similar zones should be the same for different councils that have areas that appear to be the same. An example would be historic and natural asset overlay maps either side of the River Derwent.

The Scenic Protection Code should be incorporated where appropriate and follow on from the earlier work of The Scenery Preservation Board and the Guidelines for Scenic Values, by Inspiring Place.

The Planning scheme should have provision for legitimate appeal and at minimal cost, for new buildings neighbouring existing. This includes overshadowing of solar panels, privacy concerns, coastal protection, view lines and transport corridors etc. Public comment on significant community projects often appears rejected by local councils due to loosely worded planning scheme interpretation of definitions.

SPP Review Process

The Tasmanian Government is currently seeking input to help scope the issues for the five yearly review of the State Planning Provisions (SPPs) in the Tasmanian Planning Scheme, which will be conducted over two stages.

The current review of the SPPs is the best chance the community has now to improve the planning system. The SPPs are not scheduled to be reviewed again until 2027.

As per the State Planning Office website '*The SPPs are the statewide set of consistent planning rules in the Tasmanian Planning Scheme, which are used for the assessment of applications for planning permits. The SPPs contain the planning rules for the 23 zones and 16 codes in the Tasmanian Planning Scheme, along with the administrative, general, and exemption provisions.* ***Regular review of the SPPs is best practice ensuring we implement constant improvement and keep pace with emerging planning issues and pressures.'***

The SPPs are now operational in 14 of Tasmania's 29 local council areas.

The State Planning Provisions Review Scoping Paper outlines the six steps of the review of the SPPs. Broadly speaking the review will be conducted in two stages as outlined below.

SPP Review - Stage 1 – SPP Scoping Issues

Public consultation is open from 25 May to 12 August 2022. This review or scoping exercise phase is known as Stage 1.

The aim of Stage 1 is to identify the State Planning Provisions that may require review, as well as if there is a need for any new State Planning Provisions. E.g. new Zones and/or Codes.

Stage 1 may include some amendments to the SPPs, before Stage 2 goes on to consider more substantive issues and the consistency of the SPPs with the Tasmanian Planning Policies. The State Planning Office may characterise those amendments to the SPPs which occur in Stage 1 (or step 3 in the Scoping paper diagram) as minor amendments not requiring public consultation. I am very interested as to how a "minor amendment" is defined and made.

SPP Review - Stage 2 – SPP Amendments

There is a legislative requirement for the State Planning Provisions to be revised for consistency with the Tasmanian Planning Policies, once approved.

The current Stage 1 scoping exercise, along with the approved Tasmanian Planning Policies, will inform draft amendments to the SPPs, which will be considered through the SPP amendment process prescribed under the *Land Use Planning and Approvals Act 1993*.

This process includes a 42 day period of public exhibition and independent review by the Tasmanian Planning Commission and may also include public hearings. I considers such public hearings facilitated by the Tasmanian Planning Commission are essential if the Tasmanian community is to be involved and understand our planning laws.

See flowchart for the SPP amendment process here. This review phase is known as Stage 2 and is likely to occur in 2023.

An overview of where the SPPs sit in the Tasmanian Planning Scheme

The State Government's new single statewide planning scheme, the Tasmanian Planning Scheme, will replace the planning schemes in each of the 29 local government areas. The Tasmanian Planning Scheme is now operational in 14 of Tasmania's 29 local government areas.

The new Tasmanian Planning Scheme has two parts:

1. A single set of State Planning Provisions (SPPs) that apply to the entire state on private and public land (except Commonwealth controlled land); and
2. Local planning rules, the Local Provisions Schedule (LPS) which apply the SPPs to each municipal area on both private and public land.

1. State Planning Provisions (SPPs)

The SPPs are the core of the Tasmanian Planning Scheme, they set the new planning rules and in I my view are blunt planning instruments that are more likely to deliver homogenous and bland planning outcomes. The SPPs state how land can be used and developed and outline assessment criteria for new use and development. These rules set out 23 zones and 16 codes that may be applied by Councils under their LPSs. Not all zones or codes will be relevant to all Councils, for example in Hobart there will be no land zoned Agriculture, and in the Midlands there will be no land subject to the Coastal Inundation Hazard Code.

Read the current version of the SPPs

- **The Zones**: the 23 zones set the planning rules for use and development that occurs within each zone (i.e. applicable standards, specific exemptions, and tables showing the land uses that are allowed, allowable or prohibited - No Permit Required, Permitted, Discretionary or Prohibited). The zones are: General Residential, Inner Residential, Low Density Residential, Rural Living, Village, Urban Mixed Use, Local Business, General Business, Central Business, Commercial, Light Industrial; General Industrial, Rural, Agriculture, Landscape Conservation, Environmental Management Zone, Major Tourism, Port and Marine, Utilities, Community Purpose, Recreation, Open Space; and the Future Urban Zone.
- **The Codes:** the 16 codes can overlay zones and regulate particular types of development or land constraints that occur across zone boundaries, and include: Signs, Parking and Sustainable Transport, Road and Railway Assets, Electricity Transmission Infrastructure Protection, Telecommunications, Local Historic Heritage, Natural Assets, Scenic Protection, Attenuation, Coastal Erosion Hazard, Coastal Inundation Hazard, Flood-Prone Areas Hazard, Bushfire-Prone Areas, Potentially Contaminated Land, Landslip Hazard and Safeguarding of Airports Code.

In addition to the zone and code provisions, the SPPs contain important information on the operation of the Tasmanian Planning Scheme, including Interpretation (Planning Terms and Definitions), Exemptions, Planning Scheme Operation and Assessment of an Application for Use or Development. These up-front clauses provide important context for the overall planning regime as they form the basis for how planning decisions are made. The terminology is very important, as often planning terms do not directly align with plain English definitions.

2. Local Planning Rules/Local Provisions Schedule (LPS)

The local planning rules, known as the Local Provisions Schedule, are prepared by each Council and determine where zones and codes apply across each municipality. The development of the LPS in each municipality is the last stage in the implementation of the Tasmanian Planning Scheme. Once the LPS for a municipality is signed off by the Tasmanian Planning Commission, the Tasmanian Planning Scheme becomes operational in that municipality.

The LPS comprise:

- maps showing WHERE the SPP zone and codes apply in a local municipal area; and
- any approved departures from the SPP provisions for a local municipal area.

View the Draft LPS approval process.

If Councils choose to apply a certain zone in their LPS (e.g. Inner Residential, Rural Living or Agriculture Zone), the rules applying to that zone will be the prescriptive rules set out in the SPPs and are already approved by the State Government. **Councils cannot change the SPPs which will be applied. Councils only have control over where they will be applied through their LPS.**

Site Specific Local Planning Rules

If a Council or local community decides that areas within its municipality are not suited to one of the standard 23 zones then they may consider applying one of three site specific local planning rules. These three local planning rules are the only tool the Council/Community has to protect local character. However, from a community point of view, they are disappointingly difficult to have applied (see example outlined under point 8 in the section below entitled '*Related General Comments/Concerns regarding the SPP*').

The three planning tools are:

- **Particular Purpose Zone (PPZ)** – is a zone that can be created in its own right. It is a group of provisions consisting of (i) a zone that is particular to an area of land; and (ii) the provisions that are to apply in relation to that zone. It usually will apply to a particular land use (e.g. UTAS Sandy Bay campus or a hospital, Reedy Marsh, Dolphin Sands, The Fisheries).
- **Specific Area Plan (SAP)** - being a plan consisting of (i) a map or overlay that delineates a particular area of land; and (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs. SAPs are specific to that site and sit over the top of a zone. For example, a proposed Coles Bay SAP would have sat over the underlying Low Density Residential Zone and the SAP rules would have allowed for a broader scope of new non-residential uses across the whole of Coles Bay. SAPs can be used for greenfield residential subdivision to allow higher density housing, to plan for roads and to protect areas of vegetation and open space (e.g. SAPs are also proposed for Cambria Green, Huntingfield, Jackeys Marsh, Blackmans Bay Bluff).
- **Site Specific Qualification (SSQ)** is used to facilitate particular types of activities at certain sites (e.g. New Town Plaza Shopping Centre) and sit over the top of a zone.

My concerns and recommendations regarding the SPPs

In PMAT's view the State Government's Tasmanian Planning Scheme fails to adequately address a range of issues, which will likely result in poor planning outcomes. A planning system that deals effectively with these issues is essential for Tasmania's future and for the well-being of communities across the state.

The SPP review is thus critically important and is a particular priority for me as it is the best chance we have to improve planning outcomes until 2027.

My key concerns and recommendations cover the following topics:

1. Ensuring the community has the right to have a say;
2. Climate Change Adaptation and Mitigation;
3. Planning, Insurance and climate risks;
4. Community connectivity, health and well-being;
5. Aboriginal cultural heritage;
6. Heritage buildings and landscapes (Local Historic Heritage Code);
7. Tasmania's brand and economy;
8. Housing;
9. Residential issues;
10. Stormwater;
11. Onsite wastewater;
12. Rural/Agricultural issues;
13. Coastal land issues;
14. Coastal waters;
15. National Parks and Reserves (Environmental Management Zone);
16. Healthy Landscapes (Landscape Conservation Zone);
17. Healthy Landscapes (Natural Assets Code);
18. Healthy Landscapes (Scenic Protection Code);
19. Geodiversity;
20. Integration of land uses;
21. Planning, Loss of Character Statements and Good Design;
22. Other various issues with the SPPs.

1. Ensuring the community has the right to have a say

Land use planning is the process through which governments, businesses, and residents come together to shape their communities. Having a right of say is critical to this.

The current SPPs however, with fewer discretionary developments, and more exemptions, significantly reduce the community's right to have a say and in many instances also removes appeal rights, weakening democracy. More and more uses and development are able to occur without public consultation or appeal rights. Without adequate community involvement in the planning process, there is a risk of more contested projects, delays and ultimately less efficient decision-making on development proposals.

The reduction in community involvement is clearly demonstrated by how developments are dealt with in our National Parks and Reserves and residential areas.

National Parks and Reserves and right of say

Commercial tourism development can be approved in most National Parks and Reserves without guarantee of public consultation, and with no rights to appeal. This means that the public has no certainty of being able to comment and no appeal rights over public land covering almost 50% of Tasmania. The State Government has repeatedly stated that that this issue will be dealt with through the review of the Reserve Activity Assessment (RAA) process.

The RAA process is the internal government process by which developments in national parks and reserves are assessed. However, the review has stalled with no apparent progress for at least five years[1].

Community stakeholders are unable to obtain clear information on the review progress, timelines and the formal process regarding consultation. It appears that the State Government has abandoned this critically important review of the Reserve Activity Assessment. I is concerned that proposed developments can be approved under the existing deeply flawed process without any opportunity for public comment and involvement. This is inconsistent with three of the most fundamental of the objectives of the *Land Use Planning and Approvals Act 1993*: "(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity… (c) to encourage public involvement in resource management and planning; and (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State*."

There is a current Petition (closing 4 August 2022) before the Tasmanian Parliament: 'Inadequate processes for assessing and approving private tourism developments in Tasmania's national parks' which has already attracted 2609 signatures and demonstrates the level of community concern. Amongst other concerns, the petition draws to the attention of the Tasmanian Parliament that '*The Reserve Activity Assessment (RAA) process is flawed, opaque and lacks genuine public consultation*' and calls on the '*Government to abandon the Expressions of Interest process and halt all proposals currently being considered under the Reserve Activity Assessment process until a statutory*

[1]Page 11 of the *Minister's Statement of Reasons for modifications to the draft State Planning Provisions* here which states '*…in response to matters raised during the hearings* [of the draft SPPs] *the Government agrees that a review of the RAA (Reserve Activity Assessment) be undertaken*'.

assessment and approval process for private tourism developments in Tasmania's national parks is implemented'.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, identified the level of public concern regarding the Reserve Activity Assessment process.

In 2017, the then Planning Minister Peter Gutwein acknowledged that the RAA process "needs review", but made no amendments to the SPPs in relation to developments in national parks.

In 2019 eleven community groups were so frustrated they could not obtain clarity on the RAA review they resorted to lodging a Right to Information (RTI) request to seek transparency. See PMAT Media Release: Has Hodgman abandoned the review of RAA process for developments in national parks and reserves?

Recommendation: That the State Government move quickly to **1.** finalise the RAA Review, including the exemptions and applicable standards for proposed use and development in the Environmental Management Zone **2.** To implement changes for a more open, transparent and robust process that is consistent with the Tasmanian Planning System *Land Use Planning and Approvals Act 1993* objectives. **3**. The Environmental Management Zone should be amended to ensure the public has a meaningful right of say and access to appeal rights - in particular by amending what are "permitted" and "discretionary" uses and developments in the Environmental Management Zone.

Residential areas and right of say

PMAT commissioned an architectural planning study (Figures 1 and 2) to demonstrate what is permitted in the General Residential Zone to visually demonstrate what can be built without public comment, appeal rights and notification to your adjoining neighbour.

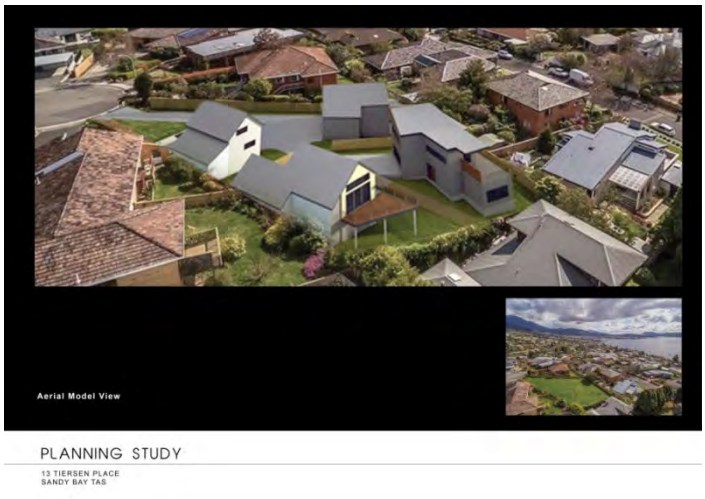

Figure 1 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment, and no appeal rights.

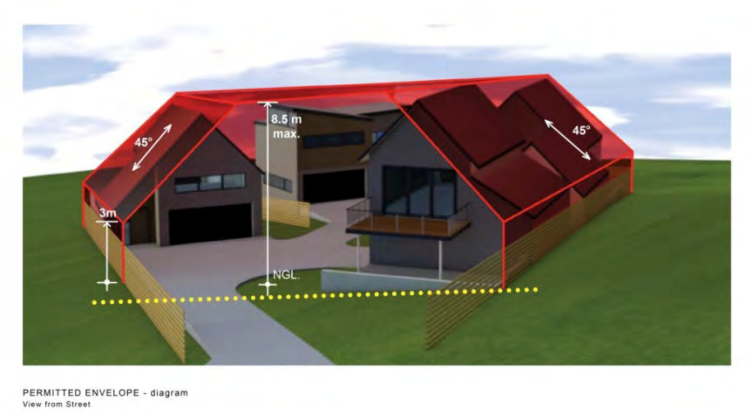

Figure 2 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment and no appeal rights.

PMAT's planning study helps highlight issues that have led to confusion and anxiety in our communities including lack of say about the construction of multiple and single dwellings(especially by adjoining neighbours), bulk, height, overshadowing, loss of privacy, loss of sunlight/solar access, loss of future solar access for Solar PV arrays and Solar Hot Water panels on, north-east, north, and north-west -facing roofs, lack of private open space and inappropriate site coverage, overlooking private open space and blocking existing views

Recommendation: The SPPs should be amended to ensure the public has a meaningful right of say and access to appeal rights across the residential zones, in particular by amending what is "permitted" and "discretionary" use and development. Our planning system must include meaningful public consultation that is timely effective, open and transparent.

2. Climate Change Adaptation and Mitigation

Adaptation

Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, I am seeking amendments to the SPPs which better address adaptation to climate change. We need planning which ensures people build out of harm's way.

Mitigation

Climate Change Mitigation refers to efforts to reduce or prevent emissions of greenhouse gases. I would like to see increased opportunity for mitigation by for example embedding sustainable transport, 'green' (i.e. regenerative) design of buildings and subdivisions in planning processes. One current concern is that across residential zones solar panels on adjoining properties are not adequately protected nor the foresight to enable future rooftop solar panel installations with unencumbered solar access.

On the subject of renewable energy, which will become increasingly important as the world moves to Net Zero, we are concerned that there appears to be no strategically planned Wind Farm designated area. Ido not want open slather wind farms right across the state industrialising our scenic landscapes but would like to see appropriately placed wind farms, decided after careful modelling of all environmental data. This is especially important as based on the *200% Tasmanian*

Renewable Energy Target, **I/we understand that this could equate to approximately 89 wind farms and over 3000 wind turbines**. The new target aims to double Tasmania's renewable energy production and reach 200 per cent of our current electricity needs by 2040.

Recommendation: 1. The SPPs be amended to better address adaptation to climate change, by ensuring Tasmania's risk mapping is based on the best available science and up to date data. **2**. The SPPs be amended to better embed sustainable transport, green design of buildings and subdivisions into planning processes, including better protection of solar panels and provision for future solar access. **3**. Strategic thinking and modelling to decide where best to allow wind farms. The SPPs could include a new *No Go Wind Farm Code.*

3. Planning, Insurance and Climate Risks

This year, the Climate Council, an independent, crowd-funded organisation providing quality information on climate change to the Australian public, released a report entitled Uninsurable Nation: Australia's Most Climate-Vulnerable Places and a climate risk map.

Key findings of the Report concluded climate change is creating an insurability crisis in Australia due to worsening extreme weather and sky-rocketing insurance premiums. It is my understanding that the modelling found that approximately 2% of homes in Tasmania would be effectively uninsurable by 2030 due to the effects of climate change. The major risk to the areas of the state are the north east and the east - in Bass, 3.7% of homes and in Lyons, 2.8% of homes.

Risks include flooding, storm surges and wildfires. The SPPs deal with these risks under the following Codes:

- Coastal Erosion Hazard Code
- Coastal Inundation Hazard Code
- Flood-Prone Areas Hazard Code
- Bushfire-Prone Areas Code
- Landslip Hazard Code

However, I understand that the code risk mapping is based on conservative climate data. There is also a concern that the State Government's risk mapping and the insurance sector's risk mapping are inconsistent.

Recommendation: the SPPs Codes be reviewed and updated to ensure they reflect the best available science about current and likely bushfire, flood and coastal inundation risks. The State Government, through its Tasmanian Planning Scheme, has a responsibility to ensure that the planning system does not allow the building of homes in areas that will become uninsurable. Consideration should also be given in the review as to how the SPPs can ensure that developments and uses approved can be retrofitted to better respond to changing climatic conditions.

I would like to know the status of *Tasmania's Climate Change Action Plan 2017-2021* which contained a proposal for: "…***land-use planning reforms*** *to manage natural hazards and climate impacts. Instruments under development include a Tasmanian Planning Policy on Hazards and Environmental Risks, and State Planning Provisions for natural hazards."*

4. Community connectivity, health and well-being

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

Recommendation:

Liveable Streets Code – I endorse the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' which calls for the creation of a new '*Liveable Streets Code*'. In their representation they stated '*In addition to, or as alternative, the preferred position is for provisions for streets to be included in a Liveable Streets code. Such a code would add measurable standards to the assessment of permit applications. An outline for a Liveable Streets code is included at Annexure 1 as at this stage such a code requires further development and testing. For this representation the concept of a Liveable Streets code is advocated as a foreshadowed addition to the SPPs*.' *Annexure 1 – Draft for a Liveable Streets Code* (page 57) of the '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016'* sets out the code purpose, application, definition of terms, street design parameters, Street connectivity and permeability, streets enhance walkability, streets enhance cycle-ability, and streets enhance public transport. Our streets are also corridors for service infrastructure – such as telecommunications, electricity and water. It is important that placement of these services does not detract from liveable streets design, for example through limiting street trees.

Food security – Ialso endorse the recommendations '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*' for amendments to the State Planning Provisions to facilitate food security.

Public Open Space – I recommend we create tighter provisions for the Public Open Space Zone and /or the creation of a Public Open Space Code. The planning system must ensure local access to recreation areas with the provision of public open space. Public open space has aesthetic, environmental, health and economic benefits. The *2021 Australian Liveability Census,* based on over 30,000 responses, found that the number 1 *'attribute of an ideal neighbourhood is where 'elements of the natural environment' are retained or incorporated into the urban fabric as way to define local character or uniqueness. In the 2021 Australian Liveability Census 73% of respondents selected this as being important to them. That is a significant consensus.'*

I am seeking mandatory provisions and standards for public open space and riparian and littoral reserves as part of the subdivision process. We understand these are not mandated currently and that developers do not have to provide open space as per for example the voluntary Tasmanian Subdivision Guidelines.

It may be that mandated provisions of Public Open Space can be addressed adequately in the Open Space Zone already in the SPPs. Very specifically, I seek the inclusion of requirements for the provision of public open space for certain developments like subdivisions or multiple dwellings.

I understand that a developer contribution can be made to the planning authority in lieu of the provision of open space and that those contributions can assist in upgrading available public open space. However, there appears to be no way of evaluating the success of this policy.

Neighbourhood Code – I recommend we create a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 *Residential issues* section below as a tool to protect/enhance urban amenity.

5. Aboriginal Cultural Heritage

The current SPPs have no provision for mandatory consideration of impacts on Aboriginal Heritage, including Cultural Landscapes, when assessing a new development or use that will impact on Aboriginal cultural heritage.

This means, for example, that under current laws, there is no formal opportunity for Tasmanian Aboriginal people to comment on or object to a development or use that would adversely impact their cultural heritage, and there is no opportunity to appeal permits that allow for adverse impacts on Aboriginal cultural heritage values.

While I acknowledges that the Tasmanian Government has committed to developing a new Tasmanian Aboriginal Cultural Heritage Protection Act to replace the woefully outdated *Aboriginal Heritage Act* 1975 (Tas), it is unclear whether the proposed "*light touch*" integration of the new legislation with the planning system will provide for adequate protection of Aboriginal Cultural heritage, involvement of Tasmanian Aboriginal people in decisions that concern their cultural heritage, and consideration of these issues in planning assessment processes.

Indeed, it is unclear if the new Act will "*give effect to the Government's commitment to introducing measures to require early consideration of potential Aboriginal heritage impacts in the highest (State and regional) level of strategic planning, and in all assessments of rezoning proposals under the LUPA Act to ensure major planning decisions take full account of Aboriginal heritage issues*."[2]

One way that the planning scheme and SPPs could ensure Aboriginal cultural heritage is better taken into account in planning decisions, is through the inclusion of an Aboriginal Heritage Code to provide mandatory assessment requirements and prescriptions that explicitly aim to conserve and protect Aboriginal cultural heritage. Assessment under this code could serve as a trigger for assessment under a new Tasmanian Aboriginal Cultural Heritage Protection Act. Until that Review is complete, it will be unclear how the new Act will give effect to the objective of cross reference with the planning scheme. **The planning scheme should therefore set up a mechanism that ensures maximum assessment, consideration and protection of Aboriginal heritage.**

I recognises this is an imperfect approach in that the proposed Aboriginal Heritage Code may not be able to fully give effect to the *United Nations Declaration of the Rights of Indigenous Peoples* by providing Tasmanian Aboriginal people the right to free, prior and informed consent about developments and uses that affect their cultural heritage or give them the right to determining those applications.

However, while the Tasmanian Government is in the process of preparing and implementing the new Aboriginal Cultural Heritage Protection Act, it will at least allow for consideration and protection of Aboriginal cultural heritage in a way that is not presently provided under any Tasmanian law.

[2] Jaensch, Roger (2021) *Tabling Report: Government Commitment in Response to the Review Findings, Aboriginal Heritage Act 1975: Review under s.23* – see here: https://nre.tas.gov.au/Documents/Tabling%20Report%20-%20Review%20of%20the%20Aboriginal%20Heritage%20Act.pdf

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

6. Heritage Buildings and Heritage Landscape Issues (Local Historic Heritage Code)

I/we/community group name considers that limited protections for heritage places will compromise Tasmania's important cultural precincts and erode the heritage character of listed buildings. I/we understand that many Councils have not populated their Local Historic Heritage Codes as they are resource and time limited and there is a lack of data.

PMAT engaged expert planner Danielle Gray of Gray Planning to draft a detailed submission on the Local Historic Heritage Code. The input from Gray Planning has provided a comprehensive review of the Local Historic Heritage Code and highlights deficiencies with this Code. There is considerable concern that the wording and criteria in the Local Historic Heritage Code will result in poor outcomes for sites in Heritage Precincts as well as Heritage Places that are individually listed. There is also a lack of consistency in terminology used in the Local Historic Heritage Code criteria that promote and easily facilitate the demolition of and unsympathetic work to heritage places, Precinct sites and significant heritage fabric on economic grounds and a failure to provide any clear guidance for application requirements for those wanting to apply for approval under the Local Historic Heritage Code. The Local Historic Heritage Code also fails to provide incentives for property owners in terms of adaptive reuse and subdivision as has previously been available under Interim Planning Schemes. It is considered that the deficiencies in the current Local Historic Heritage Code are significant and will result in poor outcomes for historic and cultural heritage management in Tasmania.

A summary of the concerns and recommendations with respect to the review of the Local Historic Heritage Code by Gray Planning is outlined below.

Gray Planning - Summary of concerns and recommendations with respect to the Local Historic Heritage Code

- The name of the Local Historic Heritage Code should be simplified to 'Heritage Code'. This simplified naming is inclusive of historic heritage and cultural heritage rather than emphasising that heritage is about historic values only.
- Definitions in the Local Historic Heritage Code are currently brief and inexhaustive and do not align with definitions in the Burra Charter.
- There are no clear and easily interpreted definitions for terms repeatedly used such as 'demolition, 'repairs' and 'maintenance'.
- Conservation Processes (Articles 14 to 25) as outlined in the Burra Charter should be reflected in the Local Historic Heritage Code Performance Criteria. Issues covered in the Burra Charter are considered to be very important to maintaining historic and cultural heritage values such as setting, context and use are not mentioned in the Local Historic Heritage Code at all.
- The Local Historic Heritage Code does not deal with any place listed on the Tasmanian Heritage register and there is a hard line separate of local and state listed places. This fails to recognise the complexity of some sites which have documented state and local values.

- Failure to also consider state and local heritage values as part of the Local Historic Heritage Code will result in important issues such as streetscape and setting and their contribution to heritage values not being considered in planning decisions.
- The SPP Code does not provide a summary of application requirements to assist both Councils and developers. This approach results in a failure to inform developers of information that may be required in order to achieve compliance.
- The Objectives and Purpose of the Local Historic Heritage Code is too limited and should align with the *Historic Cultural Heritage Act 1995* in terms of purpose.
- The Exemptions as listed in the Local Historic Heritage Code are in some cases ambiguous and would benefit greatly from further clarification and basic terms being defined under a new Definitions section.
- Previously, some Interim Planning Schemes included special provisions that enabled otherwise prohibited uses or subdivision to occur so long as it was linked to good heritage outcomes. Those have been removed.
- Development standards for demolition are concerning and enable the demolition of heritage places and sites for economic reasons.
- Development standards use terminology that is vague and open to misinterpretation.
- The words and phrases 'compatible' and 'have regard to' are repeatedly used throughout the Local Historic Heritage Code and are considered to be problematic and may result in unsympathetic and inconsistent outcomes owing to their established legal translation.
- Performance criteria do not make definition between 'contributory' and 'non contributory' fabric. This may result in poor heritage outcomes where existing unsympathetic development is used as justification for more of the same.
- The Local Historic Heritage Code as currently written will allow for unsympathetic subdivision to occur where front gardens can be subdivided or developed for parking. This will result in loss of front gardens in heritage areas and contemporary development being built in front of and to obstruct view of buildings of heritage value.
- The Local Historic Heritage Code as currently written does not place limits on extensions to heritage places which enables large contemporary extensions that greatly exceed the scale of the heritage building to which they are attached to.
- Significant tree listing criteria are not always heritage related. In fact most are not related to heritage. Significant trees should have their own separate code.
- Currently there is no requirement for Councils to populate the Local Historic Heritage Code with Heritage Precincts of Places. Failure to do so is resulting in buildings and sites of demonstrated value being routinely destroyed.

Recommendation:

Burra Charter: I recommend that the *Local Historic Heritage Code* in the Tasmanian Planning Scheme should be consistent with the objectives, terminology and methodology of the Burra Charter. I also endorse Gray Planning's recommendations regarding the *Local Historic Heritage Code as outlined above.*

Significant trees: Consistent with the Tasmanian Planning Commission's 2016 recommendations on the draft SPP's outlined on page 63[3] '*a stand-alone code for significant trees to protect a broader range of values be considered as an addition to the SPPs*'.

7. Tasmania's Brand and Economy

I support the Tasmanian brand noting that a planning system which protects Tasmania's cherished natural and cultural heritage underpins our economy, now and into the future. We consider that the current SPPs threaten Tasmania's brand, as they place our natural and cultural heritage and treasured urban amenity at risk. The current planning system may deliver short-term gain but at the cost of our long-term identity and economic prosperity.

As Michael Buxton, former Professor of Environment and Planning, RMIT University, stated "*The Government argues the new [planning] system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.*" Source: Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016 (attached in Appendix 1).

As per Brand Tasmania's 2019-2024 Strategic Plan, it could be argued that the SPPs are inconsistent with Brand Tasmania's main objectives which are to: '*To develop, maintain, protect and promote a Tasmanian brand that is differentiated and enhances our appeal and competitiveness nationally and internationally; To strengthen Tasmania's image and reputation locally, nationally and internationally; and To nurture, enhance and promote the Tasmanian brand as a shared public asset.*'

Recommendation: A brand lens should be placed over the top of the SPPs to ensure they are consistent with the objectives of Brand Tasmania. This consistency could also be facilitated via the Tasmanian Planning Policies.

8. Housing

I understand the critical need for housing, including social and affordable housing. Disappointingly the Tasmanian Planning Scheme contains no provisions to encourage affordable or social housing.

I believe that good planning, transparent decision making and the delivery of social and affordable housing need not be mutually exclusive. Indeed good planning can result in delivery of both more and better housing.

Instead of managing housing through Tasmania's key planning document, the Tasmanian Planning Scheme, in 2018 the Tasmanian Government introduced a fast track land rezone process called the Housing Land Supply Orders (e.g. Housing Order Land Supply (Huntingfield). Taking this approach compromises strategic planning and transparent decision making. For example, the State Government is the proponent and the assessor. Fast-tracking planning, such as through Housing Land Supply Orders for large subdivisions, will not assist with community cohesion and/or trust in both the planning system or social/affordable housing projects.

[3] *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016 – see page 63.*

Taking zoning and planning assessments outside the Tasmanian Planning System risks an ad hoc approach to housing that makes an integrated approach more difficult. This works against delivering quality housing outcomes.

I support policies and SPPs which encourage development of well-planned quality social and affordable housing. As mentioned above there is no provision for affordable or social housing within the SPPs. We understand this is also the case with the Subdivision Standards. I am/We are concerned that there are no requirements in the SPPs which require developers to contribute to the offering of social and affordable housing. For example, in some states, and many other countries, developers of large subdivisions or multiple dwellings in certain inner city zones, are required to offer a certain percentage of those developments as affordable housing, or pay a contribution to the state in lieu of providing those dwellings.

Recommendation:

Need to encourage delivery of social and affordable housing: New developments should contain a proportion of social and/or affordable housing.

Best practice house and neighbourhood design: should be adopted so that housing developments not only provide a place for people to live but result in better amenity, health and environmental outcomes. Plus we need to ensure that consideration is given to local values in any new large developments.

Provision of infrastructure to support communities: including transport, schools, medical facilities, emergency services, recreation and jobs should be part of the planning process and not an afterthought.

9. Residential Issues

One of my/our main concerns is how residential density is being increased with minimal to no consideration of amenity across all urban environments. I/we understand that the push for increasing urban density is to support the Tasmanian Government's growth plan to grow Tasmania's population to 650,000 by 2050. In our view, we are not doing density or the provision of public open space well.

Currently infill development in our residential zones is not strategically planned but "as of right", and Councils cannot reject Development Applications even though they may fail community expectations. I/we consider the residential standards are resulting in an unreasonable impact on residential character and amenity. Additionally, they remove a right of say and appeal rights over what happens next door to home owners, undermining democracy. People's homes are often their biggest asset but the values of their properties can be unduly impacted due to loss of amenity. This also impacts people's mental health and well-being.

Specifically, the SPPs for General Residential and Inner Residential allow smaller block sizes, higher buildings built closer to, or on site boundary line, and multi-unit developments "as of right" in many urban areas as per the permitted building envelope. In the Low Density Residential Zone multiple dwellings are now discretionary (i.e. have to be advertised for public comment and can be appealed), whereas in the past they were prohibited by some Councils such as Clarence City Council.

The Village Zone may not be appropriate for purely residential areas, as it allows for commercial uses and does not aim to protect residential amenity.

Neighbourhood amenity and character, privacy and sunlight into backyards, homes and solar panels are not adequately protected, especially in the General and Inner Residential Zones. Rights to challenge inappropriate developments are very limited. Subdivisions can be constructed without the need for connectivity across suburbs or the provision of public open space. Residential standards do not encourage home gardens which are important for food security, connection to nature, biodiversity, places for children to play, mental health/well-being and beauty.

The permitted building envelope, especially in the General Residential Zone, for both single and multiunit developments, for example has led to confusion and anxiety in the community (as seen by examples in the video PMAT commissioned in Clarence Municipality – see here) with regards to overshadowing, loss of privacy, sun into habitable rooms and gardens, the potential loss of solar access on an adjoining property's solar panels, height, private open space and site coverage/density. Neighbourly relations have also been negatively impacted due to divisive residential standards.

Since the SPPs were created in 2017, PMAT has done a lot of work on the residential standards which reflects the level of community concern and the need for improvement. This work includes:

- PMAT plays an important role as a contact point and referral agent for individuals and community groups regarding planning issues, including residential issues, within the Tasmanian community. PMAT is contacted very regularly regarding residential issues.
- PMAT Launched two TV ads focusing on planning issues during the 2018 State election, including one on the residential issues of the Tasmanian Planning Scheme. Watch here at the end of the video the TV ad will play.
- PMAT commissioned a video highlighting residential standard planning issues. Watch video here.
- PMAT ran the largest survey of candidates for the 2018 Local Government elections. The survey demonstrated a majority of the candidates surveyed take the planning responsibilities of local government very seriously and believe Councils should have greater capacity to protect local character, amenity and places important to their local communities. There was strong candidate sentiment for local government planning controls that protect local character, sunlight and privacy for our homes. Candidates also agreed with increased public involvement in planning decisions in national parks and reserves.

I/we also concur with government agencies that have also raised concerns regarding our residential standards:

- In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended to the State Government that the Residential Provisions should be reviewed as a priority. **The Tasmanian Planning Commission recommended a comprehensive review of development standards in the General Residential and Inner Residential Zones (i.e. the standards introduced by Planning Directive 4.1) to assess whether the provisions deliver greater housing choice, encourage infill development, or unreasonably impact on residential character and**

amenity. The Minister acknowledged the recommendation, but deferred any review until the five year review of the SPPs.

- In 2018 the Local Government Association of Tasmania's pushed for review of the residential standards, which it says '*have led to confusion and anxiety in our communities with overshadowing, loss of privacy, solar access, height, private open space and site coverage to name a few. A review will highlight these concerns across the State and give the community some expectation of change that can ensure their concerns are heard*.'
- See Appendix 2 which is a story of "Mr Brick Wall' which demonstrates the tragic failing of the residential standards and was submitted as a submission to the darft SPPs in 2016.

Recommendation:

I also endorse PMAT's detailed submission regarding the residential zones and codes which has been prepared by expert planner Heidi Goess of Plan Place. The detailed submission has also been reviewed by PMAT's *Residential Standards Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience.

I endorse how the detailed PMAT submission advocates for improved residential zones/codes in the Tasmanian Planning Scheme in order to:

- Adapt to the impacts of climate change in urban and sub-urban settings
- Increase residential amenity/liveability
- Improve subdivision standards including strata title
- Improve quality of densification
- Improve health outcomes including mental health
- Provide greater housing choice/social justice
- Improve public consultation and access to rights of appeal
- Improve definitions and subjective language used in TPS
- Benchmark the above against world's best practice community residential standards (e.g. The Living Community Challenge).
- Review exemptions to see if they deliver on the above dot points.

Neighbourhood Code – I would also like to see the introduction of a new *Neighbourhood Code*. This recommendation will be explained in more detail in section 7 Residential issues section below as a tool to protect/enhance urban amenity.

10. Stormwater

The current SPPs provide no provision for the management of stormwater.

In 2016, the Tasmanian Planning Commission recommended the Planning Minister consider developing a stormwater Code, to ensure Councils have the capacity to consider stormwater runoff implications of new developments. That recommendation was not accepted. The Minister considered that Building Regulations adequately deal with that issue, despite Council concerns that stormwater run-off was a planning issue, not just a building development issue.

I consides that stormwater needs to be managed as part of the SPPs. For example, there is a State Policy on Water Quality Management with which the SPPs need to comply. Relevant clauses include the following:

31.1 - Planning schemes should require that development proposals with the potential to give rise to off-site polluted stormwater runoff which could cause environmental nuisance or material or serious environmental harm should include, or be required to develop as a condition of approval, stormwater management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

31.5 Planning schemes must require that land use and development is consistent with the physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised.

Recommendation: The SPPs should include a new *Stormwater Code*.

11. On-site Waste Water

The current SPPs provide no provision for on-site waste water.

Waste water issues are currently dealt with under the Building Act. This is an issue that needs to be addressed in the Tasmanian Planning Scheme to ensure that water quality management issues arising from onsite waste water treatment are properly considered earlier at the planning stage. That is, if a site does not have appropriate space or soils for on-site waste water treatment system, a use or development that relies on this should not be approved by the planning authority.

Recommendation: On-site waste water issues need to be properly addressed in the Tasmanian Planning Scheme.

12. Rural/Agricultural Issues

An unprecedented range of commercial and extractive uses are now permitted in the rural/agricultural zones which I considers will further degrade the countryside and Tasmania's food bowl. Commercial and extractive uses are not always compatible with food production and environmental stewardship. Food security, soil health and environmental and biodiversity issues need to be 'above' short-term commercial and extractive uses of valuable rural/agricultural land resources.

Recommendation: I urge a re-consideration of the rural/agricultural zones with regards to the permitted commercial and extractive uses.

13. Coastal land Issues

I consider that weaker rules for subdivisions and multi-unit development will put our undeveloped beautiful coastlines under greater threat. For example, the same General Residential standards that apply to Hobart and Launceston cities also apply to small coastal towns such as Bicheno, Swansea and Orford. The SPPs are not appropriate for small coastal settlements and will damage their character.

Recommendation: I urges stronger protections from subdivision, multi-unit development and all relevant residential standards that cover Tasmania's undeveloped and beautiful coastlines and small coastal settlements.

14. Coastal Waters

The SPPs only apply to the low water mark and not to coastal waters. The SPPs must be consistent with State Policies including the *State Coastal Policy 1996*. The *State Coastal Policy 1996 states that it applies to the 'Coastal Zone' which 'is to be taken as a reference to State waters and to all land to a distance of one kilometre inland from the high-water mark.'*[4] *State waters are defined as the waters which extend out to three nautical miles*[5].

Recommendation: The SPPs should again apply to coastal waters e.g. the Environmental Management Zone should be applied again to coastal waters.

15. National Parks and Reserves (Environmental Management Zone)

The purpose of the Environmental Management Zone (EMZ) is to '*provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value',* and largely applies to public reserved land. Most of Tasmania's National Parks and Reserves have been Zoned or will be zoned Environmental Management Zone. I main concerns regarding the Environmental Management Zone is what is permitted in this zone plus the lack of set-back provisions that fail to protect the integrity of for example our National Parks.

Permitted Uses

The EMZ allows a range of *Permitted* uses which I considers are incompatible with protected areas. ***Permitted* uses include:** Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Pleasure Boat Facility, Research and Development, Residential, Resource Development, Sports and Recreation, Tourist Operation, Utilities and Visitor Accommodation.

These uses are conditionally permitted, for example they are permitted because they have an authority issued under the *National Parks and Reserves Management Regulations 2019*, which does not guarantee good planning outcomes will be achieved and does not allow for an appropriate level of public involvement in important decisions concerning these areas.

Set Backs

There are no setback provisions for the Environmental Management Zone from other Zones as is the case for the Rural and Agricultural Zones. This means that buildings can be built up to the boundary, encroaching on the integrity of our National Parks and/or coastal reserves.

Recommendation: I recommend: **1.** All current Environmental Management Zone Permitted uses should be at minimum *Discretionary*, as this will guarantee public comment and appeal rights on developments on public land such as in our National Parks and Reserves. **2.** There should be setback provisions in the Environmental Management Zone to ensure the integrity of our National Parks and Reserves. Further to my **submission we also endorse the recommendations made by the Tasmanian National Parks Association as outlined in their submission to the 2022 SPP review**

16. Healthy Landscapes (Landscape Conservation Zone)

[4] https://www.dpac.tas.gov.au/__data/assets/pdf_file/0010/11521/State_Coastal_Policy_1996.pdf
[5] *https://www.ga.gov.au/scientific-topics/marine/jurisdiction/maritime-boundary-definitions*

The purpose of the Landscape Conservation Zone (LCZ) is to provide for the protection, conservation and management of landscape values on private land. However, it does not provide for the protection of *significant natural values* as was the original intent of the LCZ articulated on p 79 of the Draft SPPs Explanatory Document. With a Zone Purpose limited to protecting 'landscape values', LCZ is now effectively a Scenic Protection Zone for private land.

Recommendation: I endorse the recommendations in the 2022 SPP review submission: '*State Planning Provisions Scoping Paper re Landscape Conservation Zone provisions by Conservation Landholders Tasmania'* which calls for a Zone to properly protect natural values on private land.

17. Healthy Landscapes (Natural Assets Code - NAC)

The Natural Assets Code (NAC) fails to meet the objectives and requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA) and does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

A key objective of LUPAA is to promote and further the sustainable development of natural and physical resources, and as an integral part of this, maintain ecological processes and conserve biodiversity. More specifically, s15 of LUPAA requires the SPPS, including the NAC, to further this objective.

As currently drafted, the NAC reduces natural values to a procedural consideration and undermines the maintenance of ecological processes and conservation of biodiversity. As a result, the, NAC fails to adequately reflect or implement the objectives of LUPAA and fails to meet the criteria for drafting the SPPs.

There are also significant jurisdictional and technical issues with the NAC, including:

- poor integration with other regulations, particularly the Forest Practices System, resulting in loopholes and the ability for regulations to be played off against each other;
- significant limitations with the scope of natural assets and biodiversity values considered under the NAC, with landscape function and ecosystem services and non-threatened native vegetation, species and habitat largely excluded;
- wide-ranging exemptions which further jurisdictional uncertainty and are inconsistent with maintenance of ecological processes and biodiversity conservation;
- extensive exclusions in the application of the Natural Assets Code through Zone exclusion relating to the Agriculture, Industrial, Commercial and Residential Zones and limiting biodiversity consideration to mapped areas based on inaccurate datasets which are not designed for this purpose. As a consequence, many areas of native vegetation and habitat will not be assessed or protected, impacting biodiversity and losing valuable urban and rural trees;
- poorly defined terms resulting in uncertainty;
- a focus on minimising and justifying impacts rather than avoiding impacts and conserving natural assets and biodiversity
- inadequate buffer distances for waterways, particularly in urban areas; and
- watering down the performance criteria to 'having regard to' a range of considerations rather than meeting these requirements, which enables the significance of impacts to be downplayed and dismissed.

As a consequence, the NAC not only fails to promote sustainable development, maintain ecological processes and further biodiversity conservation, it also fails to achieve its stated purpose. The NAC as drafted also fails to provide aspiration to improve biodiversity conservation and can only lead to a reduction in biodiversity and degradation of natural assets.

In 2016, the Tasmanian Planning Commission via its report, *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016*, recommended that the Natural Assets Code be scrapped in its entirety, with a new Code developed after proper consideration of the biodiversity implications of proposed exemptions, the production of adequate, State-wide vegetation mapping, and consideration of including protection of drinking water catchments.

The then Planning Minister Peter Gutwein rejected that recommendation. Some amendments were made to the Code (including allowing vegetation of local significance to be protected), but no review of exemptions was undertaken. I understand that while no state-wide mapping was provided, the Government provided $100,000 to each of the three regions to implement the SPPs – the southern regional councils pooled resources to engage an expert to prepare biodiversity mapping for the whole region.

Note that despite concerns raised by TasWater, no further amendments were made to protect drinking water catchments.

Recommendation: The NAC does not adequately provide for the protection of important natural values (particularly in certain zones) and requires detailed review.

I support PMAT's detailed submission, that will be attached to the broad submission, regarding the *Natural Assets Code* which has been prepared by expert environmental planner Dr Nikki den Exter. Nikki den Exter completed her PhD thesis investigating the role and relevance of land use planning in biodiversity conservation in Tasmania. Nikki also works as an Environmental Planner with local government and has over 15 years' experience in the fields of biodiversity conservation, natural resource management and land use planning. As both a practitioner and a researcher, Nikki offers a unique perspective on the importance of land use planning in contributing to biodiversity conservation. The detailed submission has also been reviewed by PMAT's *Natural Assets Code Review Sub-Committee* which comprises planning experts, consultants and community advocates with relevant experience and knowledge.

18. Healthy Landscapes (Scenic Protection Code)

The purpose of the Scenic Protection Code is to recognise and protect landscapes that are identified as important for their scenic values. The Code can be applied through two overlays: scenic road corridor overlay and the scenic protection area overlay. However, I consider that the Scenic Protection Code fails to protect our highly valued scenic landscapes. There is an inability to deliver the objectives through this Code as there are certain exemptions afforded to use and development that allow for detrimental impact on landscape values. Concerns regarding the Scenic Protection Code have also been provided to the Tasmanian Planning Commission from the Glamorgan Spring Bay Council on the SPPs in accordance with section 35G of LUPAA.

It should also be noted, that not only does the Code fail to protect scenic values, I understand that in many instances Councils are not even applying the Code to their municipal areas. Given that

Tasmania's scenic landscapes are one of our greatest assets and point of difference, this is extremely disappointing. Local Councils should be given financial support to undertake the strategic assessment of our scenic landscapes so they can populate the Scenic Protection Code within their municipal area via either their LPS process or via planning scheme amendments.

Figure 3 - Rocky Hills, forms part of the Great Eastern Drive, one of Australia's greatest road trips. The Drive underpins east coast tourism. As per www.eastcoasttasmania.com states '*this journey inspires rave reviews from visitors and fills Instagram feeds with image after image of stunning landscapes and scenery*'. The Rocky Hills section of the road is subject to the Scenic road corridor overlay but has allowed buildings which undermine the scenic landscape values.

Recommendation: The Scenic Protection Code of the SPPs should be subject to a detailed review, with a view to providing appropriate use and development controls and exemptions to effectively manage and protect all aspects of scenic landscape values.

19. Geodiversity

The current SPPs have no provision for mandatory consideration of impacts on geodiversity when assessing a new development or use that impacts geodiversity. This means, for example, that under current laws, that there is no formal opportunity for the public to comment on or object to a development or use that would adversely impact geodiversity, and there is no opportunity to appeal permits that allow for adverse impacts on geodiversity.

The below section on geodiversity definitions, values, vulnerability and the need to embrace geodiversity in planning has been written by geomorphologist Kevin Kiernan.

***'Definitions** - The terms geodiversity and biodiversity describe, respectively, the range of variation within the non-living and living components of overall environmental diversity. Geodiversity comprises the bedrock geology, landforms and soils that give physical shape to the Earth's surface,*

and the physical processes that give rise to them[6]. Action to conserve those elements is termed geodiversity conservation/geoconservation and biodiversity conservation/bioconservation. Such efforts may be focused on the full range of that diversity by ensuring that representative examples of the different geo and bio phenomena are safeguarded. In other cases efforts may be focused only on those phenomena that are perceived as being outstanding in some way, such as particularly scenic landforms and landscapes or particularly charismatic animals such as lions or tigers. The term geoheritage describes those elements we receive from the past, live among in the present, and wish to pass on to those who follow us.

***Values** - The geodiversity that surrounds us sustains and enriches our lives in much the same ways as does biodiversity, indeed there can be no biodiversity without the varied physical environments that provide the essential stage and diverse habitats upon which it depends. Although many of the world's earliest protected areas were established to safeguard landforms and scenery, over recent decades the emphasis has shifted towards living nature. This probably reflects in part such things as more ready human identification with charismatic animals, but existence of the Linnean classification system that facilitates ready differentiation of the varying types of animals and plants has facilitated rapid recognition of the concept of biodiversity. But just as there are different species of plants and animals, so too are there different types of rocks, minerals, landforms and soils, and indeed the need to safeguard this geodiversity was being promulgated several years prior to adoption of the international convention on biodiversity[7]. These non-living components of the environment are of value in their own right just as living species are – for their inherent intrinsic value; because they sustain natural environmental process (including ecological processes); or because of their instrumental worth to humankind as sources of scientific, educational, aesthetic scenery, spiritual, inspirational, economic and other opportunities.*

***Vulnerabilty** - Effective management is required if these values are to be safeguarded[8]. As with plant and animal species, some are common and some are rare, some are robust and some are fragile. There is a common misconception that the prefix "geo" necessarily implies a robust character, but many elements of geodiversity are quite the opposite. For example, stalactites in limestone caves can be accidentally brushed off by passing visitors or seriously damaged by changes to the over-lying land surface that derange the natural patterns or chemistry of infiltrating seepage moisture; various types of sand dunes can readily be eroded away if a binding vegetation cover is removed; artificial derangement of drainage can cause stream channels to choke with debris or be eroded; important fossil or rare mineral sites can be destroyed by excavation, burial or even by increased public to a site where a lack of protective management allows over-zealous commercial or private collection; and larger scale landforms are commonly destroyed by such things as excavation or burial during housing, forestry, quarrying, inundation beneath artificial water storages, or mining.*

Damage to geodiversity is not undone simply because vegetation may later re-colonise and camouflage a disturbed ground surface. While some landforms may possess the potential for a degree of self-healing if given sufficient time and appropriate conditions, many landforms are essentially fossil features that have resulted from environmental process that no longer occur, such

[6] Gray M 2004 *Geodiversity. Valuing and conserving abiotic nature*. Wiley, Chichester UK
[7] Gray M Geodiversity: the origin and evolution of a paradigm. Pp.31-36 in Burek CV, Prosser CD (eds.) *The history of geoconservation*. Geological Society Special Publication 300, London UK.
[8] Kirkpatrick JB, Kiernan K 2006 Natural heritage management. Chap 14 in Lockwood M, Worboys GL, Kothari A (eds.) *Managing protected areas: a global guide*. IUCN/Earthscan, London.

as episodes of cold glacial era climate – for example, small glacial meltwater channels less than 1 m deep have survived intact in Tasmania through several glacial cycles (over 300, 000 years or more) so there is no justification for assuming that excavations for roadways or driveways will magically disappear any sooner.

For a soil to form requires the process of pedogenesis, which involves progressive weathering, clay mineral formation, internal redistribution of minerals and other material, horizon development and various other processes that require a very long period of time - even where climatic conditions are warm and moist rock weathering rates rock weathering rates may allow no more than 1 m of soil to form in 50,000 years on most rock types[9]. The uppermost horizons of a soil are the most productive part of a profile but are usually the first to be lost if there is accelerated erosion, churning and profile mixing by traffic, compaction, nutrient depletion, soil pollution or other modes of degradation. Hence, soil degradation should be avoided in the first place rather than being addressed by remediation attempts such as dumping loose "dirt" onto a disturbed surface, because a soil is not just "dirt".

***The need to embrace geodiversity in planning** - Sites of geoconservation significance can be valued at a variety of scales, from the global to the very local. Only those sites recognised as important at a state or national scale are ever likely to be safeguarded as protected areas, but many more are nonetheless significant at regional or local level, or even considered important by just a few adjacent neighbours. **The need for a planning response outside formal protected areas by various levels of government has long been recognised overseas, and also in Tasmania[10]**.*

The Australian Natural Heritage Charter[11] provides one very useful contribution towards better recognition and management of geodiversity by various levels of government. Significant progress has already been made in Tasmania where the state government has established a geoconservation database that can be readily accessed by planners and development proponents. The establishment of a geoconservation code within the Tasmanian planning machinery would facilitate utilisation and development of this important tool for planners and development proponents. No impediment to develop generally exists where geoconservation sites are robust or lacking significance, but important and vulnerable sites require higher levels of planning intervention.'

Further to the above, the **Tasmanian Geoconservation Database** is '*a source of information about geodiversity features, systems and processes of conservation significance in the State of Tasmania. The database is a resource for anyone with an interest in conservation and the environment. However, the principal aim is to make information on sites of geoconservation significance available to land managers, in order to assist them manage these values.* ***Being aware of a listed site can assist parties involved in works or developments to plan their activities. This may involve measures to avoid, minimise or mitigate impacts to geoconservation values.*** *More than a thousand sites are*

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

[10] For example see Erikstad L 1984 Registration and conservation of sites and areas with geological significance in Norway. *Norsk Geografisk Tidsskriuft* 38: 200-204; Nature Conservancy Council 1989 *Earth Science Conservation. A draft strategy*. NCC, London, UK; Kiernan K 1991 Landform conservation and protection. pp. 112-129 in *Fifth regional seminar on national parks and wildlife management, Tasmania 1991. Resource document*. Tasmanian Parks, Wildlife & Heritage Department, Hobart.

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

currently listed. These range in scale from individual rock outcrops and cuttings that expose important geological sections, to landscape-scale features that illustrate the diversity of Tasmania's geomorphic features and processes. Many of the sites are very robust and unlikely to be affected by human activities; others are highly sensitive to disturbance and require careful management.'

Recommendation: The SPPs must provide better consideration of and protection of geoheritage via the creation of a Geodiversity Code.

20. Integration of Land Uses

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

Recommendation: I 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.

21. Planning and Good Design

Quality design in the urban setting means "doing density better". We need quality in our back yards (QIMBY), an idea promoted by Brent Toderian, an internationally recognised City Planner and Urban Designer based in Vancouver.

Liveable towns and suburbs: For most people this means easy access to services and public transport, a reduced need for driving, active transport connections across the suburb, easily accessible green public open spaces, improved streetscapes with street trees continually planted and maintained, with species which can coexist with overhead and underground services. This means well designed subdivisions where roads are wide enough to allow services, traffic, footpaths and street trees. Cul de sacs should not have continuous roofs. There should be less impervious surfaces, continuous roofs and concrete.

Dwelling design: Apartment living could allow more surrounding green space, though height and building form and scale which become important considerations due to potential negative impact on nearby buildings. We also need passive solar with sun into habitable rooms.

Individual dwellings: There must be adequate separation from neighbours to maintain privacy, sunlight onto solar panels and into private open space, enough room for garden beds, play and entertaining areas, and this space should be accessible from a living room. The Residential SPPs do not deliver this. *New research confirms, reported here on the 13 August 2021 'Poor housing has direct impact on mental health during COVID lockdowns, study finds', that poor housing had a direct impact on mental health during COVID lockdowns: 'Your mental health in the pandemic "depends on where you live", new research suggests, with noisy, dark and problem-plagued homes increasing anxiety, depression, and even loneliness during lockdowns.' Lockdowns are likely to continue through the pandemic and other climate change impacts – thus its critical, our housing policy and standards 'make it safe for everyone … to shelter in place without having poor mental health'.*

Building materials: Low cost development will impact sustainability and increase heating/cooling costs, creating a poor lived experience for future owners. There should be stronger building controls. Consider the heat retention effects of dark roofs. There should be less hard surfaces and increased tree canopy. Too often the effect of a development which changes the existing density of a street is allowed to proceed without any consideration for place. Neighbours have rights not just the developer.

Recommendation: All residential zones in the SPPs should be rethought to 1. Mandate quality urban design in our subdivisions, suburbs and towns, **2**. Improve design standards to prescribe environmentally sustainable design requirements including net zero carbon emissions - which is eminently achievable, now **3**. Provide a Zone or mechanism which allows apartment dwellings and/or targeted infill based on strategic planning, **4**. Deliver residential standards in our suburbs which maintain amenity and contribute to quality of life. I also recommends that subdivision standards be improved to provide mandatory requirements for provision of public open space for subdivisions and for multiple dwellings.

21 Various Other Concerns

- Application requirements in cl 6.1 and the need for planning authorities to be able to require certain reports to be prepared by suitable persons (for example, Natural Values Assessments), or for these reports to be mandatory where certain codes apply.
- General exemptions in cl 4.0 of the SPPs particularly those relating to vegetation removal and landscaping.
- The need to better plan for renewable energy and infrastructure.
- I considers that the SPP Acceptable Solutions (i.e. what is permitted as of right) are not generally acceptable to the wider community.
- The system and Tasmanian Planning Scheme language is highly complex and analytical and most of the public are not well informed. More is required in the way of public education, and a user friendly document should be produced, if our planning system is to be trusted by the wider community.
- It is disappointing also that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. The*re is nothing to guide Councils when making discretionary decisions.*
- *Whilst* I *acceps that Desired Future Character Statements and Local Area Objectives may be* hard to provide in the context of SPPs, which by definition, apply state-wide, we consider that greater latitude could be provided in the SPPs for LPSs to provide these types of statements for each municipality.

Related General Comments/Concerns regarding the SPPs

I also has a range of concerns relating to the SPPs more broadly:

1. Amendments to SPPs - 35G of LUPAA
2. The Process for making Minor and Urgent Amendments to SPPs
3. The SPPs reliance on outdated Australian Standards
4. The SPPs vague and confusing terminology
5. The SPPs were developed without a full suite of State Policies
6. Increased complexity
7. Tasmanian Spatial Digital Twin
8. Difficult to Protect local Character via the LPS process

1. Amendments to SPPs - 35G of LUPAA

Under Section 35 G of the *Land Use Planning and Approvals Act 1993*, see here, a planning authority may notify the Minister as to whether an amendment of the SPPs is required. However, the Act does not set out a process that deals with the 35G issues.

Recommendation: 1. It is my view that the *Land Use Planning and Approvals Act 1993* should set out a transparent and robust process for dealing with 35G issues. **2.** Consistent with the Objectives of the *Land Use Planning and Approvals Act 1993* communities that are going through their local LPS process, should be allowed and encouraged by their local Council to comment not only on the application of the SPPs but on any issues they may have in regards to the contents of the SPPs. It is logical that this is when communities are thinking about key concerns, rather than only having the opportunity to raise issues regarding the content of the SPPs during the statutory five year review of the SPPs. I recommend the *Land Use Planning and Approvals Act 1993* should be amended to reflect this.

2. Process for Making Minor and Urgent Amendments to SPPs

In 2021, the Tasmanian Government amended the *Land Use Planning and Approvals Act 1993* to change the process for making minor amendments to the SPPs and introduce a separate process for making urgent amendments to the SPPs. These amendments give more power to the Planning Minister with no or a very delayed opportunity for public comment. The definition of both a minor and urgent amendment is also unclear. In I view, amendments processes provide the Minister with too much discretion to make changes to the SPPs and fail to adopt appropriate checks and balances on these significant powers.

Also, legal advice is that when the Tasmanian Planning Policies are introduced, the minor amendment process does not allow for changes to bring the SPPs into line with Tasmanian Planning Policies.

Recommendation: 1. Amending the *Land Use Planning and Approvals Act 1993* to provide a clear definition of what constitutes a *minor* and *urgent* SPP amendment. 2. Ensure that the process for creating a minor or urgent amendment includes meaningful public consultation that is timely effective, open and transparent.

3. The SPPs Vague and Confusing Terminology

There are many specific words in the SPPs, as well as constructs in the language used, that lead to ambiguity of interpretation. Often this results in sub-optimal planning outcomes for the community and can contribute to delays, unnecessary appeals and increased costs to developers and appellants. Words like SPPs 8.4.2 "provides reasonably consistent separation between dwellings" 8.4.4 "separation between multiple dwellings provides reasonable opportunity for sunlight". Other terms used throughout the SPPs which are highly subjective include "compatible", "tolerable risk", and "occasional visitors" where numbers are not defined.

Similarly, the use of constructs such as 'having regard to' may mean that sub- criteria can effectively be disregarded in decision making. Alternative wording such as 'demonstrate compliance with the following' would provide greater confidence that the intent of such provisions will be realised.

While this ambiguity leads to delays and costs for all parties, it particularly affects individuals and communities where the high costs involved mean they have reduced capacity to participate in the planning process – contrary to the intent of LUPAA objective 1.(c).

Recommendation: That the terminology and construction of the SPPs be reviewed to provide clearer definitions and shift the emphasis under performance criteria towards demonstrated compliance with stated objectives.

4. **The SPPs were developed with few State Policies**

The SPPs are not about strategic or integrated planning, but are more aptly described as development controls. The creation of the SPPs should have been guided by a comprehensive suite of State Policies. This did not happen before the development of the SPPs by the Planning Reform Task Force. Hence the SPPs exist without a vision for Tasmania's future.

The SPPs are still not supported by a comprehensive suite of State Policies to guide planning outcomes. In 2016, the Tasmanian Planning Commission acknowledged, in particular, the need to review the State Coastal Policy as a matter of urgency, but no action has been taken. Other areas without a strategic policy basis include integrated transport, population and settlements, biodiversity management, tourism and climate change.

In 2018, instead of developing a suite of State Policies, the State Government created a new instrument in the planning system – the Tasmanian Planning Policies. As at 2022, the Tasmanian Planning Polices are still being developed. The Tasmanian Planning Policies are expected to be lodged with the Tasmanian Planning Commission by the end of 2022. The Tasmanian Planning Commission will undertake its own independent review, including public exhibition and hearings.

My **position has been that we need State Policies rather than Tasmanian Planning Polices** because they are signed off by the Tasmanian Parliament and have a whole of Government approach and a broader effect. The Tasmanian Planning Polices are only signed off by the Planning Minister and only apply to the Tasmanian Planning Scheme and not to all Government policy and decisions.

5. Increased Complexity

The Tasmanian Planning Scheme is very complex, is only available in a poorly bookmarked pdf and is very difficult for the general public to understand. This creates real difficulties for local communities, governments and developers with the assessment and development process becoming more complex rather than less so. Community members cannot even find the Tasmanian Planning Scheme online because of the naming confusion between the Tasmanian Planning Scheme and the State Planning Provisions. PMAT often fields phone enquiries about how to find the Tasmanian Planning Scheme.

Repeated amendments to Tasmania's planning laws and thus how the Tasmanian Planning Scheme is being rolled out is unbelievably complicated. From a community advocacy point of view, it is almost impossible to communicate the LPS process to the general public. For example, see PMAT Media Release: Solicitor General's Confusion Highlights Flawed Planning Change Nov 2021.

Recommendations: It is recommended that illustrated guidelines are developed to assist people in understanding the Tasmanian Planning Scheme. It would be helpful if the Tasmanian Planning Scheme could also be made available as with previous interim schemes through iPlan (or similar) website. This should also link the List Map so there is a graphical representation of the application of the Tasmanian Planning Scheme (which expands when new LPSs come on board). It should also be noted, that for the average person, iPlan is difficult to use.

Recommendations: Create a user friendly version of the Tasmania Planning Scheme such as the provision of pdfs for every LPS and associated maps. IPlan is impenetrable for many users.

6. Tasmanian Spatial Digital Twin

Digital Twin, a digital story telling tool, would revolutionise planning data and public consultation in Tasmania. The Spatial Digital Twin could bring together data sources from across government including spatial, natural resources and planning, and integrate it with real time feeds from sensors to provide insights for local communities, planners, designers and decision makers across industry and government.

It enables communities, for example, to gain planning information about their streets, neighbourhoods and municipalities. It would allow the general public to visualise how the SPPs are being applied to how a development looks digitally before it is physically built, making it easier to plan and predict outcomes of infrastructure projects, right down to viewing how shadows fall, or how much traffic is in an area.

See a NSW Government media release by the Minister for Customer Service and Digital Government: *Digital Twin revolutionises planning data for NSW*, December 2021.

From a community point of view, it is almost impossible to gain a landscape/municipality scale understanding of the application of the SPPs from two dimensional maps. One of PMAT's alliance member groups, Freycinet Action Network, requested the shape files of Glamorgan Spring Bay Council's draft LPS but was unable to obtain a copy. This would have enabled FAN to better visualise how the LPS is being applied over the landscape.

Recommendation: To introduce a Tasmanian Spatial Digital Twin to aid community consultation with regards to the application of the Tasmanian Planning Scheme via each Council's Local Provisions Schedule process and public consultation more broadly.

7. Difficult to Protect local Character via the LPS process

In 2016, the Tasmanian Planning Commission acknowledged[12] that the SPPs were designed to limit local variation, but queried whether a "one-size fits all" model will deliver certainty:

"*If local character is a point of difference and an attribute of all Tasmanian places, unintended consequences may flow from denying local differences. The 'one size fits all' approach is likely to result in planning authorities seeking more exceptions through the inclusion of particular purpose zones, specific area plans and site-specific qualification*."

In My/our community group name *view the SAP/PPZ/SSQ threshold are too high. As the SAP/PPZ/SSQ are the mechanisms to preserve character, possibly the only way to preserve character, in the Tasmanian Planning Scheme, it is essential that they or like mechanisms, are available to maintain local character. Common standards across the Zones whilst being efficient, could destroy the varied and beautiful character of so much of this state.*

It is also extremely disappointing that Local Area Objectives and Character Statements such as Desired Future Character Statements have been removed from the Tasmanian Planning Scheme. Currently, there is nothing to guide Councils when making discretionary decisions, (unless in Discretionary Land Use decision as at 6.10.2b).

Recommendation: Amend section 6.10.2 of the SPPs to read:

6.10.2 In determining an application for a permit for a Discretionary use "**and development**" the planning authority must, in addition to the matters referred to in sub-clause 6.10.1 of this planning scheme, "**demonstrate compliance with"**:

(a) the purpose of the applicable zone;

(b) any relevant local area objective for the applicable zone;

(c) the purpose of any applicable code;

(d) the purpose of any applicable specific area plan;

(e) any relevant local area objective for any applicable specific area plan; and

(f) the requirements of any site-specific qualification, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

[12] See page 17: *Draft State Planning Provisions Report: A report by the Tasmanian Planning Commission as required under section 25 of the Land Use Planning and Approvals Act 1993, 9 December 2016.*

Appendix 1 - Talking Point: *Planning reform the Trojan horse*, The Mercury, Michael Buxton, December 2016

AUSTRALIAN states have deregulated their planning systems using a national blueprint advanced largely by the development industry. Tasmania is the latest.

Planning system change is always disguised as reform, but the real intent is to advantage the development industry.

In Tasmania, this reform introduces a single statewide planning system. This allows the government to dictate planning provisions regardless of differences in local conditions and needs.

State provisions can easily be changed. In some states, standard statewide provisions have been weakened over time to reduce citizen rights and local planning control.

The Tasmanian planning minister will be able to alter them without reference to Parliament, and potentially gain greater power from the Planning Commission and councils. It is yet to be seen whether the government will permit strong local policy to prevail over state policy.

Some states have allowed a wide range of applications to be assessed without need for permits under codes and by largely eliminating prohibited uses. The Tasmanian system has continued much of the former planning scheme content, but introduces easier development pathways.

An application for development or use need not be advertised if allowed without a permit or considered a permitted activity.

Alternative pathways allow public comment and appeal rights, but these often reduce the level of control.

Serious problems are likely to arise from the content of planning provisions.

For example, while the main residential zone, the General Residential Zone, mandates a minimum site area of 325 square metres and height and other controls for multi-dwelling units, no minimum density applies to land within 400m of a public transport stop or a business or commercial zone. This will open large urban areas to inadequately regulated multi-unit development.

The main rural zones allow many urban uses, including bulky goods stores, retailing, manufacturing and processing, business and professional services and tourist and visitor accommodation complexes.

This deregulation will attract commercial uses to the rural edges of cities and the most scenic landscape areas. Such uses should be located in cities or in rural towns to benefit local jobs instead of being placed as isolated enclaves on some of the state's most beautiful landscapes.

Use and development standards will prove to be useless in protecting the agricultural, environmental and landscape values of rural zones from overdevelopment.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Codes are a particular concern. The heritage code is intended to reduce the impact of urban development on heritage values.

However, performance criteria for demolition are vague and development standards criteria do not provide adequate protection.

The nomination of heritage precincts and places is variable, leaving many inadequately protected.

The National Trust and other expert groups have raised similar concerns.

The potential of the Natural Assets and the Scenic Protection codes to lessen the impacts of some urban uses on rural and natural areas also will be compromised by vague language, limitations and omissions.

Interminable legal arguments will erupt over the meaning and application of these codes, with the inevitable result that development proposals will win out.

The State Government can learn from the disastrous consequences of other deregulated planning systems. It should strengthen regulation and listen to the public to ensure a state system does not destroy much that will be vital for a prosperous and liveable future for citizens.

The Government argues the new system is vital to unlock economic potential and create jobs, but the state's greatest economic strengths are the amenity and heritage of its natural and built environments. Destroy these and the state has no future.

While planning for the future is complex, the hidden agendas of planning reform are evident from the massive impacts from unregulated development in other states.

Fast tracking inappropriate developments will force the Tasmanian people to pay a high price for the individual enrichment of a favoured few.

Tasmania's cities, towns, scenic landscapes and biodiversity are a state and national treasure. Lose them and the nation is diminished.

Michael Buxton is Professor Environment and Planning, RMIT University, Melbourne.

Appendix 2 – The Mr Brick Wall Story

This tragic story, which I have edited down, was submitted to the Tasmanian Planning Commission as part of the public exhibition of the draft statewide scheme.

We call it the tragic story of Mr Brick Wall

Mr Brick Wall states:

"*We are already victims of the new planning scheme. We challenged and won on our objection to a large over-height proposed dwelling 3 metres from our back boundary on an internal block under the previous planning scheme. We won on the grounds that the amenity to our home and yard would be adversely affected by this proposed dwelling under the previous planning scheme.*

However, this all changed under the new interim planning scheme and the dwelling was allowed to be constructed. As a result we now have an outlook from our outdoor entertaining area, living room, dining room, kitchen, playroom and main bedroom of a brick wall the full length of our back yard on the maximum new height allowed.

We can see a bit of sky but no skyline as such. The dwelling has obscure windows for our so called privacy, which are absolutely useless as they have been allowed to erect commercial surveillance cameras all around their house, 2 of which are on our back boundary. No problem you think! These cameras can be operated remotely, have 360 degree views at the click of a mouse and we understand they have facial recognition of 4 kilometres distance. So where is our privacy and amenity?

The Council was approached by us and our concerns prior to the new changes proceeding and we were told that there was nothing we or the Council could do to stop these changes as all changes to the planning scheme have to be accepted by Councils and they have no say in the matter. As a result we no longer feel comfortable or relaxed when in our own backyard and our young teenage daughters will not use the yard at all. We also have to keep our blinds drawn on the back of our house to ensure some privacy is maintained.

We also had our house listed for sale for almost 6 months, 8 potential buyers no one bought it because everyone of them sighted that the house next door was too close to our boundary. This is our north facing boundary and as such has all our large windows on this side to take advantage of the sun. '

Mr Brick Wall ends by saying that .the Government needs to realise what's on paper doesn't always work out in the real world and that real people are being adversely affected by their decision making.

PLEASE QUOTE
Your Ref:
Our Ref: 18/12/3; 22/20566; 22/22910
Enquiries SO:SP

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We value your feedback on our service.
Tell us about it at www.burnie.tas.gov.au

BURNIE CITY COUNCIL

11 August 2022

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

Email: yoursay.planning@dpac.tas.gov.au
A hard copy will not be sent

Dear Sir

STATE PLANNING PROVISIONS REVIEW SCOPING PAPER – SUBMISSION

Please find below, details of Burnie City Council's submission in response to the State Planning Provisions Review Scoping Paper.

SPP Reference	Comment
3.1 Planning Terms and Definitions	Table 3.1 Clarification on wording is needed - Secondary Residence – does the gross floor area calculation include a roofed veranda and attached carports and the like.
4.0 Exemptions	Clarification on operation is needed - If the use or development is not listed in the Tables 4.1 – Table 4.6 (inclusive), then proceed to the applicable Zone Table and Standards to determine if a permit is required.
6.6 No Permit Required Use or Development	Clarification on wording is needed - For example a single dwelling is a No Permit Required use within the General Residential zone, but will always need to apply C2.0 Parking and Sustainable Transport Code, so technically cannot meet 6.6.1(e).
7.3 Adjustment of a Boundary	7.3.1 (c) needs words added to the end "unless already below the acceptable solution setback requirement and is not reducing any further".

8.4.2 – Setbacks and building envelope for all dwellings	A3 (b)(ii) should include side "or rear" boundary.
8.4.6 – Privacy for all dwellings	A1(b) has still retained 4m to the rear boundary, when clause 8.4.2 A3 was reduced to 1.5m to rear boundary. Should the setback distance be 3m to the rear boundary for consistency with side boundaries?
8.6.1 – Lot design	A2 - 12m frontage is excessive and triggers unnecessary discretion.
11.4.1 – Site coverage	A1 - Site coverage was reduced to 400m2 instead of 500m2 and triggers unnecessary discretion.
16.2 Use Table	Residential use is only permitted if located above ground floor level and not listed as No Permit Required. Triggers unnecessary discretion – can "or located behind an active frontage" be included.
17.4.6 - Landscaping	P1 - Requires some landscaping must be provided, but does not allow for a site where it is not possible, even for safety reasons.
18.4.5 – Landscaping	P1 - Requires some landscaping must be provided, but does not allow for a site where it is not possible, even for safety reasons.
19.4.3 – Landscaping	P1 - Requires some landscaping must be provided, but does not allow for a site where it is not possible, even for safety reasons.
20.5.1 – Lot Design	A1/P1 – does not allow for a boundary reconfiguration between two existing lawful residential uses.
21.5.1 – Lot Design	A1/P1 – does not allow for a boundary reconfiguration between two existing lawful residential uses.
27.4.2 - Setbacks	A3/P3 – needs revision as the items listed in the AS do not match up with the items in the PC, the PC introduces new items, i.e. air conditioning and heating systems that are not listed in the AS.
28.3.1 – Sports and Recreation and Discretionary uses	Inconsistent with 28.2 Use Table – Sports and Recreation is a No Permit Required use or a Permitted use.
C1.0 – Sign Code	C1.4.3(a) – does not allow for a text, graphic design and colour change if the dimensions, or proportions are less/smaller, triggers an application unnecessarily.
C13.4 – Bushfire-Prone Areas Code	Clause C13.4.1 – needs the inclusion of "or" between (a) and (b) currently renders the exemption inoperable.

For any queries, please contact [redacted] at [redacted]

Yours faithfully

[redacted]

Simon Overland APM
GENERAL MANAGER

RMCG

RMCG Submission

10/08/22

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

Dear Planning Officer,

Submission to the State Planning Provisions Review

Thank you for the opportunity to make a submission to the scope of the State Planning Provisions (SPPs) five-year review. I have read the 'SPPs Review Scoping Paper – May 2022', 'Summary of Issues raised previously on the SPPs' and other supporting documentation.

As an Agricultural and Natural Resource Management Consultant in Tasmania with more than 25 years experience, I have expertise in the development and implementation of planning reform in Tasmania in relation to Agriculture and Primary Industries.

On behalf of the land use planning team at RMCG, I wish to raise some matters for inclusion to the scope. Where these issues are already mentioned in the 'Summary of issues raised previously on the SPPs', I wish to provide further comment and support for those issues being included.

MATTERS FOR INCLUSION IN THE SCOPE

- We agree that the Agriculture zone should not be exempt from the Natural Assets Code. We are seeing some perverse outcomes in regard to impacts on natural values as a result of this exemption. Generally, this occurs in relation to a reliance on spatial delineation of natural assets (i.e. Tasveg 4 and the Natural Values Atlas), as there is no requirement for onsite assessments.

  Through the LPS application process there has also been preferential selection of the Rural zone and Landscape Conservation zone by some Councils to prioritise natural values protection over agriculture. We think this is detrimental to agriculture and we have seen at least one example where future expansion of a current viable commercial scale extractive industry will be hampered by a zoning change.

- Clause 11.4.2 A3 and A4 refer to setbacks in the Rural Living zone. These appear inconsistent with the setback provisions in the Rural zone specifically 20.4.2 A1 and A2. We think these clauses should be reviewed to provide consistency in the application of setbacks.
- Clause 21.5.1. We think P1b(iii) is potentially worded incorrectly. We think this clause should probably also provide for reduced setbacks and allow for consistency with 21.4.2 P1 and P2.
- Clause 21.4.2. We have concerns around how this clause considers precedence of existing buildings and sensitive uses as a justification for allowing further development on a site at the same setback distance from adjacent agricultural land for new buildings and/or sensitive uses. In the Interim Planning Schemes as an Acceptable Solution, generally, using an existing sensitive use on a site as a precedence was only considered if the proposed new use was for a replacement dwelling or an extension to an existing dwelling. However, under Acceptable Solutions of Clause 21.4.2.A2 the wording appears to allow for any new sensitive use. This suggests to us that if a second dwelling is proposed on a site, then it can have the same setbacks as any other existing dwelling on the site to adjacent agricultural land. In our opinion this has the potential to increase constraints on adjacent agricultural land.

  For the Performance Criteria P2.b requires consideration of "the prevailing setbacks of any existing buildings for sensitive uses on adjoining properties". This wording in our opinion does not allow enough consideration of the context of the location. We think further evidence is required to demonstrate that using existing precedence is appropriate for reduced setbacks and in the absence of further evidence each reduced setback should be assessed on merit and not existing precedence.

  In addition, assessment of this matter provides no regard for 'critical mass' and the influence that may have on constraining an adjacent operation, when there is an influx of amenity focused residents to an area.

  This same 'existing precedence' is used in other setback provisions throughout the scheme. We disagree with the use of existing precedence as a matter of course.
- Application of the Attenuation code. The attenuation code is difficult to apply if it is not included in the code overlay. For example, a frost fan requires an attenuation distance of 2km from the boundary of the site that the frost fan is located on. How are the attenuation distance requirements for frost fans considered if there is no spatial delineation of existing frost fans?

  In the situation of a vineyard wishing to install a frost fan P1(a) needs to be considered for all existing dwellings within 2km of the title boundary. How has this attenuation distance been determined?

  We think the spatial delineation of the attenuation code overlay needs to be completed as a matter of urgency to avoid development applications for proposed new sensitive uses or Level 1 activities being progressed that have not considered the relevant attenuation requirements. We think further research is required to understand the impact on horticultural operations and future expansion opportunities with a 2km attenuation requirement for frost fans imposed.
- In the 'Summary of issues raised previously on the SPPs' C9.0 Attenuation Code, we do not agree with the suggested insertion

- C9.2.5 The code does not apply to sensitive uses, or subdivision if it creates a lot where a sensitive use could be established, within an attenuation area, where there are existing sensitive uses located between the use or development and the activities listed in Tables C9.1 and C9.2.

  Each new sensitive use should be considered on its merits in terms of impacting on the capacity for the continuation of the existing operation, as this disregards the cumulative effect of increasing constraints. Each new discretionary development should be considered on its merits and cumulative impacts should be included in the consideration.

- We note several Codes have been omitted from the SPPs. Of particular concern to us is the omission of the Acid Sulfate Soils Code and the Dispersive Soils Code. We are not clear on how development in areas where these environmental risks are present, is managed to minimise environmental harm and potentially significant impacts on the State's future productive capacity. We would like to see these Codes re-introduced or further research/information to demonstrate how the omission of these codes does not lead to environmental risks.
- We support the comments in the 'Summary of issues raised previously' for clarification on the requirements for dwelling approval in the Rural zone and Agriculture zone. We have previously undertaken work over a number of years in this area. Our work in VIC and NSW indicates that other regions in Australia are also grappling with similar policy matters. With clear evidence of policy failures in terms of loss of productive land. We think there is opportunity to build on the work to date (see for example RMCG 20221) and provide a State Policy which can then be applied consistently across the Agriculture zone and Rural zone.
- We also consider clarification of definitions around agricultural activity scale necessary, in order to apply the terms 'agricultural land' and 'agricultural use' in a planning context, to assist with appropriate application of the SPPs. Clarification on the characteristics which not only define the scale of the farm business but also the land and water resources which have the capacity to contribute to a commercial scale farm business and the minimum resources to conduct a farm business activity at a commercial scale is necessary to facilitate appropriate development in a competing environment. In our opinion this should be incorporated into a State Policy providing clarity around residential use in the Agriculture and Rural zone.
- Agritourism is a growing area of economic activity (See for example the Agri-tourism Strategy 2019 - 2023[2]) and has the potential to value add. However, there could also be adverse impacts on productive capacity and land use conflicts. Our research to date suggests the tourism component should be subservient to the agricultural use in the agriculture zone. Where-as in the Rural zone this is not necessarily appropriate.

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1 RMCG (January 2022). Enterprise Scale – For primary production in Tasmania. Report prepared to further the concept of the Rural Enterprise Concept for Flinders Local Provisions Schedule. Report prepared for Town Planning Solutions on behalf of Flinders Council

2 We note the Strategy is focused on growing agritourism; however, key stakeholders' representation does not include the representatives of the agricultural sector. Action 10 in the Strategy states 'Continue to develop and implement planning reform in Tasmania to assist the development of agri-tourism initiatives'

We note Brighton Council have a Policy – 'Residential Use in The Agriculture Zone'. This Policy includes provision for a dwelling to support complimentary uses such as farm stay and cellar door.

A Farm Management Plan is required to support a Development Application for a dwelling and any dwelling approval includes a Part 5 Agreement which requires the agricultural use to continue.

The Policy includes:

'1.2 To demonstrate that an agricultural use is operating as an agricultural business, which may include complimentary uses (e.g. farm stay, cellar door, etc).'

We think this Policy is a step in the right direction. Further research is required (including reviewing the results of current studies[3]) to understand the characteristics of Agritourism in Tasmania. With supporting evidence this Policy could be expanded on to include:

- Agritourism definitions to be included in the SPPs
- Clarity on complimentary uses and that the dominant activity should be agriculture in the Agriculture zone – there has been recent work done in NSW around this.
- Extend to all municipalities that have converted to the Tasmanian Planning Scheme
- Have application in the Rural zone in a modified format.

Alternatively, this Policy could be included in the State Policy providing clarity around residential use in the Agriculture and Rural zone.

I trust these comments will be considered for inclusion in the scope of the SPP review. Please do not hesitate to contact me if further clarification is required.

Kind regards

Astrid Ketelaar

ASSOCIATE

[3] For example, the 2020 Opening the Gate Project survey results and the 2021 Agritourism Regulatory Process Mapping Project

RMCG Submission – Bushfire-Prone Areas Code

12/08/2022

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

Dear Planning Officer,

Submission to the State Planning Provisions Review

Thank you for the opportunity to make a submission to the scope of the State Planning Provisions (SPPs) five-year review. I have read the 'SPPs Review Scoping Paper – May 2022', 'Summary of Issues raised previously on the SPPs', and other supporting documentation.

As a Natural Resource Management Consultant and Accredited Bushfire Practitioner in Tasmania, I have expertise in the development and implementation of bushfire requirements within the planning system.

I wish to raise the below matter for inclusion in the scope, specifically relating to the Bushfire-Prone Areas Code.

MATTER FOR INCLUSION IN THE SCOPE

- Timing of bushfire assessment requirements of sensitive uses.
  Currently, sensitive uses (such as dwellings and visitor accommodation) are assessed at the Building Permit stage under the *Director's Determination – Bushfire Hazard Areas* after the Development Application has been approved at the Planning Approval stage, as per the *Building Regulations 2016*.
  I have seen several issues arise with this;
  - Where the approved Development Application has not adequately considered bushfire requirements and hence, when considered under the *Director's Determination – Bushfire Hazard Areas*, the proposal is not compliant and cannot be permitted. I.e., where land required for a hazard management area cannot be achieved on the title. Therefore, new plans must be devised, and the development application re-submitted for Planning approval.

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(03) 6334 1033 [redacted]
rmcg.com.au ABN 73 613 135 247 RM Consu t ng Group Pty Ltd
V ctor a Tasman a ACT NSW

- While clause C7.6.2 P1.2 of the Natural Assets Code (which is considered as part of the Development Application) requires regard must be given to '*minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings*', it does not give regard to the extent of clearing required to achieve an appropriate hazard management area around the habitable building. This can lead to inadequate assessment of the impacts on the Natural Values of the site.

I therefore propose that all sensitive uses proposed within a bushfire-prone area are considered under the Bushfire-Prone Areas Code, as is currently the case for all sensitive uses in a subdivision.

I trust these comments will be considered for inclusion in the scope of the SPP review. Please do not hesitate to contact me if further clarification is required.

Kind regards

Michael Tempest

SENIOR PLANNER

From: [redacted]
To: State Planning Office Your Say
Subject: Submission to Review of State Planning Provisions
Date: Friday, 12 August 2022 11:21:30 AM
Attachments: image002.png
image003.png

State Planning Office,

George Town Council currently has limited experience with the State Planning provisions and current workloads have limited capacity to undertake a full review. Generally George Town Council is fully supportive of any submission put forward by the Local Government Association of Tasmania.

In addition, a number of apparent issues have arisen in what little experience we do have of the State Planning Provisions.

***General Residential* Zone** – Acceptable Solutions relating to amenity matters such as privacy and overshadowing need to be outcome based rather than the current design approach. The thresholds currently set allow developments to achieve technical compliance, without actually ensuring that they achieve the outcome they are intended to achieve. This is resulting in perverse outcomes, particularly for overshadowing in unit developments.

One off campaigns – It is considered appropriate that an exemption be included to facilitate 1 off campaigns in industrial sites and extractive industries, where there is limited risk of additional impacts and impacts will be short lived. Similar to the Occasional Events exemption. So if there is a single large order of rock from a Level 2 Quarry that will exceed its current thresholds for the year, this one off should not be considered an intensification, but should be able to be managed through the EPN by the EPA. We recently had a situation where logs stored on a site required to be processed in a very small timeframe. A one off event lasting 6 weeks. Without any exemptions, a discretionary permit is required, and this would also have to go through the Level 2 approval process. The timeframes associated with those processes would effectively result in the timber being not recoverable.

Boundary adjustments and reorganisation of titles. The current absolute lot sizes in the Performance Criteria for most zones prohibit existing lots, which are already under those thresholds from under taking boundary adjustments (where the minor boundary adjustment provisions cant be applied). Even if a lot is proposed to be made bigger, such that it is closer to the intent of the Zone the Acceptable Solutions and the Performance Criteria, the absolute minimum prohibits it.
Example: A 500m2 lot in Rural Living Zone B wishes to purchase land from the adjoining lot to make it 7000m2 in area. It is more than a minor change so minor boundary adjustment cant be applied. It is a positive thing because the lot moves closer to the intent of the zone. However, it is prohibited because it does not meet the absolute 8000m2 limit in the Performance Criteria. Perhaps an additional Performance Criteria in all subdivision provisions relating to lot size as indicated in red below:

Acceptable Solutions	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, must: (a) have an area not less than specified in Table 11.1 and: (i) be able to contain a minimum area of 15m x 20m clear of: a. all setbacks required by clause 11.4.2 A2 and A3; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by clause 11.4.2 A2 and A3; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with another lot provided each lot is within the same zone.	**P1** Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have sufficient useable area and dimensions suitable for its intended use, having regard to: (a) the relevant requirements for development of existing buildings on the lots; (b) the intended location of buildings on the lots; (c) the topography of the site; (d) any natural or landscape values; (e) adequate provision of private open space; and (f) the pattern of development existing on established properties in the area, and must be no more than 20% smaller than the applicable lot size required by clause 11.5.1 A1. or the lot is increasing in area.
A2	**P2**

Multiple Dwelling in the Ag Zone - Multiple Dwellings are discretionary in the Agriculture Zone without any Performance Criteria other than the land must be unfit for agriculture. If the intent is to allow unit development, ok, but if not, then a qualifier should be introduced to the use table or additional Performance Criteria that restrict multiple dwellings to situations where they support an agricultural use. Multiple dwellings is prohibited in the Rural Zone.

Exemption for Fire Fighting Tanks – the exemptions do not permit water tanks to be placed between the dwelling and the frontage without requiring a full assessment against the zone and code standards. It is common practice in rural communities with small lot sizes for the fire fighting tank to be placed at the frontage for direct access by fire fighting vehicles. As bushfire assessments are not required for planning, they often just appear after planning is done and dusted. It seems reasonable where they are for fire safety to exempt tanks between the dwelling and the frontage.

Exercising General Discretion – There are no provisions in the scheme which allow Council to Exercise a General Discretion where it comes to discretionary uses. If a discretionary use complies with the Acceptable Solutions applying to use, there are no provisions to refuse an application. Existing tribunal decisions, such as those below,
http://www7.austlii.edu.au/cgi-bin/viewdoc/au/cases/tas/TASCAT/2022/32.html?context=1;query=northern%20midlands%20council;mask_path=au/cases/tas/TASCAT
http://www.austlii.edu.au/au/cases/tas/TASRMPAT/2016/29.pdf
state that the Zone Purpose, Local Area Objectives and the like cannot be elevated to mandatory requirements or used as the basis for a refusal, unless they are expressly elevated to such by reference in a Performance Criteria. In the Rural Living Zone, the Hours of operation, lighting or Commercial Vehicle movements are the only use criteria applicable to discretionary uses. So regardless of the scale or how inappropriate a proposal may be in a residential area, if they comply with those listed Acceptable Solutions, there is no ability to refuse the proposal, despite it being a discretionary use. Additional criteria which guide an exercising of general discretion are warranted.

If these matters could be considered, it would be greatly appreciated.

Kind regards

Justin Simons

Town Planner

DEVELOPMENT & ENVIRONMENT

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Keep Covid-19 at bay – be safe, maintain social distancing and good hygiene, and be considerate of others

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12 August 2022

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

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

Dear Madam or Sir

State Planning Provisions Review

Thank you for the opportunity to provide input to assist in scoping the 5 yearly review of the State Planning Provisions (SPPs). I provide this letter as a submission on behalf of Australia ICOMOS.

ICOMOS – the International Council on Monuments and Sites – is a non-government professional organisation that promotes expertise in the conservation of cultural heritage. ICOMOS is also an official Advisory Body to the World Heritage Committee under the World Heritage Convention. Australia ICOMOS, formed in 1976, is one of over 100 national committees throughout the world. Australia ICOMOS has over 750 members in a range of heritage professions. We have expert members on a large number of ICOMOS International Scientific Committees, as well as on expert committees and boards in Australia, which provides us with an exceptional opportunity to see best-practice internationally.

Australia ICOMOS has previously made comment on the Tasmanian Planning Scheme (17 May 2016) and Tasmanian Planning Policies (27 October 2021), highlighting concern at the erosion of protections for historic cultural heritage, the lack of adequate consideration for Aboriginal cultural heritage in the statutory planning context, and the shortcomings inherent in retrofitting policy to statutory controls already in place. Many of the same concerns presented in these previous submissions remain, and I attach both for ease of reference.

We note the recently released *Australia State of the Environment Report 2021* (especially the Heritage Chapter, p. 145) identified the failure of statutory planning to protect heritage values at the local level, singling out the *Tasmanian Planning Scheme* as an exemplar in this regard.

Australia ICOMOS remains concerned that the local Historic Heritage Code (C6.0) as it stands operates counter to its stated purpose to “recognise and protect the local historic heritage significance of local heritage places, heritage precincts, historic landscape precincts and places or precincts of archaeological potential.”

Australia ICOMOS submits that the Code is:

- poorly drafted through use of vague, inconsistent, unclear and undefined language in setting out standards. This is despite the accepted Australia-wide use of terminologies provided in *The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance, 2013* which are completely absent from the Code. As the Burra Charter provides guidance for the conservation and management of places of cultural significance (cultural heritage places) in Australia, its lack of reference in this important Tasmanian Code must be questioned;
- overly complicated and compartmentalised, making it both unrelatable and restrictive to an extent that precludes consideration of key heritage values essential to understanding significance; and
- fails to provide mechanisms to recognise and regulate changes to heritage interiors that make key contributions to local historic heritage.

On this basis, we urge the Tasmanian Government to:

> **Prioritise and commission an expert review of C6.0, the Local Historic Heritage Code in its entirety, including the Exemptions at 4.0 in-so-far as they relate to heritage, or have the capacity to adversely impact heritage without due consideration.**

Australia ICOMOS would welcome an opportunity to contribute to the formulation of the scope and content of any such expert review.

Thank you again for your consideration of the views of Australia ICOMOS on this important issue.

Yours sincerely

Professor Tracy Ireland M.ICOMOS FSA
President

Attachments: Previous Australia ICOMOS Submissions

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17 May 2016

Tasmanian Planning Commission

By email: tpc@planning.tas.gov.au

Dear Sir/Madam

AICOMOS Comments relating to Heritage Matters, the Heritage Code and the State-wide Planning Scheme of Tasmania

We, Australia ICOMOS, would like to take the opportunity to provide some feedback relating to the proposed Draft Tasmanian Scheme Planning Provisions [DTSPP].

As you would be aware, Australia ICOMOS – the Australian chapter of the International Council for Monuments and Sites – is Australia's key non-government professional organisation for cultural heritage practice. Since its formation in 1976, Australia ICOMOS has been committed to improving conservation philosophy and practice for culturally significant places. Our Mission Statement is *'... to lead cultural heritage conservation in Australia by raising standards, encouraging debate and generating innovative ideas'*. For further background, please refer to australia.icomos.org.

There are a number of issues identified with the DTSPP, not least the question of transparency for removing places from the Tasmanian Heritage Register and the lack of Local Government ability in not being able to consider developmental impacts on internal works. We note that the prudent and feasible alternative (previous Heritage Act 1995 at Section 41- see Appendix) is not present in the current Heritage Act. We argue that this must be reinstated.

Terminology, Scheme Planning Provisions (SPP) Objectives and Performance Criteria Statements
The Heritage Code is very narrow in its interpretation of heritage values and it would be best practice to reflect the terminology of *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013* (*Burra Charter*) as this is accepted and adopted throughout Australia with tested legal precedence in other jurisdictions Tribunal appeals. Our belief is that the *Burra Charter* must be placed in the 29 local council schemes in any future translation of the SPPs. Discretionary use status for all listed places, either in local or state registers, must also become mandatory.

Terminology found in clauses of the Objectives and Performance Criteria will be difficult, if not impossible to apply in many situations. The common use of the term "having regard to" is not explicitly defined within the Scheme and creates a great deal of uncertainty. The term may be interpreted as simply requiring consideration as a matter of process, not substance and not conferring any duty of care or legal obligation to further the performance criteria in a meaningful manner. The wording "must take into account" would be preferable in that it at least indicates that the issue is "accountable" and that the development proposal must have demonstrated that the issue has been seriously considered. The use of the word "amenity" is a similarly difficult word. Your attention is drawn to the Brisbane City Council's definition of "amenity" shown in Appendix 1 of this document.

It does appear that in the drafting of these standards, clauses reflect little experience in the application of performance based planning schemes. Words such as "tolerable risk", "reasonable", "appropriate", "adequate" and so forth, can all be interpreted quite differently and will generate future disputes. For example, Kingborough Council [2004 Scheme] provides 12 year on-the-ground illustrations where less

rigour has been applied in relation to development. Proposed standards as in the DTSPP have the potential at present to be even less rigorous on which to base an objective assessment of disputes over the interpretation of planning scheme clauses. Therefore, there is significant concern that the DTSPP is being rushed, creating unforeseen gaps in the policy. Policy needs to be at the forefront of any planning reform such as that at present. Any planning policy – if forthcoming – needs to have statutory status. Not to have such checks will result in the potential loss of cultural significance if and when a developer states that they have "regarded the place". This could result in additional time and legal costs within an appeal situation if that becomes a last option.

Urban focus and residential zones

A particular concern for Australia ICOMOS in relation to SPPs and standards is property lot size reduction within residential zones and the potential for multi residential development in three residential zones (Inner residential, General Residential, Low Density Residential). If a development application meets the SPP standard regulations, there will be no permit issued. This situation will stretch across Tasmania. Lot sizes in the General Residential Zone (the zone most applied by local government in Tasmania) will be lowered to 400m^2 (near a transport route) or 450m^2 otherwise. Australia ICOMOS recommends change in this respect, especially in historic villages and towns but also for older suburbs, for inner residential areas which have historic buildings set amidst mature gardens and surrounds. Lower Sandy Bay is a good example.

Much of Tasmania has historic and/or older settlements. There were villages and towns designated and defined as areas in the former Register of the National Estate for example. It has been left to the local council to list property within such towns, but not the town as a whole as was formerly the case. That means that streetscapes, properties containing mature and established gardens, trees, curtilage as defined in the *Burra Charter* will be able to be subdivided and infilled, given the present Local Historic Heritage Code. This is unacceptable to Australia ICOMOS. Australia ICOMOS further understands that data sheets (either those of local government and/or Heritage Tasmania) most likely will not reflect the surrounds, settings, curtilage, extended curtilage, streetscapes and their significance of town, village or rural properties.

Desired Future Character and Place meaning

The *Burra Charter* in Article 1 has defined "place" as *a geographically defined area. It may include elements, objects, spaces and views. Place may have tangible and intangible dimensions*. This is the standard that must be set for Tasmania, the second colony settled in the nation.

The one size fits all approach of the DTSPP appears very developer-focused, has significant implications on the land use management and the inability to allow for existing landscape character. It fails to be consistent with the objectives of the RMPS in their entirety. Although historically Desired Future Character Statements have been poorly written within Tasmania, they are one method of reducing ambiguity of Performance Criteria. Desired Future Character Statements are a succinct description of expectations of development, outlining a vision for the future of a discrete zone, policy area or precinct, which will allow for local variation across the state wide planning scheme and provide a means retaining the historical cultural context of a place.

Whether in urban or rural settings, Desired Future Character Statements have an instructive role that extends beyond their descriptive content. They are aimed at giving the Planning Authority, applicants and the community real guidance about the development outcomes envisaged for an area, clarifying the future of areas for investors and their communities alike. The statements also reinforce the role of the potential Local Development Plans as a strong determinant of an area's physical appearance and performance. Australia ICOMOS believes that Desired Future Character must not be exempted from the DTSPP.

Rural and Agriculture zones, Rural Living Zones, Landscape Protection Zone: The Woodbridge Area, an example

Tasmania's settlement pattern is such that there are many smaller rural residential properties, close to, but outside, the urban growth limit of Hobart and the new SPP subdivision requirements provide very little flexibility to match this settlement pattern. When setting the Local Planning provisions, it will be necessary to choose between a zone that enables further subdivision or one that potentially introduces inappropriate land uses into local areas. The implications of this are examined in particular context with Woodbridge Heritage Precinct and the surrounding that would most likely be zoned Rural Zone. However, the Rural Zone provisions do not encourage residential development, but to zone it Rural Living opens up the area to high levels of subdivision that would dramatically alter the landscape character. In accordance with the zone purpose statements, provisions for the Rural Zone are to support agricultural or

resource development. It effectively replaces the current Rural Resource Zone in the KIPS2015. Accordingly, the development standards anticipate rural activities that are not designed to protect residential amenity.

A similar issue existed under the previous KPS2000 where extensive rural areas were zoned Primary Industries with a minimum lot size of 40 hectares. This zone did not reflect the actual land use pattern in many instances and at times was in conflict with the existing land use. The KIPS2015 had essentially resolved this inconsistency but it does now appear that it will be reintroduced by the DTSPP proposals without the guiding provisions of Desired Future Character Statements.

Therefore, it is likely that this Rural Zone will be applied to rural areas surrounding Woodbridge and Channel Settlements that contain existing properties across a very wide range of lot sizes – from about 2ha up to well over 40ha – and to properties that are not being used for a productive purpose and are essentially residential in nature. This gap in minimum lot sizes is too wide and can be avoided if there is a Rural Living Zone that has a larger minimum lot size, which would better reflect the historic landscape development patterns.

In regard to the development standards, this Rural Zone enables a maximum building height of 12 metres, with setbacks from all boundaries at 5 metres as an acceptable solution. Given that this Zone is likely to be applied to lots down to almost 2ha in size, there will be many instances where future development will be inconsistent with existing development patterns that are mainly rural residential in nature – in that a 12-metre high dwelling or building could be built within 5 metres of an adjoining residential property. This issue will generate conflict with close neighbours, bearing in mind the many scattered smaller lots in rural areas and that this Zone will adjoin areas zoned Low Density Residential. As well as this, many coastal properties further down the Channel will be zoned Rural up to the coastline. This will result in future dwellings up to 12 metres in height affecting the visual landscape of the coast and have significant impact on the cultural values that are attributed to that landscape.

The Rural Zone also allows for the value adding or diversification of an existing resource development, extractive industry or resource processing use on existing land or onto adjoining land with a relatively easy approval pathway. This in itself is not a major issue in terms of heritage management but it becomes a problem if a Council is forced to apply the zone to areas that are predominantly residential (e.g. hobby farms) in nature – creating future amenity and conflict problems and also fettering appropriate primary industry uses.

Areas such as Woodbridge and Middleton that are currently zoned Rural Living under the KIPS2015 surrounding the residential area of the townships will need to be zoned Rural in order to limit subdivision potential under the minimum lot size proposed for the Rural Living zone. In applying the Rural Zone up to the township boundary, there is the potential for Resource Processing (such as a cheese factory, abattoir or animal saleyard) within 500m of the residential area as a Permitted Use. Further to this a fish filleting processing business could be within 250m of the township. The Rural Living Zone would form a more effective buffer around existing residential areas. It is acknowledged that the Scenic Protection Code will potentially provide some provisions for scenic landscape management. However, it does not address the implications of small lot subdivision, and exempts agricultural buildings, which could be 12m in height 5m from a boundary, that would have a significant impact on any cultural landscape the Scenic Protection Code would apply. Effectively, the Scenic Protection Code is very limited in landscape management, protecting only a restricted tourist gaze of Tasmania's landscape.

Cultural Landscapes

Tasmania's heritage settlement pattern across the nineteenth century needs to be fully understood at senior planning and government levels. It is unique to this island and given that Tasmania was the second state settled, the significance is of national importance. Many rural properties including large estate properties have contiguous extant grant boundaries. Some stretch back to 1811 with Governor Macquarie and Norfolk Island re-settlement. These boundaries may be marked out by hawthorn hedges or other vegetative material. There are established mature gardens with sometimes unusual, if not rare plants and trees and there are many old mature trees which frame the dwelling. In the south the grounds are of different sizes and also have distinct patterns, patterns that are equally as important to understand given the present changing planning intent.

ICOMOS, at the international World Heritage Area level, has been undertaking serious research and assessment and has completed listings of world rural landscapes as well as urban historic landscapes. Tasmania may well offer future listings. Cultural heritage is not just limited to "buildings" and listing a place is not necessarily the only way of preserving the heritage significance. The Local Historic Heritage

Code (LHHC) has developed a different set of heritage type categories. The new ones can be compared to the Interim Planning Schemes (Southern region) these agreed to by the twelve southern councils. The interim planning scheme types are as follows:

- Heritage place
- Heritage precinct
- Cultural Landscape precinct
- Place of Archaeological Potential

These appear to be a clear and comprehensive set of heritage types because they use standard heritage wording in a standard way, and the terms have been clearly defined.

The change of 'Cultural Landscape Precinct' to 'historic landscape precinct' is not a recognised heritage type while the term 'cultural landscape' is. The definition of 'historic landscape precinct' in the Draft SPP Code is essentially the definition of a cultural landscape. It is argued that the term 'historic landscape precinct' adds confusion to differentiating between 'heritage precincts' and 'historic landscape precincts'. Cultural landscape is recognised internationally by ICOMOS as it forges ahead with listings on the world.

Woodbridge and hinterland has already been mentioned, but land zoning and subdivision requirements in the DTSPP provide an example of a clumsy means of managing a Cultural Landscape for this area but similarly for other rural landscapes of: the D'Entrecasteaux Channel; Bruny Island; Huon Valley region; the extensive cultural landscapes of the Midlands; and northern Tasmania. The potential loss of cultural landscape as an overlay, able to be used by local government, the added incapacity for desired character statements further exacerbates the significant impact. There will exist the potential to allow for use or development that is inconsistent with the rural landscape character. The proposed zoning regime does not allow for a steady progression of the peri-urban region surrounding the greater Hobart region. Australia ICOMOS finds what would appear to be less rigorous assessment in the LHHC detrimental.

The *Burra Charter* makes provision for assessment of place, settings, memories and perceptions of place. Australia ICOMOS definitions have been adopted internationally in respect of place. Inherent in assessment of place must be the curtilage of a property, the extended curtilage of a property, one which details aspects of dwelling surrounds including gardens, and mature older trees, shrubs and flora. Tasmania, from earliest times, was importing plants from the other side of the world. This really took on a very intensive aspect via nurseries, the Royal Society's Gardens and the Launceston Horticultural Society during the 1860s-1940s such that plants were disseminated outwards both in urban and rural situations. This is an equally important heritage legacy in Tasmania, not one that will currently be considered in the Local Historic Heritage Code. Australia ICOMOS finds that detrimental.

Aboriginal heritage

Additional concern is that the DTSPP has once again left out any reference to Indigenous Tasmanian Heritage, which was also the case with the Interim Planning Schemes. Whilst the wording of the Kingborough Planning Scheme 2000 was by no means adequate, it did at least make reference to Aboriginal Heritage. It appears apparent that Aboriginal Heritage is adequately managed under the Aboriginal Relics Act 1975. Ideally the planning approval process must be designed so that as many relevant issues as possible relating to a development are considered as part of the assessment of a development application. This would enable a thorough up-front assessment of the development proposal and would help in avoiding the possibility of other legislation requiring subsequent changes to that proposal. Where such changes are required then there is the very real chance that an approved planning permit becomes invalid and/or there is the need for a fresh or amended planning application. This situation only adds to resentment and further tensions.

Archaeological heritage

While 'place or precinct of archaeological potential' may be clearer in recognising potential scales, it is more wordy and 'place of archaeological potential' should be quite adequate if a 'place' is defined as site or parcel of land. Note that in relation to this:

1. the definition of 'precinct' differs for the different heritage types, which further reduces consistency
2. unlike in the Interim Planning Scheme, there is no definition of 'place' in the Draft SPP Code, which would appear to be a serious omission.

It has been a failure of planning schemes generally to provide adequately for the conservation of significant archaeological sites or other remains. While generally planning schemes have included this

type of heritage within 'heritage places' (this is not clear in the Draft SPP Code), the standards and other provisions relating to 'heritage places' generally respond only to built heritage and do not work well, or do not work at all, for significant archaeological remains. It is suggested that this is best remedied by including new heritage type category of 'archaeological heritage place', as this would allow for unambiguous standards and other provisions to be established for each type of heritage.

Architectural interiors

Internal works are exempt from requiring a planning permit and this is applicable to heritage places. The interiors of buildings are an integral component of the cultural significance of the place and need to be considered in any assessment of heritage impact of a listed place, regardless whether it is of local or state significance.

Summary and Recommendations

The Code will not adequately protect historic heritage significance if it applies only to 'local heritage'. This is because heritage places should be treated as single entities and all values considered (refer to the Australia ICOMOS *Burra Charter*), and because a place/precinct/landscape/archaeological place can have both local and state significance and these may be quite different values so that what may be an acceptable development or use for one may not be appropriate for the other. It is also the case that the THR does not have the remit to consider local values of THR listed places, and there are also a number of pragmatic reasons around discrepancies in how the places, etc. are identified and defined.

Most of the performance criteria fail to consider 'heritage significance' which is the key underpinning of Australia's approach to heritage management, and the foundation of the *Burra Charter*, the core principle of which is that "conservation means all the processes of looking after a place so as to retain its cultural significance" (article 1.4). When taken with other *Burra Charter* Articles, in particular the definition of significance (Article 1.2), it is difficult to see how the DSPP Code provides for retention of significance.

Australia ICOMOS cannot support the DTSPP approach of it being optional for a Council to exempt all dual-listed places (that is places on the THR-Heritage Tasmania but also listed by local government) in a planning application. We believe that all heritage property either listed by Heritage Tasmania or by a local council must become a discretionary use in any planning development or use application.

For significant archaeological remains, it is suggested that this is best remedied by including a new heritage type category of 'archaeological heritage place', as this would allow for unambiguous standards and other provisions to be established for each type of heritage.

Overall Recommendations:

That, in the interest of clarity and consistency, in the DTSPP Heritage Code:

1. *the SPP, including the Code and standards, apply to all places listed under the Code; there be no exemptions for THR listed places; and the term 'local' be removed from the SPP in all cases where it is used to imply a restriction of scope to heritage of local level significance.*
2. *the terminology, Objective Clauses, Performance Criteria clauses become more rigorous and contain clarity such that the ambiguity currently present is removed.*
3. *essentially the same definitions for place, and the different heritage type categories used in the Interim Planning Schemes (Southern Region) be used (and that all be included in the list of definitions). Thus heritage precinct, cultural landscape, heritage place and the new category, (see 4) all become a part of the Local Historic Heritage Code and be translated into the 29 local government schemes.*
4. *a new category of 'Archaeological Heritage Place' be created to respond to conservation needs for significant non-built heritage.*
5. *all listed heritage property (either at the state or local level) become a discretionary use.*
6. *the Burra Charter be inserted in all 29 local government planning schemes in the translation of the DTSPP; its insertion in the Local Historic Heritage Code must be mandatory.*
7. *Indigenous heritage be considered fully and be included in an appropriate manner that accords to the Land Use Planning and Approvals Act 1993 (LUPAA).*
8. *Desired Future Character not be exempted from the Draft Tasmanian State Planning Provisions; that it be reinstated.*

9. *very real problems, as shown in this representation, in relation to the various rural zones be fully realised and changed such that anomalies in lot sizes, other anomalies be rectified and changed such that character of place is retained.*
10. *Section 41 of the 1995 Heritage Act which allowed for a 'prudent and feasible alternative' be reinstated. See Appendix 1.*
11. *any forthcoming policies to be effective, must be afforded statutory status.*
12. *all the standards are comprehensively reviewed to ensure that the acceptable solutions and the performance criteria will provide for heritage conservation - as per the stated objective of the Code.*

If you require any further information, please do not hesitate to contact us at the Australia ICOMOS Secretariat at georgia.meros@deakin.edu.au.

Yours faithfully

MS KERIME DANIS
President, Australia ICOMOS

Appendix 1.

Clauses at 7.4.3. (6 clauses) made reference to the statement of historic significance in the Local Heritage Code at (a), a statement by a "suitably" qualified person on a place or precinct [landscape not mentioned] at (b), a conservation plan J. Kerr etc at (c), change to the historic significance at (d), likely impact on the "amenity of the surrounding uses" at (e), any Heritage Agreement in place at (f)

Note "amenity of the surrounding uses" is a confusing phrase.

The definition has to be changed. It is suggested that the definition used by Brisbane City Council or alternative be used. As defined by Brisbane City Council, Queensland: www.qld.gov.au in their *Neighbourhood Planning Glossary:*

Amenity

The overall quality of the built form and natural environment impacting on the level of human enjoyment including on-site and off-site, and public and private spaces. Other elements of amenity include landscape amenity (features such as trees, planting and lawn that add to the quality of the landscape in a city environment), level of noise, air quality and sunlight. The word 'amenity' is often used to describe a pleasing or agreeable environment. This could be redrafted to include towns, villages and rural country properties in Tasmania.

Historic Cultural Heritage Act 1995. Clause 41

The Heritage Council, or planning authority, may only approve a works application in respect of works which are likely to destroy or reduce the historic cultural heritage significance of a registered place or a place within a heritage area if satisfied that there is no prudent or feasible alternative to carrying out the works.

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27 October 2021

Ms Ginna Webster
Office of the Secretary
Department of Justice
GPO Box 825
Hobart Tasmania 7001

By email: haveyoursay@justice.tas.gov.au

Dear Ms Webster

Tasmanian Planning Policies

Thank you for the opportunity to comment on the draft Tasmanian Planning Policies (TPPs) being developed to provide the first comprehensive, high-level policy framework for the Tasmanian planning system. The TPPs will shape the future for Tasmania through informing the planning rules in the Tasmanian Planning Scheme.

ICOMOS – the International Council on Monuments and Sites – is a non-government professional organisation that promotes expertise in the conservation of cultural heritage. ICOMOS is also an official Advisory Body to the World Heritage Committee under the World Heritage Convention. Australia ICOMOS, formed in 1976, is one of over 100 national committees throughout the world. Australia ICOMOS has over 750 members in a range of heritage professions. We have expert members on a large number of ICOMOS International Scientific Committees, as well as on expert committees and boards in Australia, which provides us with an exceptional opportunity to see best-practice internationally. We have a particular interest in Australia's World and National Heritage places.

Australia ICOMOS has previously made comment on the statewide Tasmanian Planning Scheme in relation to cultural heritage matters, including on 17 May 2016. It has noted in such submissions its concerns about the erosion of protections for historic cultural heritage and the lack of adequate consideration for Aboriginal cultural heritage in the statutory planning context.

Australia ICOMOS considers the TPPs could potentially provide an excellent approach to ensuring that important matters, including the protection of cultural heritage values, are properly considered by providing better planning direction.

However, our key concern lies in whether the TPPs as currently proposed will have the power to influence statutory planning. The TPPs will only be useful if they have priority status over the Tasmanian Planning Scheme as a whole. The scoping paper is unclear on this matter but suggests that they will be subsidiary and the focus of their use will be largely on strategic land use planning. In our view the usefulness of the TPPs will be much too limited if used at this level. The TPPs must sit above the Tasmanian Planning Scheme and inform it, and not sit to the side or below. It must also sit above the relatively recent *Land Use Planning and Approvals Amendment (Major Projects) Act 2020*.

Australia ICOMOS is pleased to see that cultural heritage is included as a TPP, with Aboriginal heritage, cultural heritage and landscape heritage included within this. We recommend, however, that this TPP adopt a more standard terminology to avoid confusion. The topic should be 'cultural heritage' not 'heritage', as natural heritage is not included under this TPP; and the areas of consideration should be re-named Aboriginal heritage, historic heritage and landscape heritage.

Australia ICOMOS would urge that the Tasmanian Government utilise cultural heritage best-practice in developing the Cultural Heritage TPP, giving particular regard to the Australia ICOMOS *Burra Charter*, the most broadly accepted guideline for cultural heritage conservation in Australia. Basing the planning policy on a widely accepted approach will result in a robust policy with minimal risk of ambiguity and confusion, it will avoid definitional confusion and provide familiarity across jurisdictions.

As noted above, Australia ICOMOS' overarching concern in relation to the TPPs is their ability to guide statutory planning decisions. Some further comment is made below in relation to this matter and the linkage between TPPs and the Tasmanian Planning Scheme.

- The TPPs must conform with Schedule 1, Parts 1 and 2 objectives of the *Land Use Planning and Approvals Act 1993*.

- There must be a clear link to regulatory mechanisms and the ability for adjustment to maximise effectiveness. There must therefore be capacity to amend the heritage provisions in the Tasmanian Planning Scheme to better reflect the TPPs.

- The TPPs must have priority status over decisions of the Coordinator General's Office.

- The Cultural Heritage TPP must:
  - be a holistic, values-based policy with a focus on conservation of heritage values, significant attributes, character and qualities;
  - have heritage protection and conservation as a principal focus, as per the *Burra Charter*;
  - adopt the precautionary principle;
  - recognise cultural landscapes and social values, especially in relation to landscape and landscape character; and
  - be authored by appropriately experienced heritage professionals.

Australia ICOMOS is happy to contribute further to the development of a Cultural Heritage TPP when the framework issues are resolved.

Yours sincerely

Helen Lardner
President

From: Planning
To: State Planning Office Your Say; State Planning Office Shared Mailbox
Cc: [redacted]
Subject: State Planning Provisions Review
Date: Friday, 12 August 2022 11:07:53 AM
Attachments: FB-f-Logo__blue_29_2aba1aa4-e79d-4ca2-b81a-07b6e245b084.png
envelope_e8002f0e-6e26-49b1-b131-7f84673c64f0.png
5608-ccc-email-v2-final-hr-500x174px_b23ab4d4-3ccd-4591-a42a-4ae7c2e41e4b.png
State-Planning-Provisions-Review-Summary-of-Issues-Previously-Raised-on-SPPs.docx

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Good morning

Please find attached submission from Central Coast Council on the review of the State Planning Provisions (SPP's).

We are very pleased to have had the opportunity to make suggestions that would improve the SPP's and look forward to providing comment on the draft Tasmanian Planning Policies.

Kind regards

Daryl Connelly
DIRECTOR COMMUNITY SERVICES

Mary-Ann Edwards
MANAGER LAND USE PLANNING

Land Use Planning Team
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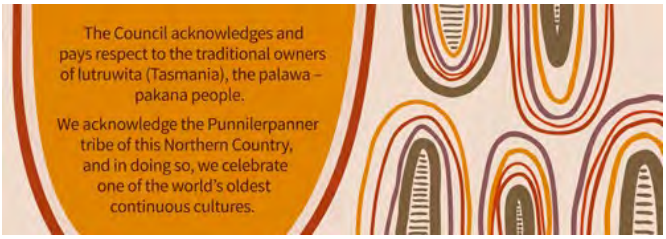

NO PERMIT REQUIRED	Consideration should be given to removing the No Permit Required (NPR) status and simply adding additional qualifications to the Exemptions. NPR is confusing and, contrary to what the name suggests, NPR requires applicants to provide material for assessment against the Planning Scheme standards. If NPR status is to be retained, it should be renamed to Planning Compliance Certificate or similar.
STORMWATER CODE	We support development of a Stormwater Code.
CHANGE IN GROUND LEVEL CODE	Consideration should be given to applications addressing any change in ground level greater than 1m and should demonstrate that retaining walls would not result in an area of influence into adjoining land.
HAZARD PRONE AREAS	Hazards are best examined early, as part of the development application process. This can avoid costly issues associated with a hazard being identified at Building stage and requiring a new siting and changes to a planning permit. Maybe a new permit needs to be issued, after a Permit has been granted. There are examples of this occurring.
AGRI TOURISM	The application of Visitor Accommodation or Community Meeting and Entertainment in the Agriculture zone is in conflict with the State Government's advice, workshops and general encouragement to those seeking to enter the Agri Tourism sector. For example, currently, a "function centre" cannot operate in the Agriculture zone. Furthermore, consideration should be given to removing the ambiguity that exists in relation to Clause 4 Exemptions for "one off events". In particular, the extent to which the intention may or may not be to allow an agribusiness to hold large events without the need for a Planning Permit (and therefore without Planning consideration of matters such as noise, road safety and the impact on agricultural uses in the surrounding area). A recent query about establishing a "boot camp" type exercise facility (a small shed plus tracks around a lake, dams and forests) was found to be Prohibited in the Agriculture zone. Consideration may be given to offering more opportunity in this zone.

Disclaimer: *The following includes issues previously raised on the SPPs through various forums, including reports by councils in accordance with section 35G of the Land Use Planning and Approvals Act 1993* (the LUPA Act).

Section	Clause/Provision	Issues Raised	Central Coast Comments
General	**Various – Operation of Performance Criteria in use and development standards**	Suggestions to review how Performance Criteria work in the SPPs following the Resource Management and Planning Appeal Tribunal (RMPAT) decision on *Henry Design & Consulting v Clarence City Council & Ors* [2017] TASRMPAT 11 and other associated decisions on interim planning schemes. The RMPAT decisions outlined that the Performance Criteria is a freestanding test having no relationship to the Acceptable Solution. This means that the corresponding Acceptable Solution cannot be used as a consideration or 'starting point' for undertaking an assessment against the Performance Criteria.	Supportive of this issue being considered further, including the suggestion that the Acceptable Solution should not be used as a consideration or 'starting point' for undertaking an assessment against the Performance Criteria, and that the application must address each of the relevant Performance Criteria.
	Various – Operation of Performance Criteria by requiring use or development to be 'compatible' with what is existing	Concerns raised with the meaning of 'compatible' in assessments against Performance Criteria in interim planning schemes. While this issue relates to interim planning schemes, it has implications for the SPPs as some Performance Criteria require use or development to be 'compatible' with existing use or development in the surrounding area. In the RMPAT decision on *Henry Design & Consulting v Clarence City Council& Ors* [2017] TASRMPAT 11, 'compatible' is taken to mean "not necessarily the same… but at least similar to, or in harmony or broad correspondence with the surrounding area".	Supportive of this issue being considered further.
	Various – Alignment with building regulations	Suggest reviewing the SPPs for improved consistency with the *Building Act 2016* and the Director's Determinations, such as the building regulations for retaining walls.	Supportive of this being considered further, including the suggestion that Standards and Performance Criteria for retaining walls are required, and that works should not result in an area of influence into adjoining land.
	Various - Local area objectives	Suggest amending all use and development standards to allow for the consideration of Local Area Objectives or provide a general ability to consider Local Area Objectives for any use and development standard.	We believe this can be achieved through Specific Area Plans if required.
	Various – Subdivision and requirement for public open space	Suggest revising the subdivision requirements in the SPPs to manage the requirements for the public open space rather than relying on the requirements in the *Local Government (Building and Miscellaneous Provisions) Act 1993*.	Supportive of this issue being considered further, including the application of public open space contributions where POS land is not required.
	Various – Landscaping requirements	Landscaping is critical for a high quality built environment and liveable communities and needs to be a development standard in the SPPs for all multiple unit, commercial and industrial development and subdivision with new roads.	Supportive of this being considered further, including the suggestion that landscaping plans should be required, particularly for common property (multiple dwellings) and street planting should be required for subdivisions.

Section	Clause/Provision	Issues Raised	Central Coast Comments
		Suggest including landscaping provisions similar to those existing in the commercial zones and Parking and Access Code in the Southern Region Interim Schemes in the Subdivision Standards for the following SPPs zones: • General Residential; • Inner Residential; • Low Density Residential; • Village; • Urban Mixed Use; • Local Business • General Business • Central Business; • Commercial; • Light Industrial; • General Industrial	
	Various - subdivision lot design access and road provisions for all residential zones	Suggest including a requirement in the subdivision standards of all residential zones to ensure adequate vehicular access onto a lot, not just from the road to the lot.	Is this needed? SPP does require legal access to a frontage – so I think it is covered?
	Various - Road connectivity provisions in subdivision standards	Suggest including threshold standards to determine if additional road connectivity is required in a subdivision proposal.	
	Various - siting and scale of outbuildings in residential environments	Suggest including provisions similar to those in the Southern Region's interim planning schemes for large or high outbuildings in residential areas.	Supportive of this being considered further, including the suggestion that it would be good to have maximum floor areas and maximum heights for sheds in the General Residential zone.
	Various – retaining walls and land filling	There are no requirements for retaining walls or land filling beyond the exemption.	Supportive of this being considered further, including the suggestion that there need to be standards for retaining walls and their setbacks from boundaries and heights, and that applications should have to demonstrate that there will be no "area of Influence" into adjoining land as a result of retaining walls.

Section	Clause/Provision	Issues Raised	Central Coast Comments
	Various – Stormwater management	Suggest including the Stormwater Management Code from the Southern Region's interim planning scheme into the SPPs.	Supportive of this being considered further, including the suggestion that the suitably of a site be a considered at the development stage. This includes stormwater management and design so as to not result in a negative impact on adjoining land and not overwhelm the Urban System.
	Various – Water quality management	Suggest reviewing the SPPs to improve water quality management outcomes from development and the subsequent impacts on nearby aquatic environments.	Supportive of this being considered further.
	Various – Light pollution	Suggest including provisions for management of light pollution impact on sensitive/significant or iconic landscapes.	Supportive of this being considered further.
	Aboriginal heritage	Suggest including a separate Aboriginal Heritage Code in consultation with the aboriginal community.	
	Land filling and excavation	Suggest introducing a Filling and Excavation Code addressing: • impacts on character and amenity; • stability and appearance; • environmental impact; • flooding and drainage; • management of stockpiles; and • impacts on infrastructure, public utilities and easements.	Supportive of this being considered further, including consideration of whether the "Change in Ground Level Code" from our Interim Planning Scheme could be reflected in the SPPs.
	Application requirements	In some interim planning schemes, an application requirements section was included in all Codes and Specific Area Plans to provide clarity on what was required for all, or some, applications that are assessed under that Code. Suggest including an application requirements section for each Code in the SPPs and in the template for Specific Area Plans.	
3.1 Planning Terms and Definitions	**Tolerable risk**	Definition needs further clarification.	Supportive of this being considered further, including consideration of the role and definition of suitably qualified persons.

Section	Clause/Provision	Issues Raised	Central Coast Comments
	Primary frontage		Supportive of this being considered further, including the suggestion that the definition in (b) is clarified. I.e. in relation to "… the frontage with the shortest dimension measured parallel to the road irrespective of minor deviations and corner truncations", change "irrespective of" (which can be interpreted as being inclusive or exclusive) to be either "including" or "excluding" (whatever is the intention).
	Private garden	Definition requires clarification as it is unclear how far a private garden extends. Implications for vegetation clearing exemption.	
	Home based business		Supportive of this being considered further, including the suggestion that the definition be amended or better stated for (i) and (j). For example - under (i) – "Commercial vehicles" are (we assume) those used by the commercial enterprise and under (j) - "all vehicles used by the business" also refers to those used by the business. Also need to remove ambiguity around its application to customer parking, including whether street parking is appropriate for customer use. Consideration should be given to a mandatory floor area, as currently its broad. Without a mandatory floor, this can create some conflict depending on the size of the business.
	Employment training centre	Suggestion to broaden the definition to also allow for "training in specialised or technical skills".	
	Single dwelling **Dwelling**		The SPP's standards sometimes refer to a "single dwelling" (which includes a secondary residence) and at other times to "a dwelling". Consistency in the language is required. This is most evident in the General Residential zone standards.

Section	Clause/Provision	Issues Raised	Central Coast Comments
	Secondary residence	Suggest limiting secondary residences to single storey buildings and deleting the reference to laundry facilities.	Supportive of this being considered further, including potential clarification / reinforcement of the restrictive 60m² floor area. This would eliminate invalid applications where the secondary residence is within a shed or another building, or is 60m² of habitable floor area with an internal double garage attached. Also, a definition of a "Common Wall" would assist the public and eliminate invalid applications where the secondary residence is proposed within another building, but no common wall exists.
	Additional term and definition – brewery	Suggest an additional definition for brewery.	
	Additional term and definition – passive surveillance	Suggest an additional definition for the term 'passive surveillance'. The term is used in front fence performance criteria and would provide more clarity to developers.	
	Additional/clarification of terms and definitions – access, access ways, driveway, vehicle crossing	Suggest additional definitions for 'access', 'access ways', 'driveway', amending the definition for 'vehicle crossing' and clarifying the use of term 'access' throughout the SPPs.	
	Additional definitions - café and restaurant	Suggest additional definitions for café and restaurant.	Support further consideration of this, including whether café / restaurant could share a combined definition. Also need to remove ambiguity about the extent of retail activity – including the sale of alcohol for gifts and off-site consumption. This is reasonable within the Food Services Use.

Section	Clause/Provision	Issues Raised	Central Coast Comments
4.0 Exemptions	**Various exemptions**	The following exemptions in the SPPs should include full range of limitations as expressed in Planning Directive No. 1 (e.g. heritage, scenic, threatened vegetation, wetlands and watercourses, potentially contaminated land, salinity and landslip): • 4.2.3 irrigation pipes • 4.2.4 road works • 4.2.7 minor infrastructure • 4.2.8 navigation aids • 4.3.5 temporary buildings and works • 4.3.6 unroofed decks • 4.3.7 outbuildings • 4.3.8 outbuildings in the Rural Living Zone, Rural Zone or Agriculture Zone • 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone • 4.3.11 garden structures • 4.4.2 landscaping and vegetation management	Supportive of this being considered further.
	4.0.3 actively mobile landforms	Unclear what actively mobile landforms are, particularly in limiting the exemptions.	We refer to the State Policy.
	4.1.2 occasional use		Refer to comments on page one under "Agri Tourism". "Occasional use" needs to be better defined.
	4.1.4 home occupation	Concerned with removing the limitation of 'occasional visitors' as it could cause significant amenity impacts (e.g. yoga classes or lessons or therapy with traffic and noise impacts). Limited to a 'dwelling' therefore cannot be in a shed, outbuilding or garden.	Supportive of this being considered further, including the suggestion that the exemption should consider the title, not just the dwelling.
	4.1.5 markets	Exempting markets is problematic if insufficient parking is provided.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	4.2.4 road works	Lack of clarity in terminology – 'including' does not provide exhaustive list, 'carriageway' not defined, refers to 'maintenance repair and upgrading' and also 'making, placing and replacement' Unclear where the 3m distance is measured from (e.g. title boundary or road reserve or existing road shoulder). There is potential for significant impacts on native vegetation, sensitive environments and waterways. It could allow for the replacement of heritage bridges. The term 'upgrade' is broad; the scope of upgrade should be defined as the exemption for maintenance, repair and **upgrades** of roads may extend up to 3m outside the road reserve including the replacement of bridges in the same or adjacent position.	Supportive of this being considered further, including the suggestion that this needs clarification. I.e. does the 3m refer to 3m either side of the road reserve, or 3m in total? Is this still exempt if it would result in boundary realignments over private land and maybe removal of priority vegetation?
	4.3.2 internal building and works	Suggest inserting a column headed 'Significant Interior' to LPS Table C6.1 Local Heritage Places. Amend the wording of 4.3.2 in the SPPs to read: "All internal building and works unless identified as a Significant Interior in Table C6.1 Local Heritage Places1" (retaining the footnote relating to places entered on the Tasmanian Heritage Register as is). (pp.8-9).	
	4.3.6 unroofed decks	The exemption should apply to all unroofed decks, including those attached to, or abutting, a habitable building. Decks should be permeable and not require the removal of trees.	We support this being considered further.
	4.3.7 outbuildings	The exemption for outbuildings requires clarification, particularly in relation to existing outbuildings and for larger outbuildings. ***SPO Note: The exemption is being clarified as a minor amendment of the SPPs.***	Supportive of this being considered further, including the suggestion that the Exemption needs to address the total number of outbuildings on a site that would satisfy "exempt" criteria.
	4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone	The exemption for "agricultural works" should exclude works subject to the Natural Assets Code.	Landowners can currently undertake Exempt landfill in an adjacent watercourse where the Code applies by saying the works are to increase the area available for resource development.

Section	Clause/Provision	Issues Raised	Central Coast Comments
	4.3.10 demolition **7.9 Demolition**	Suggest revising 4.3.10 to:	We support this being considered further.
		Demolition of buildings - unless the Local Historic Heritage Code applies and requires a permit for the use or development; and The general provision relating to demolition can then be deleted.	
	4.4.1 vegetation removal for safety or in accordance with other Acts	Under clause 4.4.1(f), vegetation removal within 2m of lawfully constructed buildings and infrastructure for maintenance and repair could allow private landowners to remove significant trees or heritage gardens. The provisions do not allow protection of vegetation protected under other parts of the SPPs, including the Scenic Protection Code, Local Historic Heritage Code and the Natural Assets Code.	We support this being considered further.
	4.4.2 landscaping and vegetation management	Unclear whether the landscaping and vegetation management exemption allows for the clearing of vegetation on a site. Concerned with landscaping and vegetation management occurring in private gardens with very few exceptions as it could remove significant vegetation that is normally managed through codes.	
	4.5.1 ground mounted solar energy installations	Concerned there is no height limit for ground mounted solar energy installations, with potential amenity and solar access issues for neighbours, and no heritage considerations.	
	4.6.2 use or development in a road reserve or on public land	No consideration of impacts of outdoor seating and impacts on car parking requirements. Unclear why reference to council by-laws have been removed.	Some outdoor dining use and development is exempt from Planning, as it occurs within the road reserve. We would like consideration to be given to outdoor dining being assessed under the Planning Scheme.
	4.6.3 fences within 4.5m of a frontage	Exemption fences should be limited to 1.2m in height. Concerned that a fence up to 1.8m with 30% transparency will result in poor outcomes. Suggest incorporating an exception to the exemption for and any applicable standard in a Particular Purpose Zone or Specific Area Plan. This could enable an LPS to address front fencing as appropriate to an area.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	4.6.5 fences for security purposes	Whilst there may be reasons for a security fence to be solid, solid fences have a significant impact on the streetscape and should not be exempt. A solid fence also directly conflicts with the objective for landscaping in clauses 19.4.3 and 18.4.5 of the SPPs.	We support this being considered further.
	4.6.6 fences in the Rural Zone or Agriculture Zone	The exemption should be amended to avoid solid fences. Solid fencing in these zones has a significant impact on the rural character, particularly if above 1.2m and across large frontages. The exemption should not allow native vegetation to be removed.	We support this being considered further.
	Exemptions – restrictions for protecting electricity infrastructure corridors	TasNetworks has identified the following SPP exemptions as requiring revision to exclude development within the electricity transmission corridor due to the potential impacts on electricity infrastructure: • 4.3.6 unroofed decks • 4.3.7 outbuildings • 4.3.8 outbuildings in Rural Living Zone, Rural Zone or Agriculture Zone • 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone • 4.3.11 garden structures • 4.5.1 ground mounted solar energy installations • 4.5.2 roof mounted solar energy installations • 4.6.8 retaining walls • 4.6.9 land filling • 4.6.13 rain-water tanks • 4.6.14 rain-water tanks in Rural Living Zone, Rural Zone, Agriculture Zone or Landscape Conservation Zone • 4.6.15 fuel tanks in the Light Industrial Zone, General Industrial Zone, Rural Zone, Agriculture Zone or Port and Marine Zone • 4.6.16 fuel tanks in other zones	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	New exemption – maintenance and improvements to existing fire trails and other fire protection infrastructure	Suggest an exemption for routine maintenance and improvements to existing fire trails and other fire protection infrastructure. Fire trails are not covered by the current exemption in clause 4.2.4 of the SPPs for road works as a fire trail does not meet the definition of a 'road'. The exemption could require works to be in accordance with a plan for fire management endorsed by the Tasmania Fire Service or the other entities involved in fire management (e.g. Sustainable Timbers Tasmania, Parks and Wildlife Service and councils).	We support this being considered further, including the suggestion that the exemption not apply in a Scenic Protection Area.
6.0 Assessment of an Application for Use or Development	**6.1.2 Application requirements**	All Councils have direct access to all title information and therefore no title information should be required. The provision of title information makes that information public and there is no public benefit or need for that.	
	6.1.3 Application requirements	Local historic heritage is absent from clause 6.1.3 that lists the categories that planning authorities can require additional information in relation to.	We support this being considered further.
7.0 General Provisions	**7.1 Changes to an Existing Non-conforming Use**	Unclear if you can change to another non-conforming use.	
	7.3 Adjustment of a boundary	Suggest quantifying the change in lot size that is allowable for a minor boundary adjustment to avoid confusion.	We support this being considered further, including the suggestion that the description be broadened rather than rely on a number or % of land.
	7.4 Change of Use of a Place listed on the Tasmanian Heritage Register or a Local Heritage Place	Should require the preparation of a heritage impact statement and conservation management plan.	
	7.6 Access, and Provision of Infrastructure Across Land in Another Zone	Suggestion for bushfire protection works to also be included to allow for a bushfire hazard management area or perimeter fire trail within an adjoining zone that prohibits a particular use class to which the works relate (e.g. residential)	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	7.12 Sheds on vacant sites	Need to clarify how sheds on vacant sites are intended to be assessed if they do not meet the requirements in clause 7.12. Also unclear how this provision works with regard to the use of the shed. This provisions should also apply to the General Residential Zone.	We support this being considered further, including the suggestion that no sheds be permitted on vacant General Residential or Low Density Residential land, but sheds be permitted in Rural Living zone, as vacant land management in the zone needs larger equipment such as ride-on mowers.
	New general provision – subdivision	Some interim planning schemes made it clear at clause 9.10 (special provisions) which subdivision were discretionary, particularly referencing the requirements of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.	
	New general provision – subdivision along zone boundaries	Suggest a new general provision to allow subdivision to occur along lot boundaries, particularly for instances where it creates lots that are below the minimum required for that zone.	
Zones	**General – fence requirements**	Front fencing requirements should be provided in all residential and commercial zones.	
	General – vegetation requirements	Suggest including vegetation clearing requirements in the Rural Living Zone and Rural Zone.	We support this being considered further.
10.0 Low Density Residential Zone	**10.2 Use Table**	Suggest including maximum floor area standards for the General Retail and Hire Use Class in the Low Density Residential Zone .	
	10.4 Development Standards for Dwellings -10.4.3 A2 setback	The 5m side and rear setback requirement is excessive. Suggest staggered side and rear boundary setbacks for the Low Density Residential Zone, such as: • 1.5m if less than 1200m2; • 3m if between 1200 and 2500m2; and • 5m otherwise.	We support this being considered further, including the suggestion that if setback is reduced, a qualification be added along the lines of "if on a Plan sealed prior to the Effective date of this Planning Scheme".
	10.4 Development Standards for Dwellings -10.4.4 P1(b) Site Coverage	Suggest expanding the performance criteria for site coverage to include reference to the capacity of the site to manage wastewater in addition to runoff.	We support this being considered further. Suitability of a site to accommodate development needs to be determined at planning stage (e.g. demonstrated capacity for on-site wastewater and stormwater collection and disposal where no services exist).

Section	Clause/Provision	Issues Raised	Central Coast Comments
General Residential Zone and Inner Residential Zone	**Issues raised on the General Residential Zone and Inner Residential Zone are included in the *Review of Tasmania's Residential Development Standards – Issues Paper*.**		Under the Subdivision standards, why refer to "each Lot, or a lot proposed on a plan of subdivision" as the standards only relate to lots on a proposed plan of subdivision. The clauses, under "Development Standards for Subdivision" read as the previous "Suitability of a site for use and development" standards that were in the Interim Schemes ,whereby the standard applied to development on all/any lot, not just subdivision. Suggest amending to "each lot proposed on a plan of subdivision"
11.0 Rural Living Zone	**11.4.2 A4(b) – setbacks for sensitive uses**	Suggest this should be limited to "an existing building **for a sensitive use on the site** is within 200m"	We support this being considered further, including the following suggested addition "(c) or if additional floor area is not greater than 30% of existing floor area."
	11.5.1 Lot design	Suggestion to include a 5000m^2 minimum lot size for subdivision. Question whether the 10ha minimum lot size is necessary.	
	New standard – building design	Suggest including design standards to maintain character and minimise visual impact of development.	
	New standard – natural and landscape values	Suggest introducing provisions for protection of existing natural and landscape values in the Rural Living Zone as there are no design standards in this zone for regulating these values.	Natural Assets Code applies.
Industrial Zones (Light Industrial Zone and General Industrial Zone)	**New development standard - fencing**	A fencing standard should also be inserted into the Light Industrial Zone and General Industrial Zone similar to those in the interim schemes for those zones.	
	New development standard – building design	There should be building design requirements to deliver quality design for industrial buildings.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	18.4.5 & 19.4.3 Landscaping standards		We support this being considered further, including the suggestion that in the Light Industrial and General Industrial zones, 5.5m and 6m wide depth of landscaping is too wide and takes up a substantial area of industrial land and could be reduce to 1.5m - 2m wide.
Rural Zone and Agriculture Zone		Concerned that the Rural Zone and Agriculture Zone provide for an unlimited number of sheds.	
	20.2 & 21.2 "Permitted" Use table -Residential -		We support this being considered further, including clarifying the qualification so that additional floor area to an existing dwelling is not greater than 30% of existing floor area.
	20.4.2 & 21.4.2 – Setbacks		We also suggest consideration of the following Acceptable Solution: "(c) additional floor area to existing dwellings that is not greater than 30% of existing floor area."
	20.4.2 & 21.4.3 – Setbacks		We support this being considered further, including the need to address the following inconsistency. A farmer cannot discharge a firearm within 250m of a habitable building. However, the Acceptable Solution setback for Residential or Visitor Accommodation (sensitive uses) is only 200m. Bring the setback of sensitive uses in Rural and Ag zones into conformity with the ability to discharge a firearm under the *Firearms Act 1996* - that requires a dwelling/ habitable building to be 250m from discharge of a firearm.
	20.4.3 & 21.4.3 Access for new dwellings	The standard should allow for legal access to a dwelling via a Crown Reserved Road.	Recent workshop given by Page Seager says No. Consent is required from Crown Land (Property Services). No right of access to be assumed if land is owned by the Crown – unless on a plan the land is designated as a "Road".
Rural Zone	**20.5.1 & Subdivision – Lot design**		We support this being considered further, including the suggestion that Performance Criteria 20.5.1 (P1)(a) & (b) need further clarification. Both seem to be saying "no subdivision for Residential or Visitor Accommodation purpose".

Section	Clause/Provision	Issues Raised	Central Coast Comments
			How does one ensure, under (P1)(a) no future application is made, on a subminimal lot, for Residential or Visitor Accommodation use, as a permit cannot be conditioned to prevent application for such future use. Presumably, initially the subdivision has to be approved for "operational reasons" (excluding Residential and Visitor Accommodation), however more explicit criteria would be helpful. (P1)(b) refers to the Part 5 Agreement, so it is clearer. However, what if under (P1)(b) the excision of dwelling resulted in a balance lot that was to be consolidated with another, adjoining vacant parcel of Rural land - does the Part 5 then apply to the consolidated parcel? If not, then the final land area under consolidation should not be less than the AC - 40ha – or else the Part 5 Agreement is to apply.
21.0 Agriculture Zone	**21.3.1 Discretionary uses**	Further guidance should be provided for when a dwelling is appropriate in the Agriculture Zone.	
	21.5.1 Lot design	Suggest excluding the ability for the excision of Visitor Accommodation and dwellings in the Agriculture Zone.	We support this being considered further, but note that Part 5 Agreements are useful for managing the excision of dwellings.
22.0 Landscape Conservation Zone	**22.4.4 Landscape protection**	Clauses 22.4.4 A1 and 22.4.4 A2 both reiterate "*Building and works must be located within a building envelope, if shown on a sealed plan*". Unclear why this is repeated in both requirements?	We support this being considered further, including the suggestion that A1 and A2 be rolled into one Acceptable Solution
	New standards- Residential amenity	There is no consideration of residential amenity and the potential impacts of Discretionary use to established residential amenity in the zone standards.	
23.0 Environmental Management Zone	**23.2 Use Table**	The Permitted qualifications in the use table avoids public involvement in decisions on public land which is inconsistent with the objectives of the LUPA Act.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	C1.4 Development exemption from this Code	Limitation should be included in the Signs Code exemptions to restrict signs being changed to a third party sign.	Supportive of this being considered further, including the suggestion that "(iv) third party sign" be added to C.6.1(A1)(b).
	C1.6.1 A3 Design and siting of signs	Unclear how many signs are permitted for each business. How can you have one for each window when under A3(a) only one "Window Type sign' is permitted?	We support this being considered further.
	C1.6.2 - Illuminated signs	Suggest changes to performance criteria in subclause C1.6.2 P1(j): whether the sign is visible from the road and if so the impact on drivers of motor vehicles and other road users as assessed by a suitably qualified person.	We support this being considered further, including the suggestion that adding "approval of the Road Authority" would solve P1(j). TasPorts may also have an issue with some illuminated signs.
	C1.6.3 & Table C 1.6	Issues regarding number of ground-based signs per frontage: Table C1.6 allows 1 ground-based sign per 20m of frontage. Clause C1.6.1 A3 (d) allows six signs per business if the frontage is more than 20m in length; not reasonable for Rural Zone or Agriculture Zone.	We support this being considered further.
	C1.6.4 - Signs on local heritage places and in local heritage precincts and local historic landscape precincts	Suggest inserting a new clause in clause C1.2 of the Signs Code to clarify that clause C1.6.4 does not apply to a registered Place entered on the Tasmanian Heritage Register'. Suggest replacing the term 'unacceptable impact' in clause C1.6.4 with 'adverse impact'.	
	Table C1.6 Blade sign	A blade sign should not be prohibited in the Rural zone and Agriculture zones. A blade sign is often the most sophisticated of signage designs and could be applicable to wineries, cider sheds, whisky distilleries etc. Needs 3m max height limit.	
	Tourism signage in the road reserve		We support this being considered further, including the possibility of .former standards for tourism signage in the road reserve being reintroduced.

Section	Clause/Provision	Issues Raised	Central Coast Comments
C2.0 Parking and Sustainable Transport Code	**General – car parking space requirements**	Concern that the car parking space requirements are excessive and do not encourage other forms of sustainable transport (e.g. public transport and active transport) and impacts on liveability.	
	C2.6.2 Design and layout of parking areas	Clause C 2.6.2 A1.1 should be reviewed as there are many parts of it that are ambiguous and confusing. For example, there are parts of A1.1(a) that do not pick up important features of the Australian Standard. However, the way it is worded (i.e. (a) or (b)) means that necessary parts of the AS aren't included in (a).	We support this being considered further. In addition – C2.6.2 – A1.1 (a)(ii) seems to provide for a site to have up to 4 vehicles and they be able to reverse out of the site, whatever the length of the driveaway. If multiple dwellings, of any number, then vehicles should exit the site in a forward manner.
	C2.5.1 - Use Standards	Suggest new clauses under clause C2.5.1 requiring provision of accessible parking to link with the development standards in clauses C2.6.2 A1.2 and C 2.6.5 A1.2.	
	C2.6.2 and Table 2.3	Technical issues - the design for parking in clause C2.6.2, which refers to Table C2.3 for width and length of car parking spaces and aisles, is different to AS2890.1 figures 2.2 and 2.5.	
	Table C2.1- Parking Space Requirements	Suggest car parking ratios for café and restaurant be consistent of 1 space per 15m^2 as currently the number of car parking required for café is unreasonable compared to that for restaurant.	We support this being considered further.
	Table C2.2 - Internal Access Way Widths for Vehicles	The widths specified for access ways are inconsistent with the bushfire requirements and with the Australian standards. For uses that require 1 to 5 spaces, the passing bay width is not wide enough for two vehicles to pass.	We support this being considered further, as consistency with Bushfire Prone Areas Code is required.
	C2.7.1 Parking Precinct Plan		We support this being considered further, including making parking for Residential and Visitor Accommodation use and development a requirement if the site is under a parking precinct plan. Discretionary if not provided on-site.

Section	Clause/Provision	Issues Raised	Central Coast Comments
C3.0 Road and Railway Assets Code	**C3.2 – application of the code**	Suggest applying the noise attenuation provisions in the Code based on mapped overlays or more accurate on- ground information for situations where road infrastructure has been upgraded.	We support this being considered further. The Code is not very flexible and in fact not workable for a municipal area, such as Central Coast, where the rail line travels through most residential areas. We understand that the "*Noise Measurement Procedures Manual 2nd Edition July 2008* does not exist and that the limits cannot be met at level crossings where a train horn is required.
C6.0 Local Historic Heritage Code	**Application of Code - significant trees**	Suggest creating a standalone Code for Significant Trees.	
	Application of Code – places listed on the Tasmanian Heritage Register (THR)	Suggest modification to ensure that places listed both locally and on the THR are only required to be assessed by the Tasmanian Heritage Council.	We support this being considered further.
	Heritage Places		We support this being considered further, including whether or not more Acceptable Solutions could be introduced in place of so many Performance Criteria. We also suggest consideration of additions and alterations at the rear of a place when not viewed from a road (C6.6.7) being changed to Permitted, removing administrative burden / "red tape".
	C6.6.1 - Demolition	Suggested changes: • In C6.6.1 Objective and the P1 preamble, replace the words 'unacceptable impact' with 'adverse impact'. • Delete C6.6.1, P1 (g) whether demolition is a reasonable option to secure the long-term future of a building or structure. Delete C6.6.1, P1 (h) any economic considerations.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
C7.0 Natural Assets Code	**General**	Suggest reviewing Natural Assets Code to: • recognise the Regional Ecosystem Model as the basis for the Priority Vegetation overlay. • review the composition of the Regional Ecosystem Model to ensure it provides a suitable data base to deliver the functions and protections of the Natural Assets Code, RMPS and the Act; and • have State take on ownership and maintenance of the REM as part of the Natural Assets Code. Suggest revision of the LPS mapping to include all species and vegetation communities listed under the *Threatened Species Protection Act 1995*, *Nature Conservation Act 2002* and *Environment Protection and Biodiversity Conservation Act 1999*, and revision of the Priority Vegetation layer.	
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	C7.2 Application of this Code	Suggest allowing the priority vegetation overlay to apply to the Agriculture Zone and provide suitable exemptions for agricultural use in accordance with a Forest Practices Plan. Suggest not applying the Future Coastal Refugia area provision to the Open Space zone as it will constrain future use and development of existing key community facilities.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	C7.3 Definition of terms – clearance of native vegetation	Suggest inserting a definition of 'clearance of native vegetation' to clarify the scope of assessment under the Natural Assets Code and avoid confusion with definition of 'clearance and conversion'.	
	C7.3 Definition of terms – priority vegetation	Suggest deletion of the definition of 'priority vegetation'. There is no need to define the term due to the priority vegetation area overlay being an expression of the aggregated data – the provisions should express the action without a further question being raised on the meaning of 'priority vegetation' within the operation of the standards.	
	C7.4 Use or development exempt from this Code	The SPPs should close the substantive loophole for certified forest practices plans in the Code exemption. The purpose of the exemption is to avoid assessment duplication but fails to take account of the different appreciation of scale of forestry practices compared to development practices and the differing assessment models. This should be discussed further with relevant agencies and resolved.	
	C7.6.1 Buildings and works within a waterway and coastal protection area or a future coastal refugia area	Suggest removing the prohibition on development that is not reliant on a coastal location. It does not allow an applicant to demonstrate that the development is in accordance with the other requirements in clause C7.6.2 P2.1.	
	C7.6.2 Clearance within a priority vegetation area	Clause C7.6.2 does not deliver the stated objectives and gives no guidance on the underlying policy or intended outcome. Clause C7.6.2 P1.1 and P1.2 should not limit the purpose of the vegetation clearance, instead it should answer the simple question of whether the native vegetation should be cleared and the maintenance of habitat to provide for the ongoing survival of priority species. Suggest the code establish an approach of 'avoid, minimise, and offset' based on the scarcity of the vegetation community similar to the Southern Region's interim planning schemes.	

Section	Clause/Provision	Issues Raised	Central Coast Comments
	C7.6.2 Clearance within a priority vegetation area (offsets)	There is a question of law over whether planning schemes can regulate off-site biodiversity offsets – offsets should also be a last resort. Offset principles are operated within other systems such as dam and forestry assessment and the matter may be worthy of consideration for development assessment. ***SPO Note: Clause C7.6.2 P1.2 only refers having regard to 'on-site' biodiversity offsets.***	
	C7.7.2 Subdivision within a priority vegetation area	Clause C7.7.2 does not deliver the stated objectives and give no guidance on the underlying policy or intended outcome.	
	Table 7.3 – Definition of Waterway and Coastal Protection Areas	The definition means that the protection area needs to be physically measured each time, rather than relying on the buffers included in the mapping. Suggest amending the definition as below means land: (a) shown on an overlay map in the relevant Local Provisions Schedule as within a waterway and coastal protection area; or (b) within the relevant distance from a watercourse, wetland, lake or the coast that is not mapped in the Local Provisions Schedule shown in the Table C7.3 below, but does not include a piped watercourse or piped drainage line. The depiction of a watercourse, or a section of a watercourse on an overlay map in the relevant Local Provisions Schedule, is definitive regardless of the actual area of the catchment.	
C8.0 Scenic Protection Code	**C8.6.1 Development within a scenic protection area**	Suggest modifying provisions to allow for the protection to scenic coastal and rural areas, not just ridgelines and skylines.	We support this being considered further.

Section	Clause/Provision	Issues Raised	Central Coast Comments
	General	Suggest fully revising C8.0 Scenic Protection Code addressing the particular issues: • A focus on skylines and not all scenic landscapes, in that the Code does not adequately provide for landscapes in coastal areas, river estuaries, or highly scenic rural areas. There is also no definition for skyline. • Improve the ability of the code to comply with strategies identified in the Regional Land Use Strategies for management of scenic resources and the Objectives of the Resource Management and Planning System and the LUPA Act for sustainable development, management of resources and consideration of intergenerational impacts. • There are difficulties in interpreting and applying the Scenic Road Corridor provisions, and limited ability to provide scenic protection in any instance. • There is limited scenic protection within Rural and Agricultural Zones. • The intent to protect hedgerows and exotic trees close to scenic road corridors under the Code is effectively removed by the vegetation removal exemption at Clause 4.4.1 or Clause 4.4.2. • Consider the impacts of the exemptions on the function and purpose of the Code. • Provide recognition for the significance of scenic values (such as national, state and local) and the impacts of development on them. • provide recognition for the significance of scenic values (such as national, state and local) and the impacts of development on them.	
C9.0 Attenuation Code	**C9.2 Application of the Code**	Suggest insertion of the following: C9.2.5 The code does not apply to sensitive uses, or subdivision if it creates a lot where a sensitive use could be established, within an attenuation area, where there are existing sensitive uses located between the use or development and the activities listed in Tables C9.1 and C9.2.	We support this being considered further.
	C9.4.1 Use or Development Exempt from this Code	Suggest adding a part (c) under clause C9.4.1: (c) Development for uses which are no permit required or permitted in the subject zone where development is proposed.	

Section	Clause/Provision	Issues Raised	Central Coast Comment
C11.0 Coastal Inundation Hazard Code	**C11.4 Use or development exempt from the code**	Suggest amending clause C11.4.1 to insert: use of land within a low or medium coastal inundation hazard band and in an urban zone, excluding for a critical use, hazardous use or vulnerable use.	
	C11.5 Use Standards	Redraft clauses C11.5 and C11.6 to: • remove requirements for uses to rely on a coastal location to fulfil its purpose in non-urban zones;	
	C11.6 Development Standards for Buildings and Works	Align the drafting with the approach to managing landslip hazards.	
C12.0 Flood Prone Areas Hazard Code	**General**	Suggest introducing Acceptable Solutions to the Flood Prone Areas Hazard Code standards to enable a Permitted pathway for use and development within a flood prone hazard areas overlay map.	
	C12.2.5 Application of the Code	Clause C12.2.5 should be deleted. It is critical that the Flood-Prone Hazard Code and Coastal Inundation Hazard Code are considered together if they overlap. A combined flooding and inundation event could increase the risk significantly and it would be negligent not to consider one of these factors when assessing future use and development.	
C13.0 Bushfire Prone Areas Code	**General**	Suggest the Code should not require a Bushfire Hazard Management Plan to consider the suitability for a house where the subdivision is not to facilitate residential use.	
C14.0 Potentially Contaminated Land Code	**C14.0 Potentially Contaminated Land Code**	Suggest that a mapped overlay is not a reasonable approach to apply the Potentially Contaminated Land Code; a non-statutory mapped overlay published to LIST map is preferable.	

Section	Clause/Provision	Issues Raised	Central Coast Comment
C15.0 Landslip Hazard Code	**General**	Suggest there will be unnecessary risk and no tangible benefits allowing private Building Surveyors in decision making for areas of known risk. Suggest reviewing the requirement for mapping that is developed and maintained by the State Government to be part of the Local Provisions Schedule and consider if some mapping should be part of the State Planning Provisions.	
	C15.4 Use or Development Exempt from this Code	Suggest amending clause C15.4.1 item (c)(iv) to: (c) Utilities excluding a hazardous use. Suggest amending clause C15.4.1 item(d) to (d) development on land within a low hazard band that requires authorisation under the Building Act 2016.	We support this being considered further.
	C15.6.1 Building and works within a landslip hazard	Suggest inserting under C15.6.1 A1: A Geotechnical Practitioner has issued a Form D Geotechnical Declaration Minor Impact prepared under the Australian Geomechanics Society – Practice Note Guidelines for Landslide Risk Management 2007 for the building and/or works.	We support this being considered further.
LP1.0 Local Provisions Schedule Requirements	**LP1.7.5 Natural Asset Code**	The prescribed data requirements for the priority vegetation overlay map in clause LP1.7.5(c) are too broad and unworkable.	We find the Priority Vegetation overlay useful in determining the requirements for building envelopes at subdivision and at development stages. We do, however, have consistent issues with works undertaken without a Permit in the Priority Vegetation areas.
LPS Appendix A – Local Provisions Schedule Structure	**Table C6.4 Places or Precincts of Archaeological Potential**	Suggest inserting a column in Table C6.4 to identify THR Number of places or precincts of archaeological potential.	